

**African Centre  
for Treatment and  
Rehabilitation of Torture  
Victims (ACTV)**



# **THE SITUATIONAL ANALYSIS ON THE PREVALENCE OF TORTURE IN UGANDA**

**NOVEMBER 2015**



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## Submitted to:

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## EXECUTIVE SUMMARY

A situational analysis on the prevalence of torture in Uganda was conducted between July and September 2015. The purpose of the survey was to assess the prevalence of torture in Uganda across various institutions, state agencies and the general public. Specifically, the study sought to assess the following: incidences of torture across the country including current methods of torture being used in Uganda and the current category of perpetrators of torture; the level and knowledge amongst Human Rights Defenders, security agencies and the general public about torture in general and the Prevention and Prohibition of Torture Act, 2012 (PPTA) or Anti-Torture Law in particular; the level to which the PPTA is implemented in Uganda; and access to and quality of treatment and rehabilitation services to survivors of torture in Uganda; and levels of advocacy on prevention of torture in Uganda.

With regard to methodology, the study was conducted using both qualitative and quantitative methods of data collection. A total of 511 questionnaires were administered to respondents selected from 12 districts across 7 out of the 10 statistical regions of the Uganda Bureau of Statistics. The districts included: Isingiro, Mbarara, Kasese, Hoima, Zombo, Nebbi, Gulu, Amuru, Soroti, Mbale, Kampala and Gomba. Effort was made to include: new and old districts, districts which had previously suffered from civil war, those experiencing recent tribal and other conflicts, and those where natural resources were recently discovered.

As a key deliverable for the situational analysis, we undertook a review of literature on legal and regulatory framework on the prevention of torture in Uganda and a whole chapter is dedicated to this. In short, Uganda ratified the United Nations Convention Against Torture in 1986 and is commended for domesticating the treaty by enacting the Prevention and Prohibition of Torture Act, 2012. It should however be pointed out that implementation of the PPTA has been rather weak and since its inception—3 years ago—not a single perpetrator of torture has been convicted. The lack of a test case is seen as a major challenge to the continuous implementation of the law. The Directorate of Public Prosecutions is yet to prosecute an outright torture case.

A lot more effort therefore needs to be done within the justice, law and order sector to sensitise the stakeholders especially the Police force to enable them investigate and facilitate prosecution of perpetrators of torture. Until this is done, there will remain concerns over Government's commitment to prevent torture in Uganda. Supporting efforts to implement the law therefore remains a strategic intervention for the civil society and ACTV in particular. Efforts should also be made to lobby Government to ratify the Optional Protocol on the Convention Against Torture (OPCAT) which requires states to establish National Preventive Mechanisms (NPMs) to conduct independent oversight of the treatment of those in prisons and other detention facilities as a prerequisite step

to ensure adherence to treaties and national laws banning torture.

A number of key issues emerged from this survey. First of all, the respondents perceived torture to refer to several aspects including: use of excessive force resulting into physical, emotional, psychological injury and pain, exposing people to unpleasant situations, food deprivation, child abuse, domestic violence for both men and women and loss of livelihoods especially confiscating land by both by the rich, family and the community.

Based on the above, our discussions with community respondents highlighted that their understanding of what constitutes torture varies but broadly relates to gross abuse of human rights resulting into physical injuries, emotional and psychological pain. In Northern and Eastern Uganda, torture was attributed to rebel activities and resultant suppression by the armed forces. From the various community description and perception of torture, the crosscutting idea is that torture affects individuals gravely including their capacity to live a dignified and decent life. However we note that there understanding of what torture is overlaps into cruel and degrading treatment. The Convention Against Torture (CAT) limits torture to: severe pain, inflicted with a purpose by a state official or its agents. The PPTA 2012, acknowledges the role of individuals in committing acts of torture. We would also like to note that reports highlighting security agencies as the main perpetrators of torture are based on complaints from inmates or individuals who report to the Police, UHRC and other related agencies. These are self-selected individuals and in that respect may not be representative of general population experiences. The proceeding section has also highlighted that only 47% of our respondents had reported previous cases of torture. Based on the similarities between torture, cruel and degrading treatment—which may be difficult for a an average community respondent to understand, we recommend that the Civil Society and Government takes the concerns of the respondents as indicators of prevalence of torture and other related prohibited crimes. Advocacy campaigns against torture should also make reference to cruel and degrading treatment—while making effort to make these distinctions clear to the communities and all stakeholders in human rights—since they are from this survey not obvious.

To most of the respondents the family members (41.81%), followed by the community members (30.60%), the Police (27.16%) and rebels (15.52%) were the main perpetrators of torture. To most people living in the communities, most terror arises from domestic conflicts especially relating to access to land and the same applies to the community implying the pressure being felt by the increasing confiscation of land. This also implies that whereas there is need to continue pressing for the prevention of torture in detention facilities, unlawful killings, it is indeed critical to note that for most individuals especially in the countryside, the source of torture is indeed family

members and the community and any strategy on prevention should be informed by these sentiments from the respondents in this survey.

From this survey, Overall 25.2% of the respondents said torture was very common, while 36% said it was somewhat common and an almost equal number of 31.5% said it was rare. We also sought to understand the factors that perpetuate torture. The main concern raised was poverty as cited by 61.26%. It was observed that people may not be able to pursue justice because of sheer lack of money given the fact that the process is lengthy, tedious and expensive. Secondly poverty erodes one's resilience which is required to pursue justice. The other equally compelling reason was the reported lack of knowledge on human rights (46.86%) making it difficult to know whether specific violations of their rights including torture can be reported and prosecuted. Respondents also cited the corruption among law enforcement officers (36.11%), greed in its own right (18.26%) and as a major driver of corruption, and the weak anti-torture laws (26.57%) among others.

The reporting of torture cases in the opinion of the consultants is a proxy for measuring levels of awareness and also effectiveness of the torture redress mechanisms. Some of the respondents who had been tortured indeed reported such cases to the authorities especially the police. This survey was interested in understanding the reasons why some respondents who were previously tortured or those known to them—chose not to report. Several reasons were cited for not reporting torture including: belief that even if they reported no action would be taken (34.5%) and closely related to this was the lack of trust in the justice system (34.8%). Other respondents reported that they did not know where to report (17.2%). There was also a reported fear of retaliation (14.6%), being threatened not to report incidents (11.16%) and lack of money to pursue the case (8.58%). Other reasons included fear of death threats, and the fact that some cases were resolved outside the justice system.

On the patterns of torture, 52.73% had noticed some changes in the methods of torture used in their community over the last five years. The new forms of torture included: political persecution (3.8%), confiscation of land (33.7%), death threats (29.5%), beating (29.2%), and humiliation (22.6%). To the respondents the reasons for the changes in patterns of torture and cruel treatment included: corruption and abuse of office among law enforcement officers (34.4%), politics (40.78%), poverty (49.29%), discovery of natural resources (13.48%), and lack of awareness about anti-torture laws.

On advocacy, several people were aware of organizations providing support to individuals whose rights were violated. Indeed several had heard about messages on

prevention and prohibition of torture most especially through radio. However most of them reported that they do not make use of these institutions: because they are not accessible in terms of distance and the costs involved; others did not know where these institutions are located and to most of them these institutions are only available in town centres—and not in local village communities.

On access to medical treatment and rehabilitation services for torture victims, most respondents were not aware of any specialized agencies providing treatment and rehabilitation services. Even for ACTV, whereas some were aware that this entity has offices in Gulu and Kampala, they were concerned that the services are not accessible because the needs for treatment and rehabilitation are nationwide. Respondents reported that they seek medical care from public hospitals which do not have specialized medical and rehabilitation services. The unmet for treatment and rehabilitation services cannot be overemphasized and strategically this is an area worth concentrating on.

Our interactions with several human rights organisations suggest that security agencies remain receptive to training opportunities from civil society organisations. It also suggests that when the security agencies are regarded as partners then the chances of success of the engagement process is much higher than when a confrontational approach is used. It is also worth recognising that whereas cases of torture remain high in Uganda, there is a semblance of good will to prevent torture through Uganda's subscription to the Universal Periodic Review (UPR) process for which it makes periodic reports. It is also indicated by Government institution of the several institutions to enhance rights promotion and protection of human rights such as the Uganda Human Rights Commission, the Police Professional Standards unit (PSU), the human rights desks at the Police and several other initiatives. The challenge is always going to be how to make the PPTA functional through enacting relevant policies to aid implementation. Our respondents cited several bottlenecks to the implementation of the anti-torture law including: lack of political commitment, lack of awareness among the general public of the provisions of the law, corruption and abuse of office among institutions where the community would have expected to seek justice and redress including the Police and courts of law; limited financing for advocacy work among others. Strategically focusing on minimizing these direct challenges to the implementation of the anti-torture law would help improve the efficiency of the Prevention and Prohibition of Torture Act (PPTA).

## Recommendations

### Recommendations to Civil Society

- 1. Lobby the state to implement the Anti-torture Law.** As has been noted whereas the Prevention and Prohibition of Torture Act 2012 is in existence, no single perpetrator has been convicted under the law. There is need to continually lobby the state, especially the justice, law and order sector to push through with implementation of this important law. Unless this is done, torture and cruel, inhuman and degrading treatment is likely to continue. Implementation guidelines for implementation of the anti-torture legislation have been developed and there is need to make them widely available to law enforcement officers and make sure there is distribute and to train law enforcement agencies on application of these guidelines.
- 2. Training and awareness creation including training of lawyers and health workers.** Some of the security officials that we spoke to especially the Police officers mentioned that several of them are not conversant with the provisions of the PPTA 2012. This implies a need to contribute to efforts for massive awareness about the law within the justice, law and order sector so that the law is implemented. There should also be mechanisms for following up the training to make sure that it is effective. Training should involve front line staff that interacts with the community on a day to day basis, the managers and top echelons of leadership. Training of the security forces would also help them to better appreciate the laws and government obligations to international human rights laws and conventions, and also ending torture as a matter of urgency.

Similarly, whereas ACTV has in the last couple of years, trained several lawyers and health personnel in prevention and prohibition of torture, we propose that funds should be mobilised to continue training these critical professionals to create a critical mass necessary to effectively represent victims of torture and also be able to prepare adequate documentation necessary to adduce evidence of torture in courts of law. We commend ACTV on these technical training but hasten to add that more needs to be done.

- 3. Expanding medical treatment and rehabilitation services to other regions of the country.** Respondents noted that whereas ACTV in particular is providing a specialized service of treatment and rehabilitation of torture victims in Kampala, and Gulu, these services are not available to many other victims of torture who actually need these services. There is need to spread the services to other regions for example Western Uganda a region that has witnessed conflicts in the Rwenzori region and the discovery of oil, its prospecting and

upcoming exploitation. Partly because of these developments torture, cruel and degrading treatment in the oil rich region arising from land acquisition for speculation and migration.

- 4. Strategic focus on advocacy.** Whereas ACTV has performed well with regard to treatment and rehabilitation of torture victims, this baseline survey has illustrated the need to invest in advocacy against torture through television and radio talk shows and adverts, radio spot messages, print media, information, education and communication materials. We therefore recommend that additional funds be allocated to support a robust advocacy campaign on prevention of torture through the media. We also recommend continuous and sustained dialogue with the Justice Law Order sector to make sure the PPTA is implemented and that relevant implementation guidelines are implemented. It is also recommended that ACTV works together with the Coalition of Human Rights Defenders housed by Human Rights Network (HURINET) to make sure that implementation of the Prevention and Prohibition of Torture Act 2012 is made an agenda item in the meetings held with the Inspector of Government, the Minister of Internal Affairs. This same platform should be used to hold with the Attorney General, and the Minister of Justice and Constitutional Affairs. There is need for ACTV to be seen as an even stronger actor in the prevention of torture—maintaining its role in treatment and rehabilitation of torture—but also be seen as a strong advocate against torture.
- 5. Development of Guidelines for Implementation of the Prevention and Prohibition of Torture Act 2012.** Whereas the PPTA was enacted in 2012, until now, guidelines are now in advanced stages of development. Once finalised these should be widely disseminated and stakeholders sensitised about them. Related to this, is the fact there is currently no law providing for effective victim and witness protection, yet, victims and witnesses continue to face intimidation and harassment, which is an adverse impact on the ability to pursue cases. The law and its implementation is necessary for the protection of victims or others who report acts of torture and ACTV can play an advocacy role to make sure the law is enacted.
- 6. Establish Regional Networks for Prevention of Torture.** It was noted by several respondents that anti-torture services are not accessible especially treatment and rehabilitation of torture victims. In addition respondents reported not to be aware where to report cases of torture. We strongly recommend the establishment of regional coalitions against torture which could involve other Human Rights Defenders including organisations, journalists, lawyers, medical personnel and other actors. This would help to provide information to several

actors without necessarily introducing offices countrywide. It would also help improve referral of cases to ACTV and other actors in the prevention of torture.

7. **Advocate for prevention of torture by individuals.** This baseline survey highlighted the fact that torture by individuals is equally prevalent. Whereas most reports highlight the high incidence of torture meted by state agents, at the community level, most respondents said most of the torture is perpetrated by family members, community members and security personnel. Whereas there is strong focus and advocacy on torture by security agencies, there is equally need to pay attention on sensitisation of entire communities against torture and also to make sure that referral networks are strengthened and that information on where to report cases of torture including state and non-state entities is widely disseminated.
- 8.

## **The State and Ministry of Justice and Constitutional Affairs**

9. **Expedite the Appointment of Commissioners at Uganda Human Rights Commission.** The Uganda Human Rights Commission continues to do a commendable job with regard to the protection and promotion of Human rights in Uganda. As described in this report, the contract of the Commissioners expired in April 2015 and have not been renewed since then or indeed new ones recruited. This creates a very big challenge to the leadership of the Commission and to its role especially as we move closer to the elections scheduled for February 2016. Every effort should be made to lobby the President of the Republic of Uganda to appoint commissioners for UHRC at the earliest opportunity possible.

The State Should finalise and disseminate the implementation guidelines for the PPTA 2012 and endeavour to make every effort to make these available to all actors in the Justice, Law and Order Sector as well as sensitise them on their use and application of the law.

The Directorate of Public Prosecutions should sensitise and encourage the Police Officers to record cases of torture where investigations indicate this to be so. This is also based on observations that since 2012, no case even those that fit into the description provided by the law have ever been entered as torture. Guidance from the DPP would be most helpful.

## SECTION ONE: INTRODUCTION

### 1.1 Background to the Situational Analysis

The African Centre for Treatment and Rehabilitation of Torture Victims (ACTV) is a Non-Governmental Organisation mainly focused on advocacy against torture, providing treatment and rehabilitation services to survivors of torture, conducting research and documentation as well as strengthening the organisation's capacity to deliver her mandate in Uganda and the Great Lakes Region. With support from the European Commission and the Democratic Governance Facility, ACTV commissioned a situational analysis on the prevalence of torture in Uganda. The purpose of the evaluation was to assess the current prevalence of torture in Uganda across various institutions, state agencies and the general public.

### Specific Objectives

**The objectives of this study were to assess:**

1. Incidences of torture across the country including current methods of torture being used in Uganda and the current category of perpetrators of torture.
2. The level and knowledge amongst Human Rights Defenders, Security agencies and the general public about torture in general and the Prevention and Prohibition of Torture Act, 2012 (PPTA) or Anti-Torture Law in particular.
3. Levels to which the Prevention and Prohibition of Torture Act, 2012 (PPTA) or Anti-Torture Law has been implemented in Uganda.
4. The access to and quality of treatment and rehabilitation services to survivors of torture in Uganda.
5. The current methods and levels of advocacy for prevention of torture in Uganda by both state and non-state actors.

## SECTION TWO: METHODOLOGY

### 2.1 Sampling Procedure

The Uganda Bureau of Statistics sub divided the country into 10 statistical regions namely: Karamoja, Eastern, East Central, Kampala, Central 1, Central 2, South West, Western, West Nile, and North and most surveys are modelled around these regions. We selected 7 out of the 10 regions for the situational analysis on the prevalence of torture in Uganda. At least three of the seven regions were selected purposively taking into account the incidence of cases of torture in such regions while the other four were selected randomly. Two districts were selected from each region save for Kampala City (which is a single district) and the Central region where only one district was selected. From each of the two districts, a sub county was randomly selected and thereafter a parish identified for the survey. Heads of households in the selected parishes were interviewed.

The three regions which were selected purposively include: Northern Uganda (Gulu and Amuru), Eastern Uganda (Soroti and Mbale) and Western Uganda (Hoima and Kasese). Northern Uganda and Eastern Uganda represented the historical perspective to torture arising from the Lord's Resistance Army and the Holy Spirit Movement insurgencies in these regions. Western Uganda on the other hand was purposively selected taking into account the recent land grabbing cases that have been associated with the rush for oil exploration and related economic opportunities. This region has also recently witnessed significant ethnic conflicts associated with the attempt by the ObusingaBwaRwenzuru kingdom to expand its geo- political space in disregard of the interests of many other tribes in the region.

Four regions were selected randomly including: South Western Uganda (Isingiro and Mbarara), Central (Gomba), Kampala, and West Nile (Nebbi and Zombo). We also considered old versus new districts with the thinking that institutions that are likely to prevent or redress torture and other forms of cruel treatment are often weak in new districts in contrast with older districts and these comparisons were made. We also observed that in new districts, there are usually fewer civil society organisations including those working on aspects of human rights in new districts which affects efforts towards prevention of torture.

Based on the above description, a total of 12 districts were selected namely: Isingiro, Mbarara, Kasese, Hoima, Zombo, Nebbi, Gulu, Amuru, Soroti, Mbale, Kampala and Gomba. See Annex II to this a report where we provide a detailed justification for each of the districts that was selected in this survey.

## 2.2 Sample Size Estimation

There is limited statistics in Uganda on the number of people that experience or report torture in Uganda. The Uganda Human Rights Commission reported to have received 3,904 complaints in 2014<sup>1</sup>.and the number has been reducing over the years. What is clear however is that other complaints are reported to different agencies and summaries of such data are not available. We therefore made the assumption that over 500,000 have experienced torture over the last 10 years.

### Our sample was derived as follows:

- At a sample size of 500,000
- Margin of error of 5%;
- Confidence level of 95%
- Response distribution of 50%
- **The sample size was then derived as 384 respondents. Actually, the consulting team managed to interview 511 respondents to increase the reliability of the data.**
- The sampling formula used is as reflected below.

$$\begin{aligned}x &= Z\left(\frac{c}{100}\right)^2 r(100-r) \\n &= \frac{N \cdot x}{N - x} \\E &= \text{Sqrt}\left[\frac{(N-1)E_n^2}{n(N-1)}\right]\end{aligned}$$

N= is the population size, n= is the sample size, r= is the fraction of responses that we are interested in; and Z (c/100) is the critical value for the confidence level c. E is the margin of error.

## 2.3 Baseline Survey Design

We used a mixed methods design. Quantitative data was collected from the survey respondents and qualitative data was collected from Key Informants and through selected respondents in Focus Group Discussions. The methods used are described below.

## 2.2 Data collection

Qualitative and quantitative data was collected during the survey. The methods used are summarised below.

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1. See Uganda Human Rights Commission Annual Report 2014.

### **2.2.1 Review of Secondary Literature**

A comprehensive review was made of the legal and regulatory framework for the prevention of torture in Uganda. The insights from the review of literature informed the secondary data collection process.

### **2.2.2: Questionnaires**

A survey tool with close ended questions was designed and administered to 511 respondents. The data was summarized into descriptive statistics as illustrated in the section of findings.

### **2.2.3: Key Informant Interviews**

Key Informant Interviews were held with selected Key Informants at national level and within the regions where the survey was conducted. These included both Government department workers for example Police, Ministry of Justice and Constitutional Affairs; Local leaders and the Uganda Human Rights Commission as well as leading civil society organisations that are involved in protection of human rights.

### **2.2.4 Focus Group Discussions (FGDs)**

Two focus group discussions were held in each of the 12 districts covered in the study. This was done to triangulate the findings of the survey and understand the perception of what constitutes torture, why it continues to be perpetrated, the patterns and trends of torture, existing legislation, challenges in seeking protection from torture and the areas that need strengthening, levels of knowledge about torture and the Prevention and Prohibition of Torture Act 2012, access to quality services by survivors of torture, and their levels of awareness about current methods and levels of advocacy for prevention and prohibition of torture among others. The respondents included youths, adult males and females.

## **2.3 Data Management and Analysis**

Quantitative data was entered into the EPI-INFO software programme and was analyzed using the Statistical Packages for Social Scientists (SSPS). The Focus Group Discussions and Key Informant Interview notes were transcribed verbatim into Microsoft Word and all were translated into English. All data collection tools were checked for completeness and accuracy.

## **2.4: Limitations of the Situational Analysis**

Whereas it was desirable to investigate prevalence of torture from both the community and within detention facilities, the latter was not done. Whereas interviews were conducted with Police officials, no interviews were conducted with Prisons Services or the Uganda Peoples Defense Forces partly due to associated delays in obtaining

approvals against time limitations for completing this assignment. It was also noted that substantial work has been done on the prevalence of torture in detention facilities and the Uganda Human Rights Commission reports delve into this in great detail. These findings should therefore be reviewed in the context of the findings of such similar studies. The findings of the survey in view of the above limitations remain valid. The recent annual report of the Uganda Human Rights Commission has highlighted that the security forces have now been overtaken by individuals and communities as the main perpetrators of torture. This was the main finding of this report which further confirms the observations of UHRC. The conclusion of this survey is that whereas efforts to prevent torture by state agents should continue—an overarching torture prevention strategy can no longer ignore individuals and the communities as sources of torture, inhuman and degrading treatment.

## SECTION THREE: LEGAL AND INSTITUTIONAL FRAMEWORK FOR PREVENTION OF TORTURE IN UGANDA

### 3.1 Introduction

This report details progress in the baseline survey for the situation of torture in Uganda. It presents progress in the field data collection and also provides an elaborate literature review on situation of torture in Uganda as well as analysis of the legislative framework pertaining to torture in the country. Review of literature is a specific deliverable under this assignment which we have endeavoured to meet. We reviewed literature relating to the relevant laws on human rights and anti-torture at national, regional and international levels, ACTV annual reports, reports on the situation of torture, reports on incidence, patterns and types of torture in Uganda, advocacy efforts among others. We also looked for information on why key laws on the prevention of torture are not being implemented. A three-step process was employed during the review of documents: (i) securing the documents, (ii) determining the relevancy to answering the study questions, (iii) once considered relevant, moving on to extract summarized information for subsequent analysis. A data guide extraction form was used by researchers to generate the required information in addition to referencing all the documents that we obtained.

### 3.2 Background to the legal and institutional framework for the prevention of torture in Uganda

Torture and other cruel, inhuman degrading treatment or punishment is prohibited as gross human rights violations under international law and domestic laws of most countries globally. It is a serious affront to human dignity. Therefore, freedom from torture is an inalienable human right. However, acts of torture have been used as means of interrogation, punishment, revenge and coercion of victims by perpetrators of torture. Most victims of torture are pre-trial detainees and convicted offenders, perpetrated by both state and non-state actors including the police, government forces, private security agents and rebel forces. According to Human Rights Watch Report (2011)<sup>2</sup>, beatings of knee and elbow joints with batons, glass bottles, metal pipes; insertion of needles on finger nails and use of electric shocks were documented as the most common methods of torture during interrogations by the police in Uganda.

Since post-independence times, Uganda has had a chequered record in human rights observance. While human rights laws and mechanisms exist, practical enforcement has been a challenge. Freedom from torture and other cruel, inhuman and degrading treatment or punishment is guaranteed under the 1995 Constitution of Uganda as a

2. Human Rights Watch (2011): Violence Instead of Vigilance: Torture and Illegal Detention by Uganda's Rapid Response Unit.

non derogable right.<sup>3</sup> It has a special focus of protection codified under the United Nations Convention Against Torture (UNCAT) to which Uganda unreservedly ratified.<sup>4</sup> In addition, Uganda is a party to all other major international human rights instruments which outlaw torture and other forms of ill-treatment in any circumstances to all human beings. Albeit this is not sync with practice as various reports over the years indicate allegations of widespread torture, committed with impunity by both state and non-state actors.<sup>5</sup>

The state's obligation to protect, respect and fulfil human rights commits Uganda under the treaty to provide measures to prevent reoccurrence of violations such as acts of torture. This obligation extends to war situations, a standard where the Government of Uganda failed to satisfy during the Lord's Resistance Army (LRA) rebellion against the Ugandan Government in Northern Uganda, where tens of thousands of women, children and men suffered the heinous acts of the rebels and some unprofessional government forces.<sup>6</sup> In effect, it is not adequate to ratify and domesticate laws, but a state must take all necessary and effective policy, administrative and judicial measures to end the practice of torture.

The criminal justice institutions tasked to hold perpetrators accountable have not all acquired trainings of equal measure especially in investigations for crimes such as torture to be effective. The institutions have been often accused of corruption, application of selective prosecutorial strategy and lack of independence in dispensing justice.<sup>7</sup> The Justice Law and Order Sector (JLOS), where all institutions responsible for administering justice, maintaining law and order, and promoting the observance of human rights including the police, judiciary, prisons, law reform falls in the docket, have programmes to enhance accountability for broader human rights violations under its current Strategic Investment Plan (SIP).<sup>8</sup> In effect, if implemented, it should further promote human rights and access to justice for all. With the enactment of the Prevention

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3 See Articles 24 and 44, 1995 Uganda's Constitution.

4 Uganda ratified the Convention Against Torture in 1986 and has since domesticated the treaty – Prevention and Prohibition of Torture Act (2012).

5 See Conclusions and Recommendations of the UN Committee on the Convention Against Torture: Uganda. 21/06/2005. CAT/C/CR/34/UGA. (Concluding Observations/Comments) available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CAT.C.CR.34.UGA.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CAT.C.CR.34.UGA.En?OpenDocument) (accessed July 2015).

6 Human Rights Watch Report, 2005: "Uprooted and Forgotten: Impunity and Human Rights Abuses in Northern Uganda," documents how the ongoing lack of accountability and civilian protection in the north has fueled atrocities by the LRA and government forces; See also President Yoweri Kaguta Museveni's Speech on the Occasion of Celebration of 28 Years of the NRM in Mayuge District, January 26, 2014; Available on [http://www.statehouse.go.ug/media/presidential-statements/2014/01/26/speech-he-yoweri-kaguta-museveni-president-republic-uganda-\(accessed July, 2015\)](http://www.statehouse.go.ug/media/presidential-statements/2014/01/26/speech-he-yoweri-kaguta-museveni-president-republic-uganda-(accessed%20July,%202015)).

7 See HRW Report (2005): Uganda Must Prosecute Torture; JLOs SIP III 2012/13-2016/17, acknowledges numerous problems including lack of absence of rule of law and institutional barriers.

8 Justice Law and Order Sector is currently implementing its third Strategic Investment Plan - SIP III 2012/13-2016/17. Available at file:///C:/Users/joyce/Downloads/The%20Third%20JLOS%20Strategic%20Investment%20Plan%20(SIPIII)-3.pdf (accessed 18 July, 2015).

and Prohibition of Torture Act (2012), which addressed the pre-existing lacuna<sup>9</sup>, the legal framework is more than adequate and only requires competent, professional, well trained technocrats with specialized skills to hold perpetrators accountable and accord justice to victims of torture.

Accountability for violations of freedom from torture lags behind as most institutions where perpetrators belong insist on conducting internal disciplinary mechanisms other than the formal justice systems. This is a major conceptual problem which lowers torture to a merely indiscipline acts of perpetrators and disregards victims' rights for serious crimes such as torture. Lack of political will, political interference and corruption the investigation system leave victims without access to a credible justice.<sup>10</sup> This has bred a culture of impunity allowing perpetrators of torture to go without being held accountability for their actions. Despite recommendations from different bodies including the Uganda Human Rights Commission, substantial change is generally slow.

### 3.3 Patterns of Torture in Uganda

Illegal detention, detention incommunicado, threats, intimidation, forced disappearance and extra-judicial killings are the common patterns of torture in Uganda. These result into fear, wrong confessions and prosecutions, injuries, ill health, disability and death of victims.<sup>11</sup> The most targeted groups include political opponents, human rights defenders including journalists, advocacy groups and suspects of criminal offences (both petty and grave offences). Annually, the Uganda Human Rights Commission reports register the police and the army as main and leading perpetrators of human rights abuses including torture. Other civil society reports corroborate the UHRC reports on security agencies are the greatest perpetrators of torture and other human rights abuses.<sup>12</sup>

It should be pointed out, however, that torture is not only perpetrated by state and its agencies but also non-state actors including the rebel forces, private security, family members and other people. Indeed, rebel forces such as the LRA perpetrated acts of torture including rape, sexual slavery, wilful killings, maiming of lips and cutting of ears against thousands of victims in Greater Northern Uganda.<sup>13</sup>

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9 Before the enactment of the Prevention and Prohibition of Torture Act (2012), there was no specific law criminalizing acts of torture in Uganda's law books.

10 See above no.5; See also ACTV Annual Report (2014).

11 REDRESS (2007): "Torture in Uganda: Baseline Study on the Situation of Torture Survivors in Uganda."

12 HRCU (2014): Baseline Survey and Situation Analysis on the Working Conditions of Human rights Defenders in Uganda.

13 Refugee Law Project Working Paper No.11 (2004) 13: Behind the Violence: Causes, Consequences and the Search for Solutions of LRA War in Northern Uganda."

In the family context, majorly children have been victims of torture perpetrated as punishment by housemaids,<sup>14</sup> mothers, fathers and step-parents.

As earlier noted, torture has serious physical and psychological effects on victims and survivors. Some have been silenced for fear of political persecution and thus remain inactive as political activists, while others suffer physical and physiological torture. In circumstances where accountability for acts of torture is pursued through courts of law and UHRC processes, awards of compensation to survivors are unduly delayed.<sup>15</sup> Literature further indicates that the award is often not proportionate to the devastating impact and level of suffering of the victims and survivors. Indeed by 2013 a total of three billion shillings (UGX 3 billion) remained with government as accumulated arrears for victims of torture. Yet many of the victims would require more specialized treatment and rehabilitative services through referrals within and outside the country.

Various reports indicate the following as some of the patterns of torture in Uganda.

- i) Being held incommunicado – where a person is arrested, detained and no access is allowed and no opportunity to communicate with other people.
- ii) Extra-judicial executions – where suspects are executed without going through the due process of law and in most cases where they lack sufficient evidence on a case.
- iii) Threats and intimidation through text messages and phone calls.
- iv) Enforced disappearance – where a person is arrested in context of terrorism and treason suspects then disappears with trace and explanation.
- v) Cases of rape by government and rebel forces during the conflict in Northern Uganda.

### **3.4 Effects of Torture on Victims**

Torture has immediate and long term physical and psychological impact on victims. Victims of torture suffer injuries, ill health, disability and death in some circumstances.<sup>16</sup> These have socio-economic repercussions in the life of survivors. Torture survivors in Uganda face direct socio-economic repercussions such as lost education, employment opportunities, astronomical costs of physical, psychological treatment, loss of income and livelihoods, family breakdown and stigma.<sup>17</sup> The indirect effects may include a reduction in the quality of life of the victims' household and family.<sup>18</sup>

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14 See Mail Online: Uganda Mail Jailed for Four Years. Available at <http://www.dailymail.co.uk/news/article-2874502/Ugandan-maid-sparked-outrage-filmed-stomping-toddler-jailed-four-years.html> (accessed 17 July, 2015).

15 See ACTV Report (2013):

16 REDRESS (2007): "Torture in Uganda: Baseline Study on the Situation of Torture Survivors in Uganda."

17 ACTV (2010): Annual Report.

18 ACTV (2013): Estimating Socio-Economic Effects of Torture in Uganda.

### **3.5 Legal and Institutional Framework for Prevention of Torture in Uganda**

The prohibition of torture and other cruel, inhuman and ill treatment or punishment has a legal recognition at the international, regional and national levels. Uganda is party to many international and regional instruments which prohibit acts of torture and provide safeguard to its people. The legal framework discussed below focuses on the relevant laws for the prevention and prohibition of torture.

#### **1.1.1 International Framework**

##### **UN Human Rights Laws on Torture**

The Universal Declaration of Human Rights (UDHR) adopted in 1948, prohibits the use of torture and other cruel, inhuman degrading treatment or punishment on human beings in all circumstances. It provides that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”<sup>19</sup> In express terms, torture is a prohibited practice under customary international law. Even though, it lacks the binding force, the UDHR set the standard, where subsequently legally binding conventions were adopted under the United Nations framework and replicated at regional and national levels.

The legal obligations on states are imposed by way of ratification of the treaties and limits of state authority are defined. These include the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture (CAT), the Convention on the Rights of the Child (CRC), Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Convention on the elimination of all Forms of Discrimination against Women (CEDAW), Convention on the Rights of Persons with Disabilities (CRPD), Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the Rome Statute to the International Criminal Court (Rome Statute of the ICC). These conventions and treaties address torture against all citizens including refugees, migrants, women, children or persons with disabilities.

ICCPR endorses the UDHR position, prohibits torture and other cruel, inhuman degrading treatment or punishment. It provides that “No one shall be subjected to torture and other cruel, inhumane treatment or punishment.”<sup>20</sup> The provision aims to protect both the dignity, physical and mental integrity of the individual, without limitations whatsoever.<sup>21</sup> Uganda has also ratified the first Optional Protocol of the ICCPR which allows individual complaints of violation of rights under the treaty to the UN Committee on ICCPR.

<sup>19</sup> See Article 5 of the Universal Declaration of Human Rights (UDHR) 1948.

<sup>20</sup> See article 7 ICCPR, 1966, available at [www.cirp.org/library/ethics/UN-covenant/](http://www.cirp.org/library/ethics/UN-covenant/) (accessed 14 July, 2015).

<sup>21</sup> HRC, General Comment No. 20, Article 7 “Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment” (1992) §2, in UN Doc. HRI/GEN/1/Rev.7.

CAT goes a step further to commit states to a duty to investigate allegations of torture and cruel, inhuman degrading treatment or punishment. It places significant emphasis on ending impunity through the use of national and international criminal law. Therefore, international criminal justice institutions like the ICC established by the Rome Statute is a key strategy to hold perpetrators of torture accountable and ensure non re-occurrence of acts of torture. Under the Statute, torture may be considered a crime against humanity “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”,<sup>22</sup> and in other circumstances, be prosecuted as a war crime.<sup>23</sup> In effect, acts of torture outside the scope of war crimes, crimes against humanity and genocide torture cannot be prosecuted by the ICC. The mandate of the ICC only dates back to crimes committed after 1<sup>st</sup> July, 2002. It exercises jurisdiction only in cases where the accused is a national of a state party, the alleged crime took place on the territory of a state party or a situation is referred by the United Nations Security Council (UNSC).<sup>24</sup> It acts complementary to national judicial systems of state parties and exercises jurisdiction only when states are unwilling or unable to investigate or prosecute such crimes. The primacy to hold perpetrators accountable is therefore vested in individual states.

This line of action is an important indirect prevention strategy that must be complemented by other approaches to effectively address the root causes of torture. Uganda has however, not ratified the Optional Protocol on the Convention Against Torture (OPCAT) which requires states to establish National Preventive Mechanisms (NPMs)<sup>25</sup> to conduct independent oversight of the treatment of those in prisons and other detention facilities as a prerequisite step to ensure adherence to treaties and national laws banning torture.<sup>26</sup> In the absence of this, Independent monitoring of the conditions of confinement is crucial to prevent torture and abuse from occurring. By becoming a party to OPCAT, Uganda can ensure that torture and abuse do not occur in Uganda in detention cells, prisons, refugees’ detention centres and other facilities where suspects are held.

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22 See article 7, Rome Statute of the ICC (1998).

23 See article 8, Rome Statute of the ICC (1998).

24 See Articles 15 and 17 of the Rome Statute to the ICC (1998).

25 OPCAT also created the United Nations Subcommittee on Prevention of Torture (SPT) who conducts missions to party nations to monitor the functioning of NPMs and to observe the treatment of confined persons in those nations.

26 NPMs have access to all persons who are held in confinement and all relevant information about places of detention. NPMs can interview confined persons without other witnesses present, visit places of confinement, and provide recommendations to the relevant authorities for improvements in the conditions of detention and for preventing abuse of confined persons.

## **UN Human Rights Enforcement Mechanisms**

A number of mechanisms exist at the UN level to ensure compliance with treaty obligations and prevent torture. This includes the UN treaty monitoring bodies, the special rapporteurs and the Universal Periodic Review (UPR).

### **i) Treaty monitoring bodies**

The treaty monitoring body is a committee of independent experts that monitors implementation of treaties by its member states. Accordingly, all state parties are obliged to submit regular reports to the Committee on how the rights are being implemented. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of “concluding observations.” This includes the UN Human Rights Committee which monitors the implementation of ICCPR, the Committee on the CAT and the Committee on the Convention on the Rights of Children (CRC). The Human Rights Committee receives and considers communications from individuals claiming to be victims of violations of any rights under the Covenant, as provided in the first Optional Protocol to ICCPR which Uganda is a party. Freedom from torture and related ill treatment is a right protected by the covenant and thus complaints on abuse can be entertained by the Committee. However, the Committee only admits complaints where local remedies have been exhausted. In Uganda’s case, the complaint must have been heard by the highest court – the Supreme for the matter to be admissible. This poses a challenge as court processes tend to delay unduly in Uganda as rights are violated and victims not offered protection.

### **ii) The UN Special Rapporteur**

The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment was established in 1985 by the UN Human Rights Commission and extended by the Human Rights Council (HRC). It is mandated to examine questions relevant to torture in all countries, irrespective of whether a State has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Special Rapporteur transmits urgent appeals to States with regard to individuals reported to be at risk of torture, as well as communications on past alleged cases of torture. It undertakes fact-finding country visits; and submitting annual reports on activities to the Human Rights Council and the General Assembly.

Unlike the complaints mechanisms, the Special Rapporteur does not require the exhaustion of domestic remedies to act. When the facts in question come within the scope of more than one mandate established by the HRC, the Special Rapporteur may decide to approach other thematic mechanisms and country rapporteurs with a view to send joint communications or seeking joint missions. The report of special rapporteur

in 2013, indicated alleged ‘dangerous unhealthy conditions of detention in Ugandan prisons, including the lack of medical care, overcrowding, spread of communicable diseases, poor hygiene and provision of food with low nutritional value.’<sup>27</sup> The Special Rapporteur reiterated that the Committee on CAT and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment, urging the Uganda Government to heed to Rule 22(2) of the Standard Minimum Rules for the Treatment of Prisoners, which provides that, “[s]ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals.”

### **iii) Universal Periodic Review (UPR)**

The UPR is the most recent innovation of the UN under the auspices of the Human Rights Council to ensure observance of human rights. The UPR conducts peer review of the human rights record of each state on a four-year basis. Part of the process is for NGOs to submit reports on their perceptions of the situation in their countries. Uganda was reviewed in 2011. Human Rights Watch Report on Uganda to the Human Rights Council (HRC) indicated prolonged illegal detention and torture by security forces remain serious and unaddressed problems in Uganda.<sup>28</sup> The (HRC) urged the Government of Uganda among others to:

“take immediate measures to investigate the excessive use of force and incidents of torture by the security forces and to prosecute and punish its perpetrators; Eliminate detention facilities known as “safe houses”; Improve overall conditions of prisons and adopt relevant measures to tackle the problems such as overcrowding, unsatisfactory state of prisons and shortcomings in the supply of health care and ...allow non-governmental organizations and the Human Rights Commission of Uganda to have access to detention centres.”

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27 Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez (2013), available at [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-53-Add4\\_EFS.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-53-Add4_EFS.pdf) (accessed 17 July, 2015).

28 HRW Submission to UPR (2011) ; available at <https://www.hrw.org/news/2011/03/29/universal-periodic-review-uganda> (accessed 17 July, 2015).

## 1.1.2 African Regional Framework

### African Human Rights Laws against Torture

The African human rights system prohibits torture under the African Charter on Human and Peoples' Rights (The African Charter)<sup>29</sup> and African Charter on the Rights and Welfare of the Child (Children Charter).<sup>30</sup> Article 5 of the African Charter provides that:

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

This provision is a unique feature of the African Charter, unlike other international instruments. It extends coverage of the right to freedom from torture to include respect for the inherent dignity in a human being. This is significant because it deals with the resultant impact of torture to a victim which reduces the individual to the level of losing their human dignity. The right of freedom from torture is indivisible from the respect of human dignity. Another unique aspect of the African Charter is the inclusion of slavery and slave trade in a single category as forms of exploitation and degradation, which makes the enjoyment and protection broader.

Further, the Children Charter guarantees freedom from torture to children in all circumstances including detention, remand or imprisonment.<sup>31</sup> It commits states to undertake specific legislative, administrative, social and educational measures to protect children from all forms of torture.<sup>32</sup> Measures to achieve this includes establishment of special monitoring units to provide necessary support for the child as well as other forms of prevention and for identification, reporting, referral, investigations, treatment, and follow-up on instances of child abuse and neglect.

The adoption of the Robben Island Guidelines for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (RIG),<sup>33</sup> is recognition of the need for a torture specific instrument in Africa and torture as a multidimensional issue. RIG reasserts the absolute and universal prohibition of torture and other cruel, inhuman or degrading punishment or treatment, and calls upon African States to go beyond the simple condemnation of torture in principle and to adopt

29 The African Charter was adopted in June 1981 in Nairobi, Kenya and entered into force in October 1986.

30 The Children's Charter entered into force on 29 November, 1999.

31 See Article 17(2)(a) of the Children's Charter.

32 See Article 16(1) of the Children Charter.

33 It was adopted by the African Commission on Human and Peoples Rights in October 2002, at its 32nd Ordinary Session and endorsed by the Assembly of Heads of State and Government of the African Union in Mobutu, Mozambique in 2003.

concrete prevention measures. Institutional mechanisms for ensuring implementation of these treaties are discussed in this document.

## **African Human Rights Enforcement Mechanisms**

The mechanisms at the African continental level include the African Commission on Human and Peoples Rights (the Commission); the African Court on Human and Peoples Rights (the Court); and the African Special Rapporteur on Human and Peoples Rights. These mechanisms are established to support the implementation of rights under the African Charter on Human and Peoples Rights.

### **i) The African Commission**

The African Commission on Human and peoples' Rights (African commission) has established a complaints procedure where parties can file communications where torture is alleged and as a violation of the African Charter. The Commission's functions include collecting documents, undertaking research, organizing conferences, receiving complaints, disseminating information and occasion making recommendations to governments.<sup>34</sup> The requirement for exhaustion of local remedies is applicable to torture cases except in exceptional circumstances where the requirement can be dispensed with.<sup>35</sup> To ensure the effective implementation of the RIG, the African Commission established the Committee for the Prevention of Torture in Africa (CPTA) in 2004, as its Special Mechanism dedicated to the fight against torture. CPTA's current interventions include raising public awareness on the prohibition and prevention of torture; advocacy for the effective national level implementation of RIG; capacity strengthening of relevant actors for the effective implementation of RIG; and technical advisory role and making recommendations to StateParties and other relevant actors on the effective prohibition and prevention of torture as well as on responding to the needs of victims.

### **ii) The African Court on Human and People's Rights.**

The Court has jurisdiction over all cases and disputes submitted to it regarding the interpretation and application of the African Charter. Uganda has ratified the protocol establishing the Court and can institute cases before it.<sup>36</sup> However, Uganda has not made a declaration which allows individuals and NGOs with observer status to exercise their right to bring cases to the Court. Therefore, submission of cases is currently only a reserve of the state.<sup>37</sup> Human rights advocates need to lobby the government to make this declaration to create legal access for individuals and NGOs to submit complaints on torture cases to the Court.

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34 As above no.28.

35 See article 56 of the African Charter.

36 See <http://www.african-court.org/en/> (accessed 17 July, 2015).

37 See Article 34 (6) of the Charter, requiring declaration by states on individual and NGOs access to the Court.

## 1.5 Domestic Legal Safeguards on Torture

### 1.5.1 Substantive Laws on Torture

Uganda's Constitution embraces freedom from torture as a non derogable right.<sup>38</sup> In article 24, the Constitution, reiterates the provision in the UDHR, ICCPR and CAT on torture, "No person shall be subjected to any form of torture, cruel, inhuman or degrading treatment or punishment."

This adopts the customary international law position. Uganda has domesticated torture as one of its laws – The Prevention and Prohibition of Torture Act, 2012 (The Act). The Act defines torture to mean:<sup>39</sup>

"any act or omission, by which severe pain or suffering whether physical or mental, is intentionally inflicted on a person by or at the instigation of or with the consent or acquiescence of any person whether a public official or other person acting in an official or private capacity..."

The Act widens the definition of torture to include private individuals and non-state actors, which departs from the international law standard requiring a perpetrator to be a state official or its agents. It also imposes individual responsibility for acts of torture and Supervisors shall be held liable in cases where they either condoned or were aware of the on-going acts of torture. It provides adequate legal framework for investigation, prosecution and the fight against torture including its devastating psychological and mental impact on victims. It reiterates the inadmissibility of evidence obtained by means of torture except where such evidence is being used against the alleged perpetrator. Considers torture an international crime, providing for prosecution of any person within the territory of Uganda who is alleged to have committed torture and is resident in Uganda no matter where the act was committed.

Over the years, however, the violation of the right to freedom from torture and ill-treatment has remained the highest recorded violation of human rights in Uganda. In 2011, the UHRC indicated a 55% increase in the violation against torture. Of all the awards for human rights violations awarded by the UHRC, 72.5% are awards related to torture.<sup>40</sup> These numbers are reflected in the financial loss incurred by Government every year, towards compensation for victims of torture.

### 1.5.2 National Enforcement Mechanisms

Victims may have recourse to courts (consisting of the Supreme Court, the Court of

<sup>38</sup> See Article 44 of the 1995 Constitution of Uganda.

<sup>39</sup> See Section 1 of the Prevention and Prohibition of Torture Act (2012).

<sup>40</sup> UHRC Reports (2011).

Appeal, the High Court and subordinate courts, namely Chief Magistrates Courts)<sup>41</sup>. Other key domestic mechanisms for accountability of torture cases in Uganda include the UHRC, the Police and UPDF have internal complaints mechanisms and the recently established Parliamentary Standing Committee on Human Rights Affairs.

### **i) Courts of Judicature – criminal and civil processes**

Courts of law are custodians of rights under the 1995 Constitution of the Republic of Uganda. Victims of torture may file a criminal complaint for prosecution of torture as a crime under the Act or make a compensation claim in courts of law. Under the criminal procedure option, complaints are investigated and prosecuted by the Police and the Directorate of Public Prosecutions (DPP). An appropriate sentence is secured upon conviction to a maximum of 15 years of imprisonment and may in some circumstances order for award for damages.<sup>42</sup>

A civil claim is an option under article 50, provides a constitutional right to redress including compensation award for violation of fundamental rights through a competent court.<sup>43</sup> Article 50 (2) allows any person who alleges a violation of or threat of a fundamental right to seek recourse to court. The importance of courts in enforcement of human rights is emphasized under article 50 (4) of the Constitution. Courts enjoy independence from any state agents or authorities in administration of justice. Victims of torture have access to courts of all hierarchy starting from the Chief Magistrates Court upwards to the final appellate Court, the Supreme Court. Thereafter, other regional mechanisms can be explored in case of further dissatisfaction with the decisions of the Supreme Court.

### **ii) Standing Committee of Parliament on Human Rights**

The Standing Committee on Human Rights Affairs was established in May 2012 and is dedicated to the protection of human rights as well as the monitoring of Governments' towards the observance of human rights. The mandate of the Committee includes monitoring and reporting on human rights concerns in every business handled by Parliament; monitoring Government compliance with national and international human rights instruments; following up on Government periodic reports to international human rights monitoring bodies; examining the recommendations of UHRC reports and ensuring that Government is held accountable where appropriate.

The Committee receives petitions and complaints on thematic issues related to human rights concerns, government practices and law as part of its mandate. Individual complaints may be first submitted to the UHRC which would forward them to the

41 See Section 17 of the Act.

42 See section 4 of the Act.

43 See Article 50(1&2).

Committee. The Committee should further enhance accountability and ultimately instill a human rights based approach into legislative and policy development.

### **iii) The Uganda Human Rights Commission**

The UHRC is a national protection mechanism entrenched in the Constitution.<sup>44</sup> It has quasi-judicial powers with the mandate to preside over cases and give orders to Government for implementation. The UHRC also conducts monitoring and inspection in places of detention and other areas within its mandate. The UHRC publishes periodical reports on its findings and submits annual reports to Parliament for action. As earlier noted, victims of torture constitute the highest percentage of cases reported to the UHRC. The UHRC has been by far the most important body to award compensation;<sup>45</sup> however, the UHRC has no powers of enforcing its decisions. Government's unnecessary delay in awarding damage hampers the effective delivery of justice to victims of torture. Steadfast and fast-tracked process would create meaningful justice to victims. It is also worth noting that the mandate of the UHRC commissioners expired in June 2015 and until now no new commissioners have been appointed neither has the contract of the previous commissioners been extended. This creates a serious loophole in the dispensation of justice to victims of human rights abuses by state agents. It is therefore necessary to have commissioners appointed if UHRC is to continue the good work that they have been known for.

### **iv) The Uganda Police Force<sup>46</sup>**

The Police is the first line defender of human rights, in its mandate to enforce law and order in Uganda Constitution. Its underlying duty is to ensure that the Constitution and other laws are followed and effectively implemented as they observe human rights. The functions of the police include protecting life and property, preserving law and order, preventing and detecting crime and cooperating with civilian authorities and other security organs.<sup>47</sup> The Police Force is spread throughout the entire country and are therefore in position to not only investigate torture cases but also take proactive stance through community policing to avert torture practices in society.

Conversely, the Uganda police have been on record for violations of human rights for decades. Most of the patterns of torture cases illustrated above are orchestrated by the police whose primary obligation is to protect human rights. Both the UHRC and the African Centre for Treatment and Rehabilitation of Torture Victims data indicate the police taking lead in perpetrating torture and other human rights abuses to people.<sup>48</sup>

<sup>44</sup> See Article 51 of the 1995 Constitution.

<sup>45</sup> From 1999- 2005, the UHRC has awarded a total of around 775 million UGS (\$441,595.442) in 63 cases. Awards made in 2005 ranged from 900,000 (\$517) to 33,578,000 (\$19,297).

<sup>46</sup> As above article 211-214.

<sup>47</sup> As above - Article 212 of the 1995, Uganda Constitution.

<sup>48</sup> ACTV Annual Report (2013) 6-7, Uganda Police Force became second to the Lord's Resistance Army (LRA)

In recognition of acts of torture and other unprofessional conduct in execution of police duties, the Professional Standards Unit (PSU) was established to receive and investigate complaints from the public. Through restructuring, the Police established Human Rights and Legal Directorate (formally directorate legal squarely), which works hand in hand with PSU to ensure professional standards and observance of human rights. It should also be noted that the Uganda Police with input from ACTV and UHRC developed Anti-Torture guidelines for intended use by the officers, women and men carrying out their duties. This notwithstanding, the ability of these internal mechanisms is questionable to carryout independent and effective investigations and prosecutions of suspects from their own institution. This system is flawed and not subjected to an independent review. Therefore, an independent system would be ideal to prosecute a complex and heinous crime such as torture. Indeed torture is a barbaric and despicable practice condemned and fought in democratic societies.

### **1.6 Civil Society Efforts on Torture Prevention in Uganda: Milestones achieved but more to go**

Civil Society Organisations have been instrumental in advocacy for establishment of legislative framework, documentation and reporting, administering medical and psychosocial support to victims of torture in Uganda. The enactment of the Prevention and Prohibition of Torture Act in 2012 was a milestone in the advocacy efforts of NGOs under the Coalition Against Torture spearheaded by ACTV and UHRC. Through the Coalition, a proposed bill was drafted, discussed and refined. Armed with the draft bill and supportive documentation on torture prevalence, different stakeholders were engaged and lobbied successfully. It was later presented in Parliament as a Private Members Bill, which was adopted on 26 April, 2012.

Beyond legislative framework, advocacy on institutional reforms relating to the judiciary, the police, prisons and oversight bodies remains significant for the effective implementation of the law. As earlier noted, the criminal justice system in Uganda has a number of challenges including corruption and political manipulation in handling torture cases. Courts also often suffer from a backlog of cases and take a considerably long time to dispose of cases. The absence of effective independent legal system that is capable of ensuring prompt investigations and prosecutions of torture cases also contributes to the recurrence of torture. It is hoped that the new leadership in the judiciary can take effective reforms to ensure better protection for victims of torture.<sup>49</sup>

Other key challenge that requires urgent address in Uganda is the absence of a witness

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as perpetrators of human rights.

49 For about 3 years, Uganda did not have a substantive Chief Justice, until early this year (February 2015) when Hon. Bart Katureebe was appointed. This greatly affected the judiciary and so, the entire criminal justice system.

protection law which is yet to be adopted. There is no law providing for effective victim and witness protection, yet, victims and witnesses continue to face intimidation and harassment, which is an adverse impact on the ability to pursue cases. The law and its implementation is necessary for the protection of victims or others who report acts of torture. Guidelines on the Anti-torture law need to be made available to relevant actors and the public at large to enhance implementation of the law. More engagement and utilization of the available international human rights forums would enhance learning and sharing of good practices to improve the situation to prevention torture. Civil society should therefore engage the Government of Uganda on these gaps to realize more meaningful and effective torture prevention strategy.

## **SECTIONFOUR: FINDINGS OF SURVEY ON THE SITUATIONAL ANALYSIS ON THE PREVALENCE OF TORTURE**

### **4.1 BACKGROUND CHARACTERISTICS**

A total of 511 respondents participated in the survey of the situational analysis on the prevalence of torture in Uganda out of which 52.25% were male and 47.75 were female. On marital status, most of the respondents were married and living with their spouses (54.82%), 12.65% were in relationships but not living with partners while 10.44% were single. Nine out of every ten respondents (91.39%) had ever attended school while 8.61% had never attended school.

For those who had ever attended school, 50.64% had completed primary school, 30.77% had completed secondary school, 7.91% had completed technical education while 8.76% had a University Diploma. Regarding occupation, 22.68% were farmers, 13.75% were bar owners and 10.71% were salaried workers. Not that there were no significant variations in responses between old and new districts. Also note that whereas the legal definition of torture to respondents was explained, in many respects there understanding or responses tended to overlap the known meaning of torture together with cruel and degrading treatment. This was for both the general respondents from the household survey and some of the Key Informants. It is our conclusion that these crimes—which are all outlawed internationally have many similarities and whereas the focus can be on prevention of torture—cruel and degrading treatment cannot be excluded from any sustainable advocacy campaign. The next section specifically provides the conceptualisation of torture, and our analysis of such perceptions by our respondents. Similarly also when put into context, these responses are understandable—on the basis that any other reports on perpetrators of torture say for example those of Uganda Human Rights Commission—are based on complaints received at the Commission and interviews to inmates in detention facilities who in effect are a self-selected group. This survey sought to establish the prevalence of torture in a wider public and therefore differences in knowledge, opinions would be expected. However even the UHRC reports indicate that individuals have become the second most frequently cited offenders after the Police which further lends credence to this community based responses.

Table 4.1.1: Background Characteristics of Respondents

	OLD DISTRICT		NEW DISTRICT		Overall	
	No.	Percent No.	No.	Percent No.	Female Total	Percent
<b>Marital Status</b>						
Married living with spouse	183	53.98	90	56.60	145	54.82
Married not living with spouse	26	7.67	9	5.66	20	7.03
Not married living with partner	29	8.55	12	7.55	24	8.23
In a relationship not living with partner	41	12.09	22	13.84	32	12.65
Single	36	10.62	16	10.06	27	10.44
Divorced	20	5.90	4	2.52	11	4.82
Widowed	4	1.18	6	3.77	3	2.01
<b>Total</b>	<b>339</b>		<b>159</b>		<b>262</b>	<b>498</b>
<b>Education</b>						
Yes	314	89.97	150	92.59	246	91.39
No	35	10.03	12	7.41	21	8.61
<b>Total</b>	<b>349</b>		<b>162</b>		<b>267</b>	<b>511</b>
<b>Highest Level of Education attained</b>						
Primary	174	55.06	63	41.45	110	50.64
Secondary	78	24.68	66	43.42	83	30.77
Technical	27	8.54	10	6.58	22	7.91
University diploma	32	10.13	9	5.92	25	8.76
Degree	4	1.27	4	2.63	5	1.71
Other	1	0.32	0	0.00	0	0.21

Occupation	OLD DISTRICT		NEW DISTRICT		Overall	
	No.	Percent No.	No.	Percent No.	Male	Female
<b>Total</b>	<b>316</b>		<b>152</b>		<b>245</b>	<b>468</b>
Crop farmer	67	17.18	60	35.29	70	57
Livestock	12	3.08	2	1.18	8	6
Artisan	10	2.56	3	1.76	13	0
Shopkeeper	35	8.97	12	7.06	22	25
Bar owner	58	14.87	19	11.18	36	41
Trader	51	13.08	13	7.65	29	35
Student	29	7.44	3	1.76	13	19
Child labour	34	8.72	20	11.76	36	18
Un-employed	10	2.56	2	1.18	6	6
Salaried Workers	37	9.49	23	13.53	26	34
Other	47	12.05	13	7.65	30	30
<b>Total</b>	<b>390</b>		<b>170</b>		<b>289</b>	<b>560</b>

The survey was conducted in 12 districts selected from different statistical regions in the country and were divided into: (a) old districts: Mbarara, Hoima, Kasese, Mbale, Soroti, Nebbi, Gulu and Kampala; and (b): new districts: Gomba, Amuru, Zombo and Isingiro. The categorisation was based on the assumption that anti-torture institutions in new districts are in formative stages and this may affect their effectiveness in prevention of torture when compared to old districts which have developed institutions. The findings in the proceeding section reveal that there were no significant differences in the prevalence of torture between old and new districts.

## 4.2 INCIDENCE AND PERCEPTION OF TORTURE

### 4.2.1 Conceptualisation and Incidence of Torture

We asked respondents from the Focus Group Discussions and Key Informant interviews what they considered to be torture in their perspective. The understanding varied. First we realised that this torture is not a subject that is usually discussed in communities and therefore it took lots of explanations for people to trust the research team and also to understand what was being referred to. The respondents have varied perceptions of what constituted torture. For many however despite explanations, there was an overlap between torture and cruel and degrading treatment and it was akin to: child abuse, domestic violence for both men and women, violent conduct resulting into physical, emotional and psychological injuries and pain, violence among the youth especially with regard to claiming and selling family property, land grabbing, and previous rebel activities especially in Northern and Eastern Uganda and how such rebellions were violently suppressed among others. Others likened it to food deprivation, poverty and powerlessness especially in the wake of land grabbing. The opinions of respondents are reflected in the voices below:

Torture is an act of mistreating someone, inflicting pain on a person, or rather exposure of a human being to some sort of unpleasant situation or experience, it can either be severe beating, stoning anything that can injure someone but it can also be in form of psychological torture. **Police Officer, Eastern Uganda.**

Torture is when a person is being treated in a cruel way for instance being born in a poor family you have nothing to eat actually when you are deprived of food or being mistreated at home by a wife or husband you have nowhere to go; no land to cultivate to me that is torture....for me in my own opinion almost all Ugandans are tortured in one way or the other, it can be emotional, physical or psychological torture, the Bahima here are grabbing land from us, they don't value us at all and this is not fair. **FGD with Community respondents in Nsangano-Nakivaale, Rugaaga Sub County, Isingiro District.**

Torture is a punishment to one without him or her committing any crime or felony; you are beaten, mistreated in any form, innocently. ....Torture is when you are captured forcefully, raped, taken to the bush, de-toothed, and beaten. ....Torture to me is mistreatment with impunity, disgraceful act, to maim you, waste your time. Torture defers from person to person, I was arrested, tortured and disgraced in 2000 I was captured for one month, I was disgraced, and I got two children from that. **FGD with Survivors of Torture from Gulu and Pader Districts.**

Oh, torture is a mistreatment, is a way of mistreatment of a child in a community. ....Torture for me is something you do to the person which is not fair, which can harm the person and which cannot please the person to be confident in

the place. Thank you....For me I think torture is the mistreatment of a child or an elderly person against the law of Uganda, yes. ....Torture is any act that is against human beings and is done in a very hurtful way in that the individual cannot take the pain and is also against the law in Uganda....Torture is the mistreatment of an individual in the community. **FGD with Students of Nebbi Progressive Secondary School**

I would say what constitutes torture in Uganda is the grievous harm on an individual by somebody; it can be physical or psychological. In cases of Uganda this can be any act of violence during war whereby the conflicting parties may harm innocents. I know there cases of torture which occur in prisons. These acts may be done by the prisoners or the officials. Acts of torture can occur in Police cells as well. **FGD with Director of a Civil Society Organisation in Northern Uganda**

Physical or bodily harm, though in a domestic setting there's both physical and psychological torture. It could be between parents and children, husband and wife, or between relatives. In some of our schools some teachers physically torture students by giving them heavy punishments. What I can say is that most torture victims that we receive here at the hospital complain of painful backs and general body pain. Some patients complain of body pain but when you conduct a check-up, you find that they have a fractured arm, or marks on their body. Some suffer from internal bleeding due to these external wounds. **Interview with a Director of a Hospital in South Western Uganda.**

What I am seeing happening would say torture is inflicting much pain on someone for instance by beating parents burning their children with polythene bags may be because the child has stolen 100/= shillings then police beating people yet it is not allowed according to the law, there are some punishments that are supposed to be there not beating someone to the extreme that might even lead to murder that is what I am seeing. **Clan leader, Hoima District.**

I would say what constitutes torture in Uganda is the grievous harm on an individual by somebody; it can be physical or psychological. In cases of Uganda this can be any act of violence during war whereby the conflicting parties may harm innocents. I know there cases of torture which occur in prisons. These acts may be done by the prisoners or the officials. Acts of torture can occur in police jails as well. **Capacity Support Officer, Gulu Women's Economic Development and Globalization (GWED-G)**

In my view, there are so many forms of torture for instance someone may assault another physically; like fight between couples or community members against

one another. Then there is a case of someone being physiologically tortured especially if they went through a difficult time or situation for example cases of war victims in Northern Uganda, it is called post-traumatic stress disorder and so many other stress related issues that can lead someone to severe depression. In this case a person lives in fear or isolation or gets nightmares about their ordeal. This can also happen to a person in a community for instance a girl or woman who has gone through rape or gang rape; this can cause fear and depression which is physiological torture. In Such cases even when they get married and they have not overcome their past psychological issues they shift the burden to their husbands and children in the way they treat them or when they are trying to be overprotective. We also have cases where people are attacked in their homes by armed robbers and they are treated badly, or a family member is killed in the process or raped in their presence. This brings fear and anguish that can lead to a depression and other stress related issues. Others get physiologically tortured when their loved are being torture for example parents who child has been kidnapped and they are threatening to kill the child or the children who have been abducted from their parents for child sacrifice; some mothers don't recover from such stress. **Clinical officer health centre III, Gomba**

From the above quotations, it is clear that respondents understand the various aspects of torture especially from their vantage points. To children, it is about child abuse and maltreatment of anyone in a community including the elderly. To others, it is grievous harm of usually innocent people and this could be during war, law enforcement or domestic conflicts. The consensus was that torture has several dimensions including: physical, psychological and emotional dimensions.

#### **4.2.2 Experience with Torture**

This survey sought to establish people's experience with torture. We inquired from the respondents whether they had ever been tortured/treated in a violent or cruel way at any one time. Overall 65.4% of the respondents reported to have ever been tortured while 34.6% had never been tortured. Similarly 66.4% of female respondents reported that they had ever been tortured while 33.6% had never been tortured. On the other hand 64.4% of male respondents had ever been tortured while 35.6% had never been tortured. In the old districts, 55.7% had ever been tortured while 31.6% had never been tortured. In the new districts on the other hand, 58.6% had ever been tortured while 41.4% had never been tortured. This in our opinion was a very significant number of people reporting to have ever been tortured.

We also asked respondents whether they were aware of other people known to them who had ever been tortured. Indeed 75.9% of our respondents were aware of someone who had ever experienced torture especially in their communities while 24.1% of the respondents were not aware of any one ever experiencing torture as explained in the

quotes below:

Me personally speaking I am a man I have a home but I am being tortured by my own children and I am seeing many other people being treated in the same way. Our old children want to grab land from us and sell everything. ....In households men are being tortured by their women, for example you marry a wife and she decides to go and marry another man leaving you with the young children helpless at home and this makes you feel like running mad with a lot of thoughts, and as a man you cannot report her to Police and they help you. ....Many people are being tortured let me talk about myself not others. I am being tortured by my children I have property but the children don't want me to touch anything they claim that everything belongs to their mother, shouldn't sell anything and we are asking ourselves where can we the men also report such cases because the Police only protect children and women. **FGD with Community respondents in Nsangano-Nakivaale, Rugaaga Sub County, Isingiro District.**

When I was about to complete my primary I was tortured indirectly by rebels. This is because I had to sleep in the bush because of fear. My close family members were tortured. My dad was arrested by the government soldiers, at that time the NRA. He was accused of feeding the rebels because he had a very big farm in the village with cattle and food stuffs cultivated. There was nothing he could do to prevent the rebels from picking food stuffs and animals. He had the biggest chunk of land in that village which was heavily forested and the rebels used it as a hiding place. They would rest there for hours. He was arrested, tortured. Although I didn't see it by myself but when he returned he was almost crippled. It was physical torture. His animals were also looted. I have a colleague who was also arrested by government soldiers. He was beaten, caned so much that he couldn't walk for weeks. Another was arrested by the rebels and was kept for weeks without eating, with a lot of constant beating but he finally returned and told us about his story. **Key Informant Interview with a Director of Human Rights NGO in Northern Uganda.**

Oh yes, as I was just telling you this story, most of the cases we have been handling, yes, I have experienced many torture victims, now the story I was telling you happened yesterday in the police cells, a prisoner died, and we are most sure that it was a torture case by the police because when they were doing post mortem it said that, the prisoner had some liver problem and bronchitis but the most perturbing thing is that, he was found with deep bruises, on him, so we are thinking this police wants to cover up their crime, and we are doing all the necessary investigation to help this family get justice and my dear if you see the family, uhhh, very, very poor, very poor, and hopeless, they are just there like that, so, we're scratching our heads over this, so this physical torture is very common, so mmh so, it is in terms of beating yes beating, very

## common. **Key Informant Interview with NGO in Northern Uganda.**

Someone can be married and the husband makes her suffer where you find she is beaten almost every day and remains there quiet because she either doesn't know where to report or is scared. Yes there are there for example there is an old lady whose land was grabbed by a rich man who also took her land, this old lady developed pressure at the end of the day, and is now in Mulago, it affected her psychologically, we reported but nothing has been done, I myself reported even this old lady went up to Kampala, me I went to court they came and saw the titles but up to now they have never called us back.....There is a woman whose husband sold off their land to the oil people and when he was paid the man married another wife and the old wife was left alone with her children, the woman reported the case at sub county and probation office she was to be refunded three million but she was only given two million when she went back to the district they told her the case was dismissed because the husband gave the remaining money to the officers. **Namasanga Village, Hoima District.**

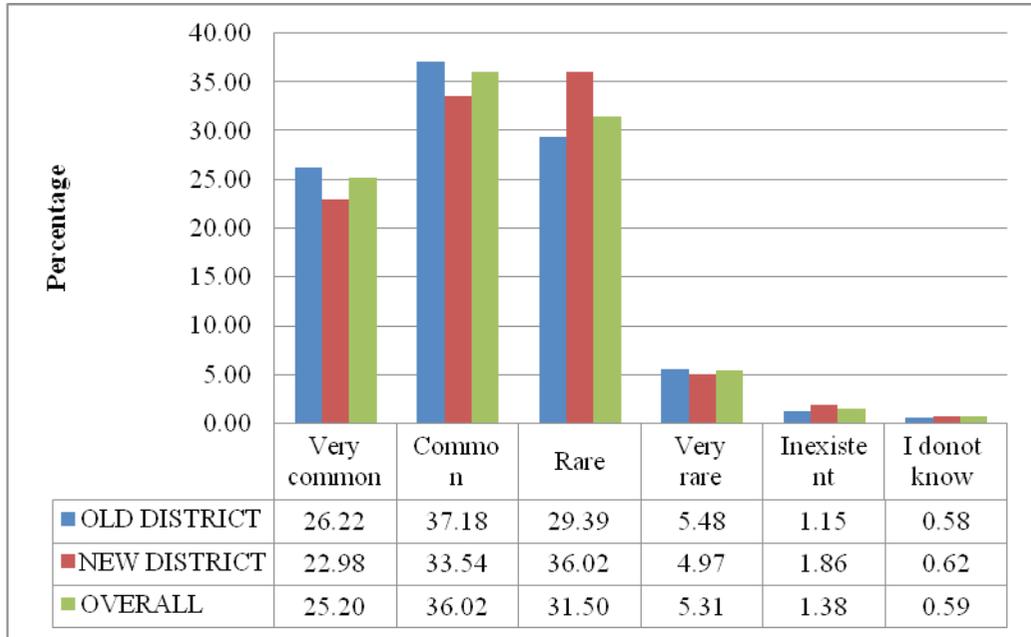
I have experienced many torture victims, now the story I was telling you happened yesterday in the police cells, a prisoner died, and we are most sure that it was a torture case by the police because when they were doing post-mortem it said that, the prisoner had some liver problem and bronchitis but the most perturbing thing is that, he was found with deep bruises, on him, so we are thinking this police wants to cover up their crime. **(Staff, Human Rights Organisation, Gulu)**

I have experienced torture myself. I was suspected in 2009 for treason where I was arrested and taken to Luzira Prison for a period of up to three years and then in 2012 I was given order of acquittal. I was exposed to different acts like suffocation; in the same incidence I remember electrical wires were used. I was also beaten with sticks to get information. I think physical beating is the most dominant. **Parish chief, Gulu**

### **4.2.3 Prevalence of torture in communities**

We sought the opinion of the respondents about whether torture was common in their communities. Overall 25.2% of the respondents said torture was very common, while 36% said it was somewhat common and an almost equal number of 31.5% said it was rare. As shown in the figure 4.2.1 below, the responses in both new and old districts were similar.

#### 4.2.1: Prevalence of Torture in Communities



#### 4.2.4: Discussion and synthesis of torture and other cruel, inhuman, degrading treatment and punishment

It is clear that the understanding of the community who are the ultimate beneficiaries of advocacy campaigns on prevention of torture understand torture in ways that overlap between the concept itself and other forms of cruel, inhuman and degrading treatment and punishment. The distinction to them was not very clear at all even after lengthy explanations by the research team. This is an important message for advocacy—illustrating the need for more information. What is also surprising is that even among our key respondents, the distinction is not clear. International law too shows that there are many similarities in these concepts. This section therefore seeks to reconcile the understanding of torture in legal and human rights terms and the community perception garnered during this survey on prevalence of torture. An attempt is made to make both a distinction and a nexus between torture and other ill-treatment and their position in international human rights standards. It also discusses the controversy surrounding the status of the perpetrator, that is, whether torture pertains to acts committed by the state officials or persons acting in official capacity. In this regard, we make the following observations.

##### 1. Torture in Legal and Human Rights Lenses

The legal definition of torture in human rights law differs quite considerably from the

way the term is commonly used in the media or in general conversation and indeed from the community survey. The UN CAT (1984) offers an internationally acceptable definition in Article 1:

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

Three cumulative elements are deduced from the above definition: a) the intentional infliction of severe mental or physical suffering; b) committed by the state officials or persons acting in official capacity; and c) for a specific purpose. The most commonly used methods of torture include beating, rape and sexual assault, electric shocks, stretching, submersion in water, sleep deprivation, suffocation, burns, isolation, threats, humiliation, mock executions, and witnessing the torture of others. In all these methods, the three elements must be present to constitute torture. Lawful sanctions accepted by international standards are thus explicitly excluded.

## **2. The distinction and nexus between torture and other ill-treatment**

During the survey, non-state actors such as family members and community members ranked highest as perpetrators of torture. This reportedly occurred in cases of domestic violence and land wrangles among others. This understanding seems to be a departure from the definition of torture under Article 1 of CAT that limits torture to severe pain, inflicted with a purpose by a state official or its agents. It implies that, such acts without the elements of intent or acts not carried out for the specific purposes may comprise cruel or inhuman treatment under Article 16 of the CAT while acts aimed at humiliating the victim constitute degrading treatment or punishment even where severe pain has not been inflicted.

A combined reading of Articles 1 and 16 of CAT depicts torture as an aggravated form of cruel, inhuman or degrading treatment or punishment. Therefore, the legal difference between torture and other forms of ill treatment lies in the level of severity of pain or suffering imposed and the purpose of the act. However, even with the distinction between torture and less serious forms of ill-treatment, all are absolutely prohibited under Article 7 ICCPR, other international and regional treaty provisions. This further

gives credence to the findings. If indeed community respondents are concerned about cruel and degrading treatment—without the competence to distinguish it from torture—this in itself should be seen as a pointer to advocate against cruel treatment especially as expressed in form of domestic violence and land grabbing. To lend credence to our findings, a review by the Uganda Human Rights Commission of the land evictions by Kampala City Council revealed that some of the forced evictions were reported to have caused injury to persons especially when they degenerate into violent conflicts and in some cases torture of affected persons as reported by both law enforcement officers and evicted persons. The UHRC further notes that they have reviewed several complaints of torture during land evictions from different parts of the country (UHRC 2014 page 104). This notwithstanding the severity of the pain inflicted needs to meet the threshold of the definition of Article 1, CAT to amount to torture, which can be determined on a case by case basis.

**Table 4.1.2: Understanding of the Concepts of Torture, Cruel and Inhuman Treatment and the Distinction**

Torture	Existence of a specific purpose plus intentional infliction of severe suffering or pain.
Cruel or inhuman treatment	No specific purpose, significant level of suffering or pain inflicted.
Torture and Cruel or inhuman treatment	All absolutely prohibited by international law, Pain arising from lawful sanctions not excluded.

### 3. The perpetrator question: Who can commit an act of torture

Article 1, provides that only a public official or a person acting in official capacity can commit an act of torture. This interpretation of Article 1 has been expanded to include non-state actors as long as he/she is in a position to exercise authority over others and those authorities is comparable to government authorities. This was recently accepted by the Committee against Torture in the decision of *Elmi v Australia*,<sup>50</sup> where the Committee considered that ‘actions by non-state actors could, in certain circumstances, be considered to be sufficiently ‘state like’ to amount to Article 1 of ACT. More so, the Uganda’s Prevention and Prohibition of Torture Act, 2012, expressly widens the definition of torture to include private individuals and non-state actors which departs from the international law standard requiring a perpetrator to be a state official or its agents. It imposes individual responsibility for acts of torture and for supervisors

<sup>50</sup> Committee against Torture, Communication No. 120/1998, UN Doc CAT/22/D/120/1998(1998); See also J Herman Burgers and Hans Danelius, *The United Nations Convention against Torture: A handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1998)45.

to be held liable in cases where they either condoned or were aware of the on-going acts of torture. Therefore, actions of grave nature inflicting pain or injury by private individuals with a purpose can constitute torture under the Act.

Indeed other reports especially the UHRC, now recognises private individuals as major sources of torture or cruel treatment. In 2014, the Uganda Police was identified as the main respondent with 2,169 (42.1%) complaints, followed by private individuals with 1,071 (21.7%), Uganda People's Defense Forces with 492 (9.73%), Uganda Prisons Services with 177 (3.5%), and Local Governments with 183 (3.63%) cases registered against them (UHRC 2014). This report too illustrates the growing number of people reporting to have been tortured, cruelly treated or harassed by private individuals.

#### **4.2.4 Conclusions on Incidence and perception of torture**

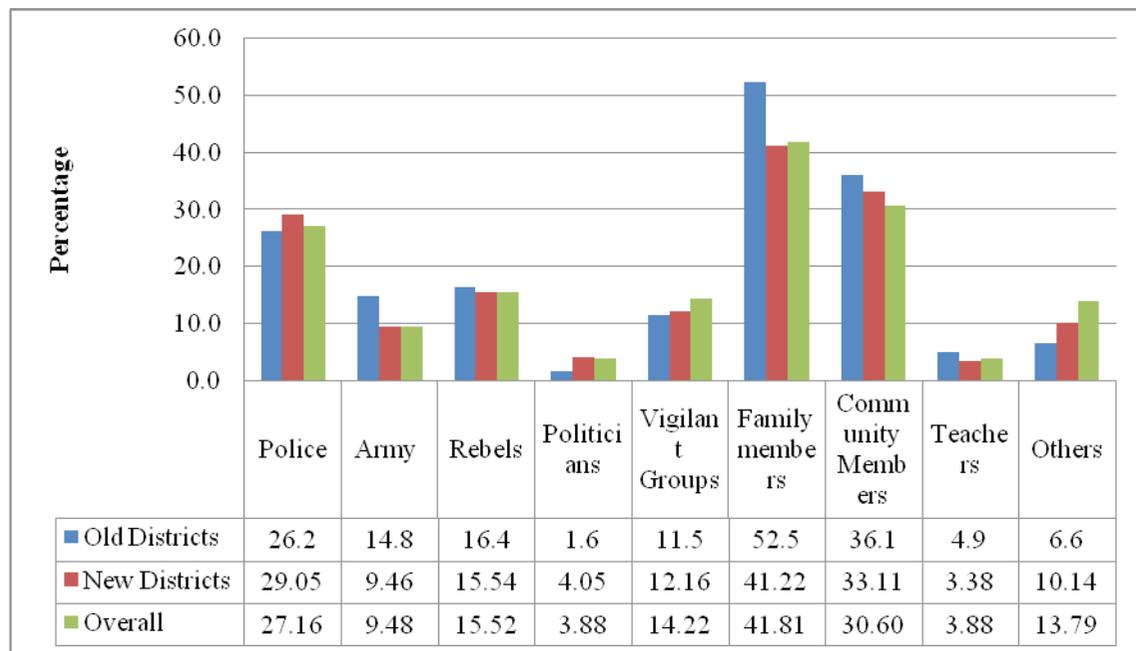
Our discussions with community respondents highlighted that their understanding of what constitutes torture varies but broadly relates to gross abuse of human rights resulting into physical injuries, emotional and psychological pain. In Northern and Eastern Uganda, torture was attributed to rebel activities and resultant suppression by the armed forces. From the various community description and perception of torture, the crosscutting idea is that torture affects individuals gravely including their capacity to live a dignified and decent life. However we note that their understanding of what torture is overlaps into cruel and degrading treatment. The Convention Against Torture limits torture to: severe pain, inflicted with a purpose by a state official or its agents. The PPTA 2012, acknowledges the role of individuals in committing acts of torture. We would also like to note that reports highlighting security agencies as the main perpetrators of torture are based on complaints from inmates or individuals who report to the Police, UHRC and other related agencies. These are self-selected individuals and in that respect may not be representative of general population experiences. The proceeding section has also highlighted that only 47% of our respondents had reported previous cases of torture. Based on the similarities between torture, cruel and degrading treatment—which may be difficult for an average community respondent to understand, we recommend that the Civil Society and Government takes the concerns of the respondents as indicators of prevalence of torture and other related prohibited crimes. Advocacy campaigns against torture should also make reference to cruel and degrading treatment—while making effort to make these distinctions clear to the communities and all stakeholders in human rights—since they are from this survey not obvious.

#### **4.3. PERPETRATORS OF TORTURE**

We requested respondents to identify by institution or association, the persons who had meted out acts of torture on them. Overall, family members were singled out by most of the respondents for having carried out torture and cruel treatment (41.81%),

followed by the community members (30.60%) and then the Police (27.16%) and rebels (15.52%). Both male and female respondents gave more or less similar responses in their views about who metes out torture. Both reported that most of the torture is carried out by family members (41.2% male and 42.9% female); followed by community members (33% male, 26.2% females), and then the Police (29.1% male, 23.8% female respondents).

**Figure 4.3.1: Perpetrators of Torture**



As shown in figure 4.3.1, from the vintage view of the community respondents, most of the torture is carried out by family and community members followed by the police and this was triangulated with the FGD and key informant interviews as reflected below:

Much torture in this community is during the time of elections. The armed security personnel force us to vote for certain people. If you refuse they will beat you, we go ahead and hide in the swamps but they come searching for us there and by force you must vote they beat you, kick and make you vote for the person you don't want and it is worse if they know you don't support their person they will kill you. This time of election that we are approaching only God will intervene because we are very much scared people are tortured last time some people were shot and the government kept on hiding and silencing the cases and playing seek and hide games.....We also have thieves in this

community as Ugandans we have our livestock but those refugees come from those settlement camps since they have no food to eat and steal our animals and they are many when you report to Police they will write a statement and will end there no investigation or arrest done. **FGD with Community Respondents, Rugaaga Sub County, Isingiro District.**

Yeah, people keep saying that it is police torturing them but we are also tortured, when effecting arrests people really torture us those people have a lot of energy, some of them are actually bigger than us, you find yourself going to arrest a huge man who has got more energy than you and he does not want to give in himself fairly, and when you force him to get into the car, they portray you as being the one torturing the person. Actually, some of them, even tear our uniforms, in the process of effecting arrests we are tortured but the problem, the media is that they always portray the Police as being in the wrong, but we are tortured seriously. The most common form used is usually mob justice people want to take the law in their own hands. You find, if the community gets a suspect, they actually want to kill that person, they throw big stones at the person, they beat the person even sometimes to death, and you and when we police get such an angry mob we are also at times injured or rather tortured in the process. **Kil with Police Commander in Eastern Uganda**

They range from the state and non-state actions like security agencies, army, police and private security firms. At household level, we have men inflicting pain to the women by beating which may result into injuries and o-course psychological or emotional. Children, who are deprived of food and are starving, step mothers torturing their step children. **Programs coordinator, Association of Human Rights Organisation (AHURIO)**

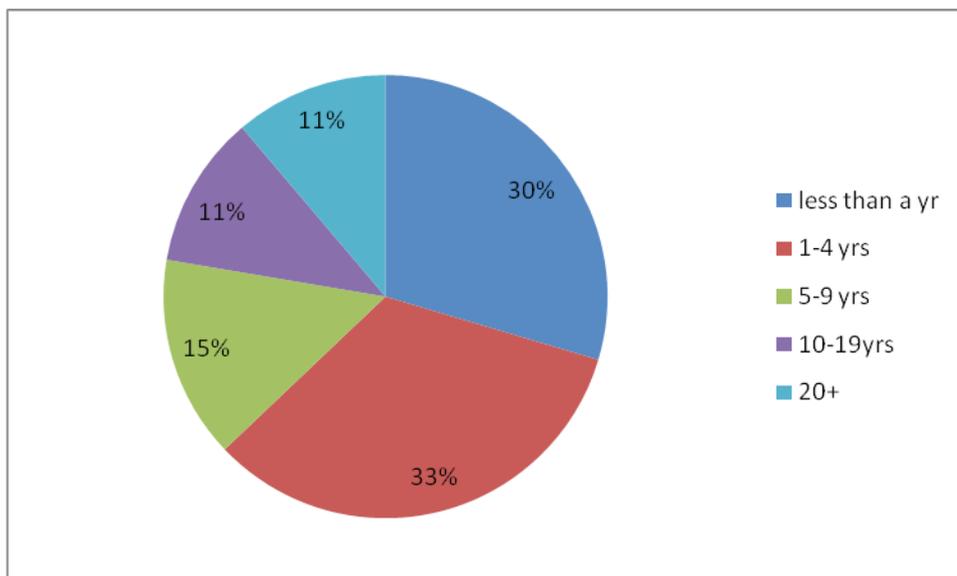
Currently, when I look at the political arena of the country, there is lack of democracy in that Ugandans are never allowed to exercise their political rights. The current government with all its mercenaries are the ones carrying out the torture. Within the community, I don't see much torture with the exception of land wrangles. That is where there is a bit of torture that normally come from the youth against the elderly, against their parents and against women and this is because they need money, they don't have a source of income. They look at land as the only means of income. The elderly and the parents want to protect the land for future generations. The women are also in protection of land because they have children so there is conflict created. Officer, **Justice and Reconciliation Project (JRP)**

They are quite many but mainly we look at the security forces that are the police, army and the prisons. We can also look at teachers, the parents and

caretakers. There are those who hold public offices, some of them think that they are above the law. But also there is peer to peer kind of torture; last week there was a student who beat up his colleague badly. **Sub County Chief Kyegonza, Gomba**

We also wanted to know from the respondents how long ago they were tortured. 29.6% of the respondents reported that they had been tortured during the previous one year (12 months), while 33.3% had been tortured between 1-4 four years ago. 11.2 % had been tortured between 10-20 years and an equal percentage had been tortured more than 20 years ago. This observation is important to determine the nature of responses. It is evident that many more people are being tortured in the recent past (5 years) as compared to historical cases of torture on a nationwide scale.

**Figure: 4.3.2: How Long ago were you tortured?**



#### **4.3.1: Methods of Torture**

The survey sought to establish the methods used to torture people. Overall most frequently reported methods were beating cited by 88.2% of respondents, followed by kicking and punching (50.3%), humiliation (30.1%) and food deprivation (20.6%). Methods like straining the body into very painful positions locally referred to as '*kandoya*' were less frequently reported. These were very common in the 1980s as a method used to extract information from potential rebels or collaborators. In the new and old districts, the significance of methods reported were consistent with the overall

reporting following the same sequence of beating, kicking and punching, humiliation and food deprivation. Across the board, spraying with tear gas was also acknowledged as a method of torture.

**Table 4.3.1: Methods of Torture**

	OLD DISTRICTS				NEW DISTRICTS				OVERALL	
	Male		Female		Male		Female		Total	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent
Beating	142	87.7	155	85.6	87	87.9	56	98.2	440	88.2
Kicking and punching	87	53.7	93	51.4	47	47.5	24	42.1	251	50.3
Humiliation	37	22.8	61	33.7	34	34.3	18	31.6	150	30.1
Food deprivation	24	14.8	42	23.2	22	22.2	15	26.3	103	20.6
Spraying with teargas	21	13.0	23	12.7	8	8.1	4	7.0	56	11.2
Burning	9	5.6	23	12.7	2	2.0	3	5.3	37	7.4
Incarceration into dark and lonely	15	9.3	17	9.4	1	1.0	1	1.8	34	6.8
Sleep denial	8	4.9	11	6.1	4	4.0	7	12.3	30	6.0
'Kandoya'	9	5.6	6	3.3	4	4.0	2	3.5	21	4.2
Suspending the suspect	7	4.3	6	3.3	2	2.0	1	1.8	16	3.2

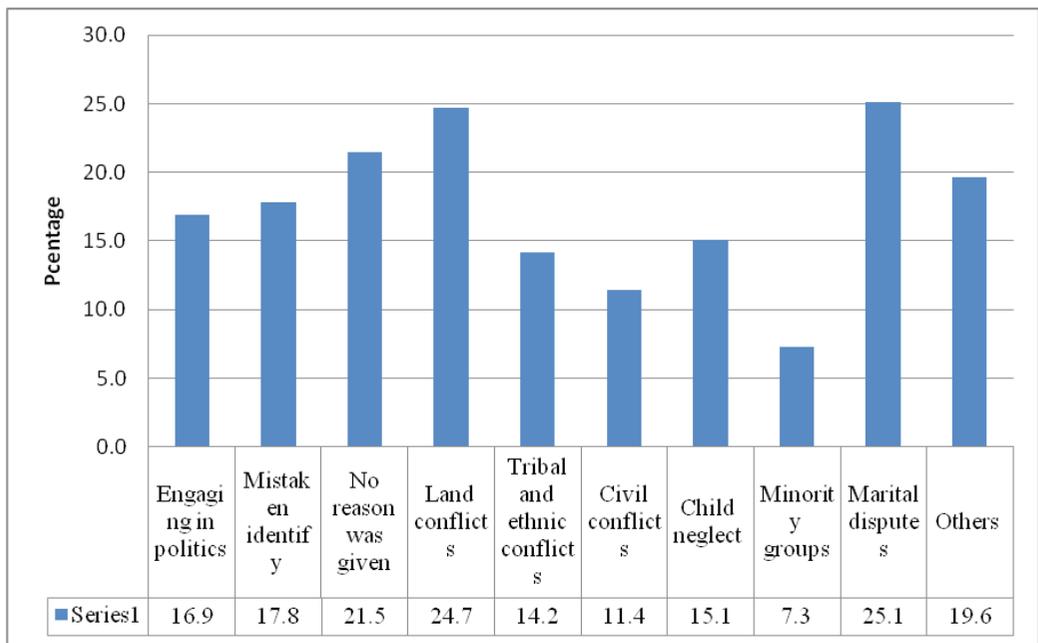
The quote below illustrates the methods used to torture people as reported from Focus Group Discussions.

Me in our village I think it is child abuse where children are tied with ropes and are beaten so badly because maybe that child has stolen a one hundred shillings coin. The youth have made us suffer; we no longer have peace in this community, imagine a child of ten years finds you on the way and abuses you, embarrasses you in front of people and then runs away. Children have really lost morals because even the parents do not have time for them, school drop outs are many and there is a lot of child neglect. The men, when they were paid for land sold to the oil company they ignored their families and some remarried leaving the wives without anything not even land where they can dig because all was sold due to greed for money. **FGD, Nyakasoma Village, Hoima District**

### 4.3.2 Reasons for torture

We established from the respondents what they considered to be the reasons why they were tortured or the people known to them. The reasons varied from engaging or being active in politics—in which case people are tortured as political opponents or supporters of opponents; the rampant land grabbing, marital disputes among others. In some instances no reasons are provided. Specifically in this survey, marital disputes still emerged as the main reason for torture among respondents (25.1%) followed by land conflicts (24.7%). In some cases perpetrators gave no reason for the cruel treatment (21.5%) while others cited engagement in politics (16.9%) among others.

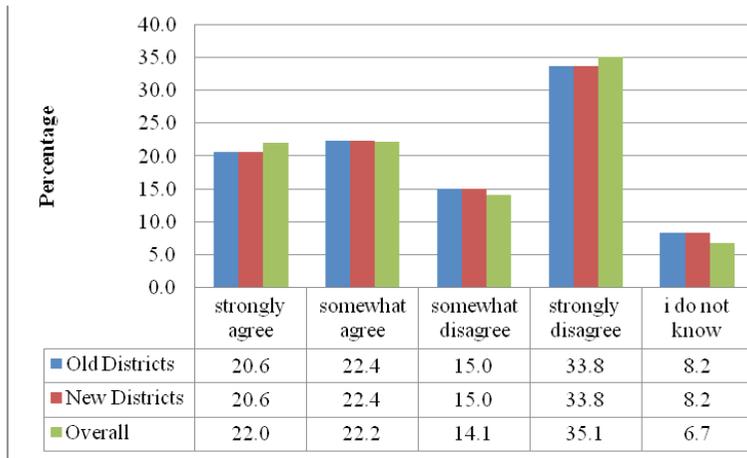
**Figure: 4.3.3. Reasons for Torture**



### 4.3.3. Perception about Safety When in Custody

We wanted to know whether in their opinion they would be safe if they were taken into custody in any Ugandan detention facilities. Few of them thought that they would be safe. Overall 35.1% of the respondents strongly disagreed when asked whether they thought they would be safe in custody while 14.1% somewhat agreed as shown below in figure 4.3.4:

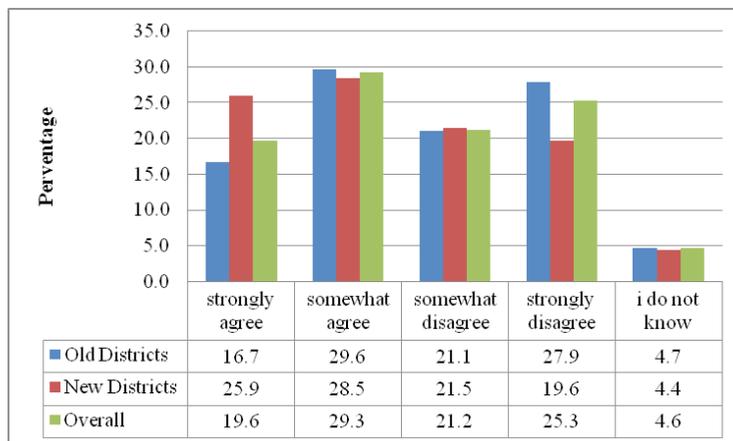
**Figure 4.3.4: Perception about Safety When in Custody**



**4.3.4. Observance of the law when arresting and detaining people**

We sought to learn from the respondents whether in their opinion of whether security agencies and the Police follow the law when arresting and detaining people in their community. Overall, 25.3% disagreed that security agents follow the law when arresting and detaining people, while 29.3% somewhat agreed and 21.2% agreed. The responses were even with majority somewhat agreeing that the law is followed. This therefore implies that severe forms of torture for example kidnapping and detention without trial are less prevalent which is a promising trend.

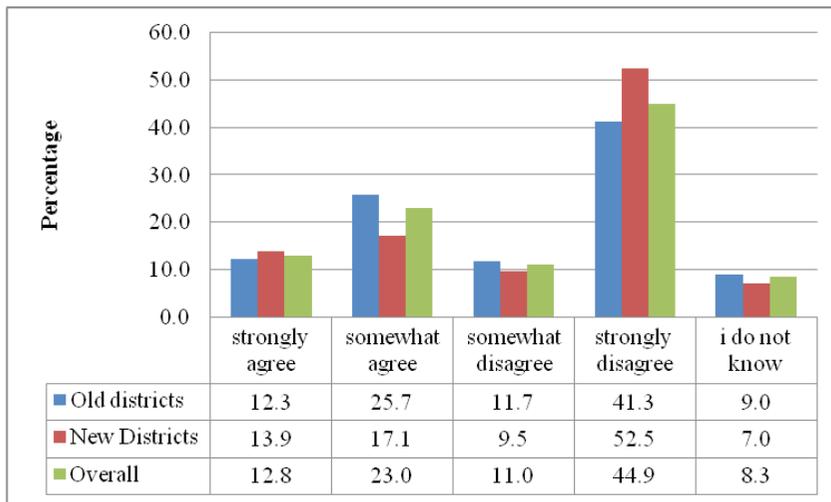
**Figure 4.3.5. Do Security Agents Follow the Law when Arresting and Detaining People**



### 4.3.5. Are there special circumstances when torture may be justified?

We sought to know from the respondents whether in their opinion there were special circumstances that warranted the use of torture. 44.9% of the respondents strongly disagreed with the notion that there are special circumstances under which torture could be justified while 23% somewhat agreed that such circumstances exist. With close to half of the respondents disagreeing with the notion that there are special circumstances under which torture may be justified implies the extent of objection to torture. However in circumstances, of perpetual offenders, some respondents noted that there could be circumstances under which torture may be justified as a means of extracting information as illustrated in figure 4.3.6.

**Figure 4.3.6. Circumstances under which Torture may be Justified**



### 4.3.6 Conclusion on Perpetrators of Torture

This section sought to establish the perpetrators of torture, methods of torture, circumstances under which torture can be justified among others. On the question of who perpetrates torture, most respondents singled out family members for having carried out most cases of torture on them (41.81%), followed by the community members (30.60%) and then the Police (27.16%) and rebels (15.52%). Note however as always already explained in previous sections that this understanding overlaps torture and in some respects refers to other forms of cruel and degrading treatment. The Civil Society and Government agencies should as well pay attention to other violations and endeavour to explain to the public the differences between these crimes since in our opinion these differences are not obvious—while in other respects require judicial processes to distinguish. What emerged that these crimes in most cases—whether they qualify as torture or other forms, in most cases go unreported or get resolved

without recourse to the law often with dire negative consequences to the victims. Culture seems to perpetuate violence at community level which results in torture for some individuals. It should be noted that many communities in Uganda still believe in physical violence for both women and children as way of chastisement, yet in many cases such punishments are cruel, inhuman and degrading, from the authority and institutional perspective the need to engage more with the police and other security institutions are even greater in the face of ever rising institutional violence.

On methods of torture most respondents cited beating and kicking as the main methods of torture. Although no method can be condoned, it was fair enough to know that extreme methods like straining the body into painful positions—methods that were common several decades ago were less frequently reported by community respondents. This study however did not interview inmates in prisons or other detention facilities and this should not imply that such methods do not exist—but it is worth noting that at the community level, these were less frequently reported. This implies that whereas they exist, on a wider scale they are less prevalent.

This study also interviewed respondents on the reasons for torture and most of them mentioned marital disputes (25.15), followed by land conflicts (24.75). Some could not give any particular reason why they were being tortured while others mentioned engagement in politics (16.9%) among others. It goes without saying that marital disputes and disputes over natural resources are major causes of torture and interventions against torture should could include programs to address such interventions.

On the question of whether there are circumstances under which torture may be justified, (44%) of our respondents disagreed with the notion that there were special circumstances under which torture may be justified. This is a strong message from the respondents to the extent that they disapprove of torture. It also indicates to a level of awareness about the effects that in the opinion of the respondents there is no justification (despite the reasons that the perpetrators sometimes give) to allow torture.

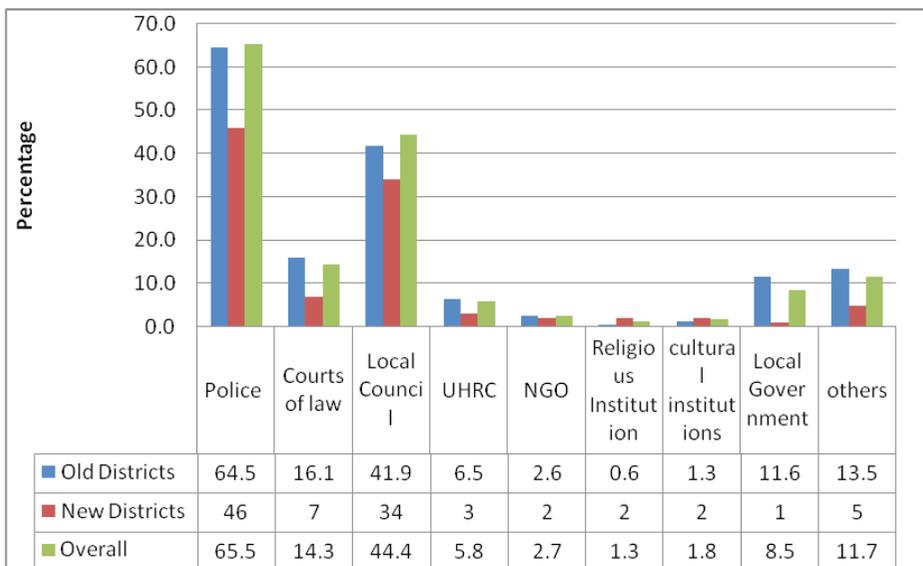
## **4.4 REPORTING OF TORTURE CASES**

### **4.4.1. Institutions Where Cases of Torture are Reported**

The level of reporting of cases of torture is a proxy for measuring levels of awareness of anti-torture legislation and redress mechanisms. We asked our respondents whether they reported cases of torture inflicted upon them or people known to them. Overall, only 47% reported the cases of torture while 53% were never reported. With only 47% overall reporting cases (and 48% in old districts and 45% in new districts) which highlights the high need for sensitising the communities about prevention of torture.

For those who said they had reported the cases, we followed up to know where the cases had been reported. Most of the respondents said they report the cases to the Police (65.5%), 44.4% report to the Local Councils and 14.3% report to Courts of law. Very few of the respondents had or knew people who report cases to the Uganda Human Rights Commission (5.8%). A few reported that such cases are reported to clan members, school administration, family and managers at work. This implies the need to sensitise the public about the avenues available for reporting cases of torture and cruel treatment.

**Figure 4.4.1: Institutions Where Cases of Torture and Cruel Treatment are reported**



#### 4.4.2. Reasons for not Reporting Cases

Some of the respondents who despite having been tortured but choose not to report cited several reasons why they did not do so. The two main reasons for not reporting the torture cases were: belief that even if they reported no action would be taken (34.5%) and the lack of trust in the justice system (34.8%). Other respondents reported that they did not know where to report (17.2%). There was also a reported fear of retaliation (14.6%), being threatened not to report (11.16) and lack of money to pursue the case (8.58%). Other reasons included fear of death threats, and the fact that some cases were resolved outside the justice system.

**Table: 4.4.1: Reasons why Cases of Torture were not Reported**

	Old Districts		New Districts		Overall	
	No.	Percent	No.	Percent	No.	Percent
Belief that no action would be taken	51	31.9	30	41.1	81	34.8
Do not trust the justice system	53	33.1	28	38.4	81	34.8
Others	26	16.3	17	23.3	43	18.5
Did not know where to report	27	16.9	13	17.8	40	17.2
Fear of retaliation	18	11.3	15	20.5	33	14.2
Was threatened not to report	18	11.3	8	11.0	26	11.2
Lacked money to pursue case	18	11.3	2	2.7	20	8.6
Was accused of being involved	5	3.1	3	4.1	8	3.4
Was a forced perpetrators	1	0.6	2	2.7	3	1.3
<b>Total (N)</b>	<b>160</b>		<b>73</b>		<b>233</b>	

For those who had reported the case, we followed up to establish if any action had been taken by the different authorities to whom the torture case(s) were reported. 54.97% of the respondents reported that when they reported the cases, action was taken by the authorities while 45.03% of the respondents reported that no action was ever taken when they reported the cases as reflected in the quotes below.

Here in Uganda we have organizations like Human Rights but we just here about them but do not help us at all, so if you do not have money they do not help and sometimes even if you have the money but do not know where to go it does not help. We do not report because of fear like being killed by the perpetrator or even chased away from our homes when you report your problems so we have to go by whatever they say whether it is wrong or right. I think us the women we do not know our rights, we even fear to report, we ask the government to help us because even where we report they don't listen to us and there the men increase on beating us.....Me I think the government should come and sensitize us the women because we do not know our rights and so the men keep stepping on us. Sometimes you think that when you report they will still not help you because you have seen many people who have reported and no justice has been granted so you decide to also keep quiet and some of us don't even know where to report certain cases. **Nyakasoma Village, Hoima District.**

Places like police L.C courts of law are there and we here of human rights but why should I go to report yet within me I am very sure I will not get any kind of help from there. The person will choose to keep silent and some are not even

aware of those organizations another issue you women are also torturing us for instance I personally didn't sleep at home you women cannot be punished by the authorities even if you do wrong. You are given much freedom if we report women they are not arrested, the police only arrest men. Of recent, a woman cut private parts of her husband, where I stay on rentals they fight day and night; you wonder what the world has turned into. My wife at times she picks a panga and threatens to kill me that is why if I don't have money to give her I opt to remain out and not go home in fear for my life. **FGD with Taxi Operators, Hoima Town.**

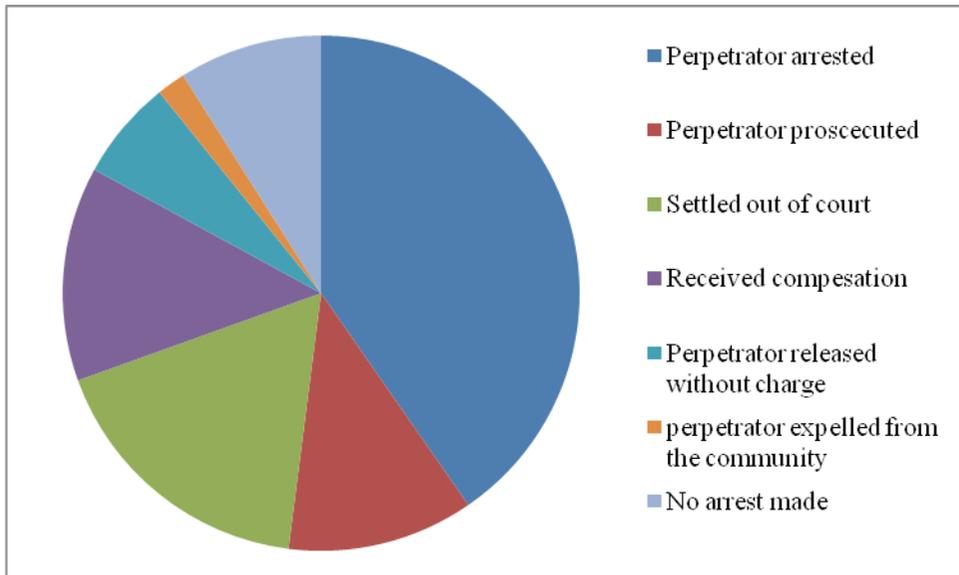
Yes we report like to the LC1 chairman but the perpetrators abuse the chairman and others report to the police so they do not follow the right procedures. We have heard of Human rights there but we have never gotten any help from it, like we had said we the poor you cannot come close to Human rights because you do not even have money to transport you there but some of us do not know where their offices are. .... Human rights Hoima, there is a time they called the women and I was one of them; we shared our problems and they promised to come and help the women solve these issues but up to now we have never seen them, they gave us their numbers but even when you call them they do not follow up; but there is one organization which has helped us as people that is the London oil project, we have been getting problems here, me and my fellow women or some other women gets a problem and we note those problems and because am one of the representatives we take them to the district so that organization is the one which helps us solve them. There is one case of a lady who had problems and she came to me, I reported the case to the LC and they contacted those people in Kampala who sent two ladies up to here because they wanted to see the victim face to face and talk to them personally but when they left we took the case to the sub county they called the husband of the woman and he agreed to take care of her but after the man paid one million to the probation at Police the lady lost the case like that and she left and went back to her parents and it ended there. **FGD with Community group, Hoima District.**

No, most of the cases are not reported especially cases concerning women they don't know where the offices are to report, and even when you report to the town clerk or the council they do not help at all your just wasting your time because they ask for money and take a lot of bribes but we also go to the LC1. .... We had talked about the issue of money, even if you report when you do not have the money you're wasting your time so there is equality, they cannot look at someone the way he or she is and they help, now imagine an old woman who has come to report some rich man for land grabbing, you find they are in favour of the rich man just because he gave some bribe. They are not on standard because the people there are corrupt because you can go to the hospital like on a cancer issue and they tell you there is no medicine so they send you to buy. **FGD Community Group, Mbarara District.**

#### 4.4.3. Action Taken by Authorities to Whom the Case was reported

We asked respondents about the action that was taken when they reported cases of torture to responsible institutions. Slightly more than half of the respondents (53.89%), reported that the perpetrator was arrested when they reported the torture case, while 15.57% reported that following arrest the perpetrators were prosecuted. 23.35% reported that the case was settled out of court. Only 17.96% of those who reported cases received compensation. 8.38% noted that the perpetrators arrested were released without any charge.

**Figure 4.4.2. Action Taken by Authorities to Whom the Case was reported**



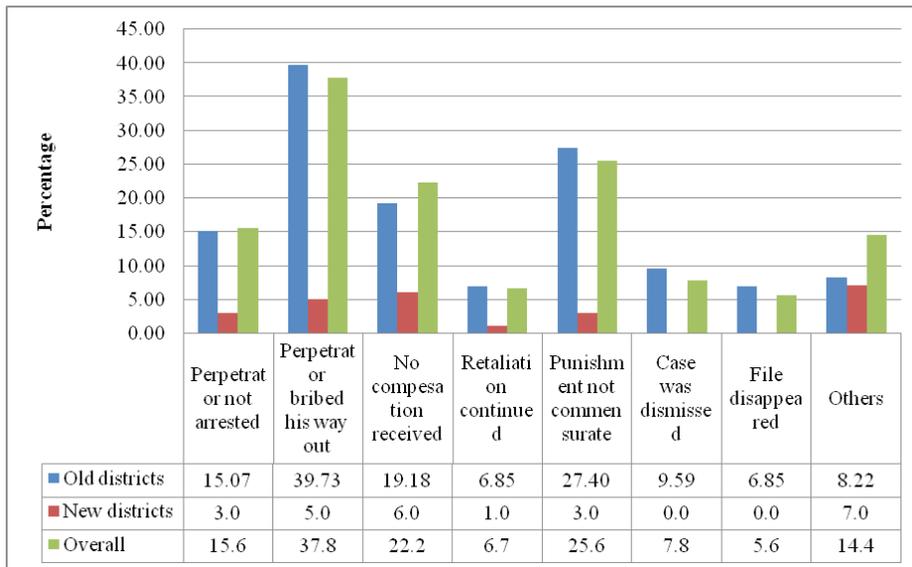
#### 4.4.4. Satisfaction with Action taken by the authorities when torture cases were reported

Of those who had reported the cases of torture to the authorities, 55.10% reported that they were satisfied with the action that had been taken by the authorities while 44.90% reported that they were not satisfied with the action taken. For those who reported that they were satisfied, we wanted to know how satisfied they indeed were with the action taken when they reported cases of torture to the authorities. Up to 28.6% of the respondents said they were very satisfied with the action taken by the authorities, slightly more than half of the respondents (57.1%) reported that they were satisfied while 6.3% were not satisfied. Only 6.4% said they were very dissatisfied with the action taken by the authorities on the perpetrators of torture.

#### 4.4.5 Reasons for Not Being Satisfied with the Action

For those who said they were not satisfied with the action taken by the authorities when they reported suspects to the authorities, we asked for the reasons why they were not satisfied and they stated as follows. Overall, 37.8% of the respondents reported that perpetrators bribed their way out, 25.6% said they were not satisfied because the punishment given to the perpetrator was not commensurate to the crime committed while 22.2% reported that they were not given any compensation for the torture they were subjected to despite reporting to the authorities. Another 15.6% reported that even after reporting, the perpetrators were not arrested.

#### 4.4.3: Reasons for Not Being Satisfied with the Action



The quotations below further illustrate the reasons why people choose not to report cases of torture or cruel treatment.

When you report someone and that person is richer or has more money than you, they will toss you around until you give up on the case and that person will come back to the village and say that those who don't have money cannot win a case so you give up and sit. So they should put IGG on such cases to help the poor like us because they torture us we the people at the grass root.....In addition to her suggestion even if they put these people, they will also want money at the end of the day so me what I think they should put people who will help someone with their case right from the beginning to the end so that the person wins the case but when you have a case and go to the Police or court before you do anything they first call you remember the judge doesn't call you

himself he has people on the side before you see the judge to tell you where you will meet someone or where you will put your envelope so before you meet the judge himself the other person has already discussed your case. .... So if Government would look at people who don't look at that I think solving cases in the right order would have happened but these people or Government how can it do this even the person at the grass root to know that when I open my case I will be able to solve it up to the end.....With that we have an example very near, here in Toro they announced the land for farmers but on the first day when the farmers had gone to check out the land, only tear gas was the one that brought them back out of that place. There we ask ourselves the role of court and those that sprayed the tear gas; where is the Government now? Another thing on the cases of land you find a case reaches Toro I give 6 million even my friend gives 6 million now they bring back the case to Chairman LC2 that you go and give the judgment after so many years, so we put all this blame on Government and the future leadership even we talk as people of Bigando the people at the top lost way, money has spoiled everything.**FGD with Community Leaders, Bigando, Kasese District.**

Some keep doing wrong because they are not aware of the law, ignorance lack of awareness campaign. Take for example you called us have but one just ran away to show you that he is fed up with the government they don't want to sit for nothing. Some people are being tortured or torturing others because they know nothing is going to be done. I mean they will not receive serious punishment, they know after all in Uganda if you have some money then you already have justice in your hands. In short what I mean is that the corruption and all bribery involved in the justice system will always make people be tortured unless there is a change in our judicial system. The Police is so inactive I don't know whether it is because of the low salaries but why doesn't the Government sack all the corrupt officials to me it is as if the government is encouraging and promoting torture Acts. **FGD with Taxi Operators, Hoima Town.**

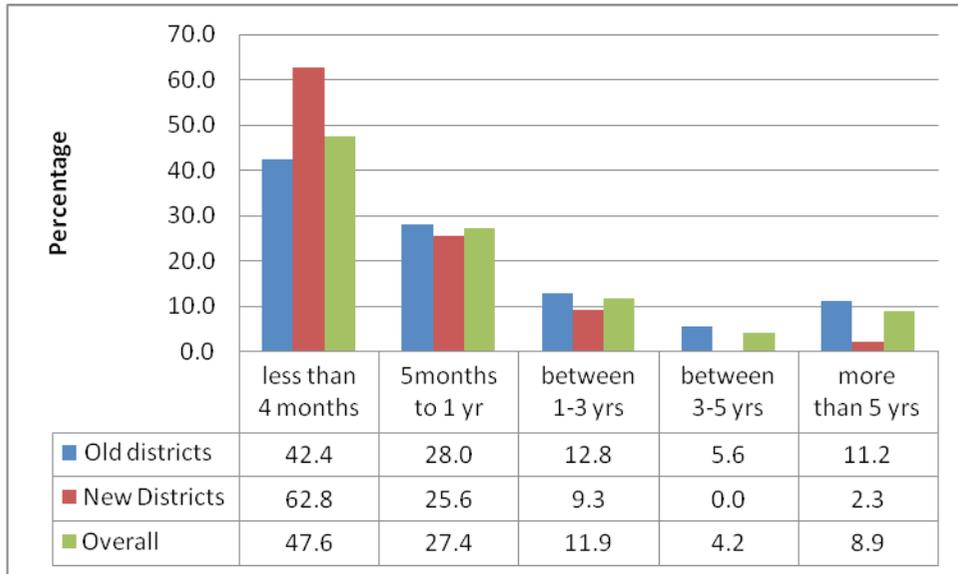
Some cases are not reported because people do not know where to report. You see even when you go to the Police; they will ask you for money to register the case and some people do not have that money. So you find that it's only those with money that are able to report.**FGD at Bishop Stuart University, Mbarara**

That issue comes from the police like I mentioned earlier; you need money to report a case and also follow it up. After reporting you have to give them fuel to get the offender, people don't have that kind of money so they would rather not report. Apart from the local council it is the first step you need to get help on such cases. For reporting a case they asked between 5000 to 10,000shs. **LC1 Chairperson, Gomba**

#### **4.4.6. Time it takes to receive justice**

For those to whom some action had been taken, we asked them how long it had taken them to receive justice. Almost half of the respondents (47.6%) said they had received some form of justice in less than four months, 27.4% had received justice between 5 months to one year. Only 8.9% said it had taken them more than 5 years to receive justice. This partly implies a less proportion of cases make it to courts of law further giving an account as to why cases of torture are yet to be prosecuted.

**Figure 4.4.4: Time it takes to receive justice**



#### 4.4.7 Conclusions on Reporting Cases of Torture

The interesting finding is that over 53 % of the respondents did not report an act of torture meted out on them or people known to them. While the majority of cases are were reported to the police (65.5%) and the LCs (44.4%), consultation with key informants and human rights defenders indicated that a high proportion of cases reported to police and the local council officials do not move up the justice system. Connivance and collusions, especially by powerful perpetrators have hampered the derivation of justice for the victims of torture at family and community levels. The main implications here is that mechanism to address community level torture should aim to strengthen the leadership structures at community levels, raise awareness and build knowledge and information on how the cause for justice can be promoted at this level. Moreover we also note that non-reporting of torture cases was mainly attributed to issues of knowledge of where to report and belief about the outcome of such reporting. The lack of trusts on the judicial process also significantly discourages many from reporting and this has a lot of implications on the effectiveness of torture prevention efforts and mechanisms. A lot in the opinion of the consultant needs to be done to restore communities' trust in the justice system in Uganda.

#### 4.5. FACTORS THAT PERPETUATE TORTURE IN COMMUNITIES

Our respondents cited several factors that perpetuate torture. The main concern raised was poverty as cited by 61.26%. Respondents may not be able to pursue justice because of lack of money as these processes are often expensive, but also poverty deprives one of the resilience required to fight for justice. The other equally compelling reason was the reported lack of knowledge on human rights (46.86%). This makes it often difficult for the tortured individuals and their families to seek justice. Respondents also cited the corruption among law enforcement officers (36.11%), greed in its own right (18.26%) and as a major driver of corruption, and the weak anti-torture laws (26.57%) among others.

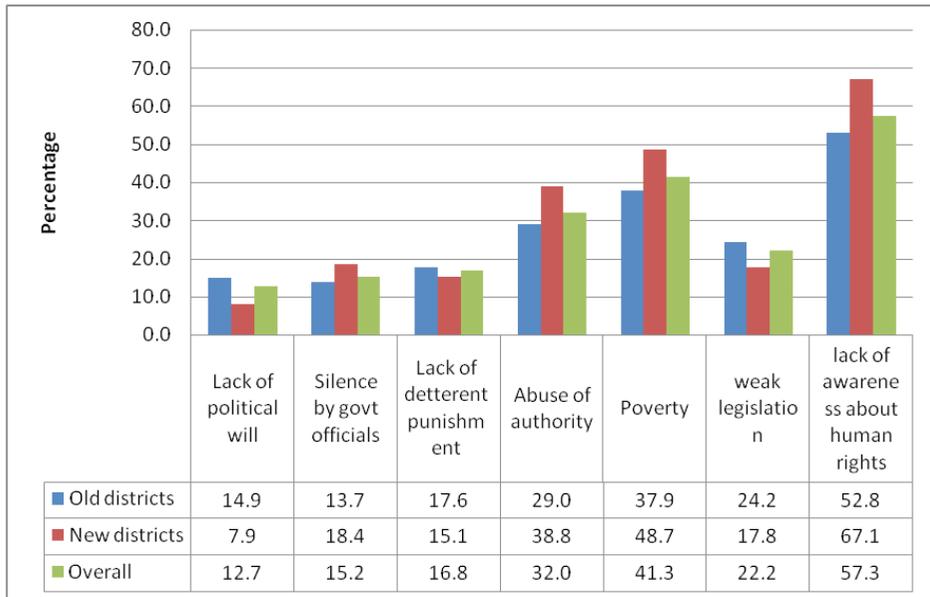
**Table 4.5.1: Factors that Perpetuate Torture in the Communities**

	Old Districts		New Districts		Overall	
	No.	Percent	No.	Percent	No.	Percent
Poverty	189	55.4	113	74.3	302	61.3
Lack of knowledge on human rights	143	41.9	88	57.9	231	46.9
Corruption among law enforcement officers	126	37.0	52	34.2	178	36.1
Weak anti-torture laws	88	25.8	43	28.3	131	26.6
Greed	72	21.1	18	11.8	90	18.3
Hate doctrine/propaganda	41	12.0	22	14.5	63	12.8
Social inequalities	37	10.9	14	9.2	51	10.3
Lack of political will to fight torture	30	8.8	15	9.9	45	9.1
Weak penalties for perpetrators	14	4.1	1	0.7	15	3.0
Others	37	10.9	15	9.9	52	10.5
<b>Total (N)</b>	<b>341</b>		<b>152</b>		<b>493</b>	

##### 4.5.1: Continuity of Torture despite Enactment of Anti-Torture Law

The enactment of the Prevention and Prohibition of Torture Act, 2012 was hailed as a major step in the prevention of torture in Uganda. However three years after its promulgation, not a single perpetrator of torture has been convicted under this law. This survey specifically sought to understand the reasons for the slow adoption and implementation of the anti-torture law. Chief among the reasons provided for this impasse was again the lack of awareness about human rights as cited by 57.3% of the respondents. Another equally compelling number cited abuse of authority (32%) while others cited poverty (41.3%). The respondents also mentioned the lack of deterrent punishment for the offenders (16.8%) and weak legislation (22.2%) as illustrated in figure 4.4.1 below.

**Figure 4.5.1: Factors that account for the continuation of torture despite enactment of the anti-torture law**



The survey findings on how corruption, lack of knowledge of the law and poverty among perpetuate corruption despite enactment of the anti-torture law is amplified by the quotes below:

Some of us like this side we do not know the law even what was passed we are not aware now you cannot have any say about it because you do not know what the law is about and someone will treat you the way they want because you do not know the law. Now us the people in the villages we do not know the constitution even our LCs you will find they do not know about the law. When we go to lands we do not know the law, we do not know what to follow so someone will come when he or she knows the law and that person knows is above it so he will go to the authority and bribe so he will say what I did is in the constitution but denies that it is you who is actually in wrong so you end up losing the case because you do not know the law....People do not know the law and those in top offices have made the laws and are not acting according to the them, so when they say do not steal the one in authority is the one who changes the law at the end and it loses meaning. **Nyakasoma Village, Hoima District.**

The main problem is corruption by those in authority; they change the laws and make them what they are not. There is also poverty like you go to police and

you do not have money, they will not help you..... We have ignorance so sometimes we do not know what to do next or follow to solve our problems in court. People in the village we do not know the laws like those on land so we suffer because those who know the law make us suffer yet they are aware they are the ones in the wrong but because you don't know the law they win.....We have fear in our hearts that if we do a certain thing something might happen so if someone tortures you and is rich you fear to open up a case because you do not even know where to start from, that if I go to the authorities or the police when you do not have money they will not help; where will I go? So you end up giving up.....Some of us are scared or threatened that if you report them I will do something to you or even kill you so keep quiet.....Corruption is the major problem and cause for all the problems. When you see that someone is more powerful than you instead of going further to report this person who took a bribe will instead stop there so if we knew the law and where to go not only stopping at some level it would help us very much. **Nyakasoma Village, Hoima District.**

They do not sensitize the people now like your organization should come to this place gather people and teach them about their rights, where they can go to report or tell us we can help in this way but they also go and sit back in their offices and enjoy their money and us here we suffer yet some of these organizations government gives them our money and we know, they should come on the ground educate people so that they are also civilized somehow and there someone will know what to know when he or she is tortured. Yes human rights there is here in Mbarara but if someone is being battered deep in the village, where will he /she run to that person doesn't have transport to bring them to town, even mere reading the word human rights he doesn't know so even if you direct that person so I think they should put branches and representatives in the villages so that when someone is battered at night he/she will know where to run to the next morning, so even if that person comes to Mbarara might not get help and back up so if the chairman would come up and support, follow up the case or if there were organizations to help in back up and follow up cases of people it would reduce on torture. The issue of poverty, it is the main cause for torture especially women in villages suffer a lot. You see in the village most of the women are farmers, but she will harvest her crops and the husband will send them off to go and drink but the woman does not talk because she knows if she talks back those are beatings but us in towns we might not know that such things are there in villages but they are and so many cases. **FGD with Traders, Kakoba Division, Mbarara District.**

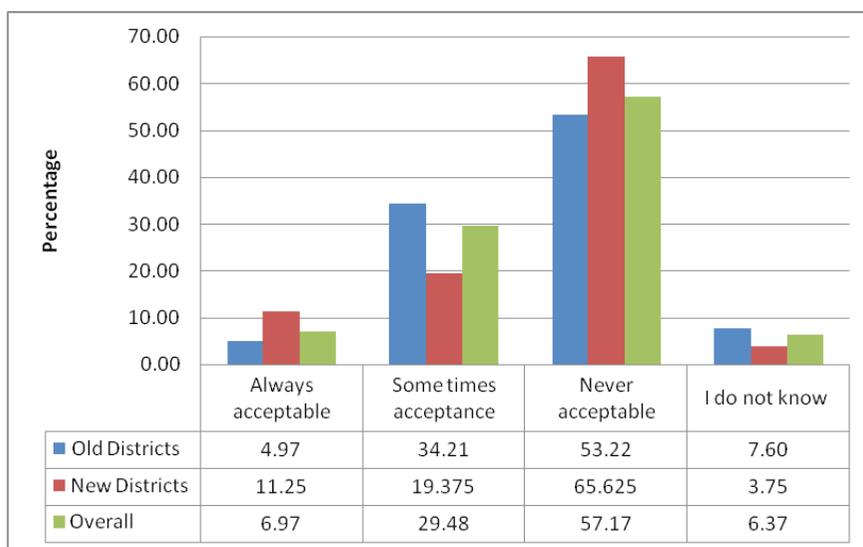
I think that most people do not know their rights so they can't fight for them. Also I think that some of these laws are not being enforced and some of the perpetrators of torture are supposed to be implementers of these laws like the Police. You find that some police officers do not even know these laws[**Paralegal officer, CSO Western Uganda**]

The insurgency in Northern Uganda has gone on for over 25 years (so long) that people have lost a sense of direction. To allow this restoration particularly in northern Uganda is a very long sensitization procedure. It can be practical, advocated over radio talk shows; music, dance and drama in other words practically raise the community(**Olanya Alfred, Parish Chief in Gulu District**)

#### 4.5.2. Whether Torture is an Acceptable Method of Extracting Information from Suspects

We asked the respondents to give us their opinion whether torture was an acceptable method of extracting information from suspects. Most of the respondents (65.63% overall), 65.63% in new districts and 53.22% in old districts said that torture is never acceptable as a method of extracting information. This was a very affirmative disapproval of torture as a method of extracting information. Overall 29.48%, 19.37% in new districts and 34.2% in old districts were of the opinion that in sometimes torture is acceptable as a means of extracting information.

**Figure 4.5.2: Whether Torture is an Acceptable Method of Extracting Information from Suspects**



#### 4.5.3 Conclusions on Factors Perpetuating Torture

The community respondents identified several issues that perpetuate torture including: poverty (61%) lack of knowledge on human rights (46.9%), corruption (36%) and weak anti-torture laws (26.5%). The prominence of poverty as a factor in perpetuation of torture is instructive. The main perception of the respondents is that poverty enhances the vulnerability of people, and also makes it difficult to report cases and follow up on

them. While it may appear farfetched, addressing community poverty is at the centre of reporting of torture cases and perhaps reduction in torture incidents generally. This is also based on our observation that poverty still comes up as the main reason for not reporting torture cases followed by lack of knowledge of relevant laws, corruption and weak laws among others. While the enactment of the PPTA 2012 is an important development, acts of torture perpetrated by both state agents and other actors within the community remains high. This is compounded by the state's inability to disseminate such laws to the community and also among its agents such as the police the army and other security agents and this in our opinion further perpetuates torture. The media for example is awash with acts of humiliation and torture being committed in broad daylight by security forces (mainly the police) including political opponents and not much is done to prosecute the security officials because in most cases they are seen to be defending the state.

## 4.6 PATTERNS OF TORTURE

### 4.6.1 Changes in the Patterns of Torture

Earlier in the report, we reported about the methods of torture and several were mentioned including beating, kicking, humiliation and confiscation of means of livelihood among others. We then wanted to investigate if in the opinion of the respondents there were notable trends in torture and specifically whether they had realised any changes in the methods used by the perpetrators. Changes in patterns are very critical in informing advocacy strategies; we therefore asked our respondents if they had noticed any changes in the patterns of torture or cruel treatment. 52.73% of the respondents had noticed changes in the methods of torture in their area over a 5 year period while 11.72% had not noticed any changes. A significant 35.55% did not know if there were any changes in the methods of torture.

### 4.6.2 New Forms of Torture

We asked respondents to name what they considered the new forms of torture. As shown in table 4.6.1 below, political persecution (36.8%) was the most cited new form of political torture, followed by confiscation of land (33.7%), death threats (29.5%), beating (29.2%) and humiliation (22.6%).

**Table 4.6.1: New Forms of Torture**

	OLD DISTRICTS		NEW DISTRICTS		OVERALL	
	No.	Percent	No.	Percent	No.	Percent
Political persecution	91.0	43.1	15.0	19.5	106	36.8
Land confiscation	66.0	31.3	31.0	40.3	97	33.7
Death threats	60.0	28.4	25.0	32.5	85	29.5
Beating	57.0	27.0	27.0	35.1	84	29.2
Humiliation	43.0	20.4	22.0	28.6	65	22.6
Imprisonment	29.0	13.7	13.0	16.9	42	14.6
Malicious withdraw of means of livelihood	31.0	14.7	8.0	10.4	39	13.5
Kidnapping	29.0	13.7	9.0	11.7	38	13.2
Others	28.0	13.3	10.0	13.0	38	13.2
<b>Total (N)</b>	<b>211</b>		<b>77</b>		<b>288</b>	

### 4.6.3 Causes of Changes in Torture or Cruel Treatment

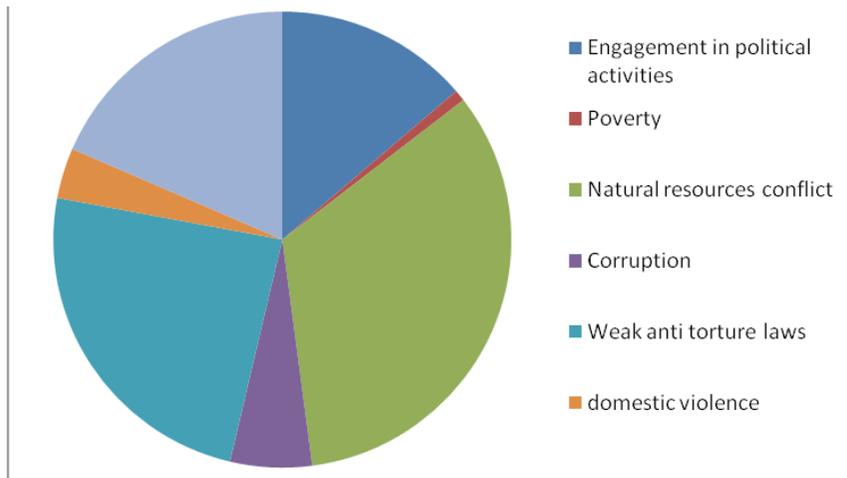
As shown in table 4.6.3 below, overall and in both new and old districts, poverty(49.49%) still came on top as the most frequently mentioned reasons for the rise in new forms of torture, followed by politics (40.78%) and corruption in the law enforcement agencies (34.40%) as well as lack of awareness about the anti-torture laws (39.01%). To the respondents, the fact that they are poor, they are vulnerable to torture to the extent that they do not have the resources required to pursue justice—let alone lacking knowledge of institutions where they can receive protection.

**Table 4.6.2: Causes of Changes in Torture or Cruel Treatment**

	OLD DISTRICTS				NEW DISTRICTS				OVERALL	
	Male		Female		Male		Female		Total	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent
Poverty	47	46.53	50	45.45	28	59.57	14	58.33	139	49.29
Politics	48	47.52	53	48.18	11	23.40	3	12.50	115	40.78
Lack of awareness about anti-torture laws	33	32.67	40	36.36	22	46.81	15	62.50	110	39.01
Corruption in law enforcement	35	34.65	41	37.27	17	36.17	4	16.67	97	34.40
Discovery of natural resources	19	18.81	13	11.82	3	6.38	3	12.50	38	13.48
Anti-terrorism drive	8	7.92	13	11.82	6	12.77	1	4.17	28	9.93
Enactment of laws that perpetrate torture	10	9.90	11	10.00	4	8.51	2	8.33	27	9.57
<b>Total (N)</b>	<b>101</b>		<b>110</b>		<b>47</b>		<b>24</b>		<b>282</b>	

Equally important to note is the fact that 76.55% of our respondents considered themselves to be under threat from the new methods of torture while 23.44% did not think they were under any such threat. Below are the reasons advanced to explain why the community respondents considered themselves to be under threat from the emerging methods of torture.

**Figure 4.6.1: Reasons to imagine that they are under threat from the new methods of torture**



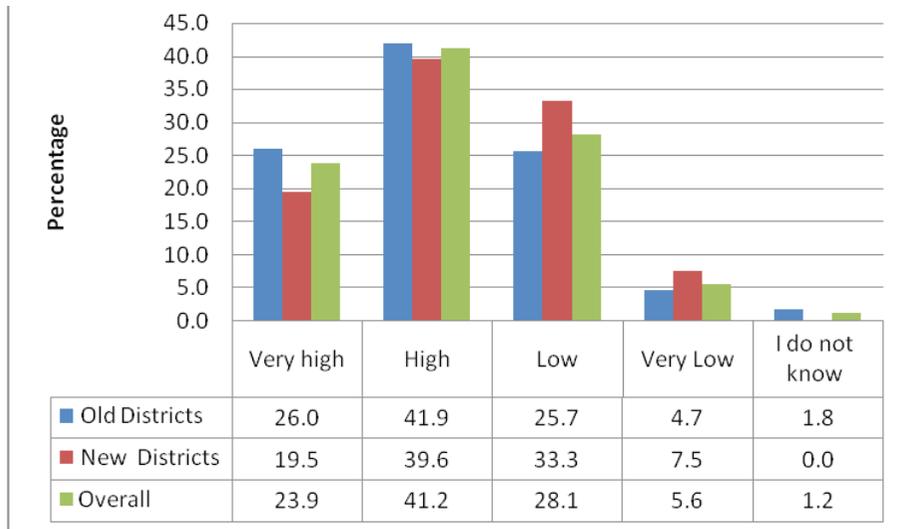
The rise in natural resources related conflicts was cited by 62.2% of the respondents as the overriding reason why communities are vulnerable to the new forms of torture. 45.2% of the respondents were weary of the weak anti-torture laws as a cause of risk to torture while 25.6% noted the participation in political activities as a cause for exposure to the new forms of torture. Corruption (10.7%) and domestic violence (6.7%) were also mentioned as reasons for vulnerability to the new forms of torture. The vulnerability is partly illustrated in the quote below.

Our leaders don't pay attention to us and also the government has not played its role in sensitizing us, among us how many know offices of Uganda Human Rights Commission in Hoima, none we are not educated and those supposed to enforce the law are not doing their job rightly they are just sleeping and enjoying money in those offices. Only 'bodaboda' riders who move a lot know the offices of Uganda Human Rights Commission but for us we don't even know where the offices are only the police we are so ignorant. **FGD with Taxi Operators, Hoima District.**

#### 4.6.4 Ranking of Torture among other social problems in the community

We asked the respondents to rank torture among other pressing social problems like illiteracy, poor health and poverty/limited incomes. Most of the respondents 41.16% considered torture to rank high among other social problems in their communities. An equally significant 23.9% considered torture to rank very high among their social problems while 28.1% considered the significance of torture to be relatively low and 5.62% considered it very low compared to say poverty, illiteracy, and hunger among others.

**Figure 4.6.2: Ranking of Torture among other social problems in the community**



#### 4.6.5. Conclusions on Patterns of Torture

This section sought to establish if indeed in the opinion of the respondents, there were any changes in the patterns of torture in the communities, and if any what factors accounted for such changes. We also intended to know how torture ranked among other social problems. Our respondents noted that indeed they had witnessed changes in the patterns of torture. The new or increasing dominant forms of torture in the 5 years preceding this survey included: political persecution (36.8%), followed by confiscation of land (33.7%), death threats (29.5%), beating (29.2%) and humiliation (22.6%). The reasons for the changes in these patterns of torture were quite similar to the reasons for torture and its perpetuation in the previous section including: poverty (42.9%)—cited to the extent that it makes people vulnerable to abuse and the related lack of knowledge and resources to pursue justice. It is indeed strongly influences torture in communities. Poverty in this survey was followed by politics (40.8%), lack of awareness about anti-torture law (39.1%) and corruption in law enforcement. Close to half of the respondents (41%) said that torture ranked high among other social problems in their communities like illiteracy, hunger among others.

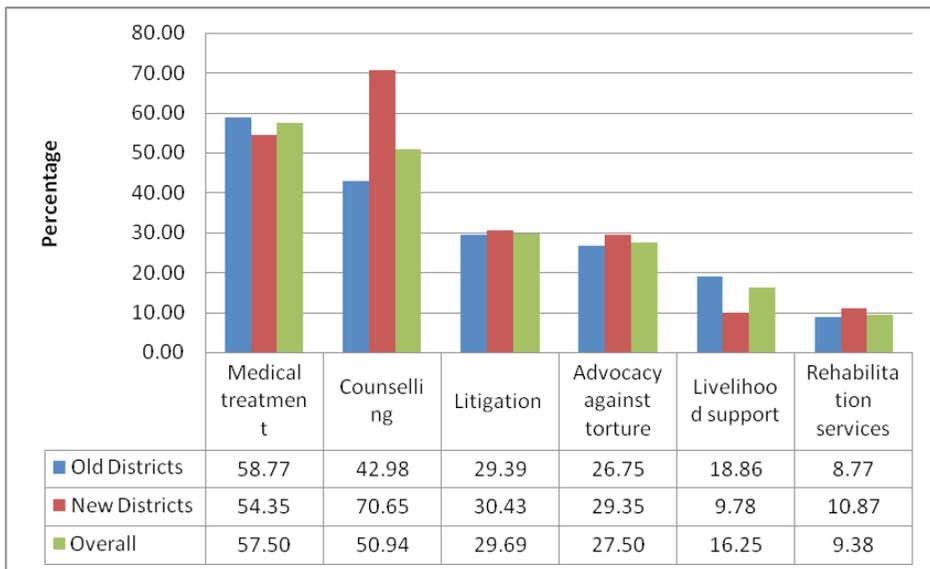
It can therefore be concluded that the changes in the patterns of torture are significant and we also think that effective advocacy interventions should target these changes in patterns including exploring how to minimise the contribution of poverty through advocating for improvement in household incomes. Voter education and encouraging tolerance between political opponents is equally significant. The probably more potent approach is how to minimise vulnerability of the poor against land grabbing. This is an area where advocacy can be very effective especially in areas of Western Uganda and Northern Uganda which is occasioned by the speculation for oil exploration and agriculture.

## 4.7 AVAILABILITY OF REHABILITATION SERVICES FOR VICTIMS OF TORTURE

### 4.7.1 Knowledge of Organisations Providing Treatment and Rehabilitation Services to Victims of Torture

We aimed at establishing if respondents were aware of organisations providing treatment and rehabilitation services to victims of torture or cruel treatment within their communities. Overall only 39.64% were aware of availability of these services, compared to 43.67% in old districts and 37.79% in new districts. On the other hand overall, 60.35% of the respondents were not aware of any such organisations corresponding with 56.32% in old districts and 62.20% in new districts. Some of the organisations mentioned include: Mifumi, UWESO, Rotary Club, HEPS Uganda, FIDA, Reproductive Health Uganda, HURINET, UNHCR, Police, Public and PNFP health facilities, the Uganda Red Cross, GRA and CRO.

**Figure 4.7.1: Services Provided by Organisations Providing Treatment and Rehabilitation Services**

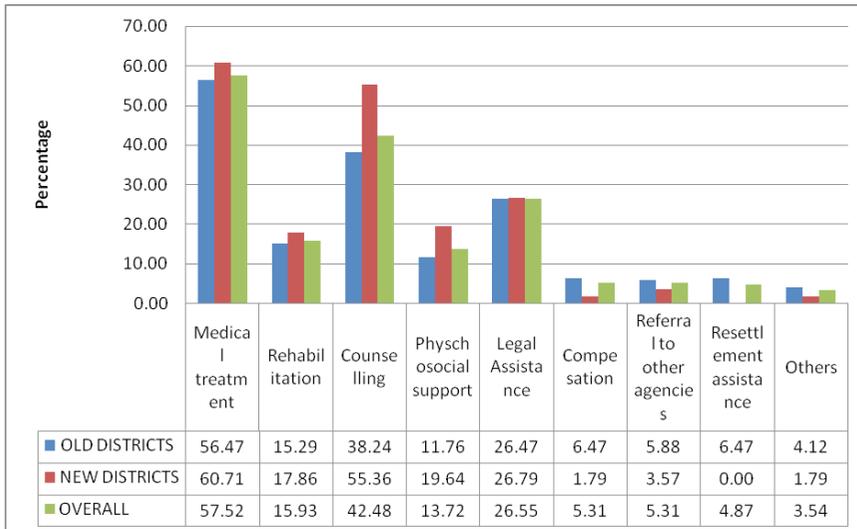


Overall medical treatment (57.50%), followed by counselling (50.94%) were the most frequently reported services being provided by agencies providing treatment and rehabilitation services in the communities. In the new districts, counselling was mentioned by 70.65% of the respondents followed by 54.35% who were aware about services provided by treatment and rehabilitation agencies in their communities. In the old districts, 58.77% were aware of availability of medical services while 42.98% mentioned counselling services. Overall, other services included litigation (29.69%), advocacy against torture (27.50%) and livelihood support (16.25%), very few respondents were aware of availability of rehabilitation services (9.38%).

#### 4.7.2 Utilisation of Treatment and Rehabilitation Services

Overall, only 33.3% had ever used the treatment and rehabilitation services provided by the agencies while 66.7% had never used such services. In the old districts, 30.5% had ever used the services while 69.5% had never used such services. In the new districts, 40.6% had ever received such services while 59.4% had never used the services.

**Figure 4.7.2: Services Used/Received**



For those who had ever used the medical and rehabilitation services, we asked them what services they or people known to them received when they visited the agencies. Overall most of them (57.52%) reported that they received medical treatment and counselling (42.48%). Others received legal assistance (26.55%). Few reported to have been rehabilitated (15.93%), received compensation (5.3%) and referral to other agencies (5.31%). It should be noted however that most respondents said they did not know where to find providers of treatment and rehabilitation services for torture victims as illustrated in the quotation below.

Apart from you people opening a branch in Gulu, there is no awareness of ACTV, that's the truth about it because, I have worked with Human Rights for 10 years but people do not know where to go. They go to hospital and even these people do not know where they are supposed to refer torture victims. There is no popularization of ACTV in this region but we have an organization, Dignity international focusing on issues of crime prevention. It is a Danish organization. They are also hoping to integrating issues of handling torture victims but they are working in conjunction with the Police accountability coalition. **Kil with a**

## Human Rights Organisation in Eastern Uganda.

I think there are organizations which are helping children who have been tortured by providing education, medical treatment and clothing. The quality of their services is good and they have actually helped so many children through their services. There's an organization called Buremba and they usually provide medical treatment to women who have been battered by their husbands and children as well. The quality of their services is good because they have treated some people who have recovered. **FGD Bishop Stuart University, Mbarara**

...the other organizations I can talk about is ACTV because am aware that they have trained peer support workers to help in the community, they given skills to do counselling to the different communities and some of those peer workers are themselves survivors of torture. So they get to act as links between the survivors and the rest of the community members. Even us we have trained peer counsellors in different communities.

We also provide information sessions which are different from community outreaches. This one is geared towards the aspects of the emerging issues that are from within the community but for community outreaches we go to specific communities to educate and interact with community members. **Social worker, Refugee Law Project**

### 4.7.3 Effects of Torture or Cruel Treatment

We asked respondents to list what they considered to be the effects of torture. Overall, death (48.8%), depression 49.4% and loss of self-esteem (43.3%) were the most commonly reported effects. In new districts, depression (99%), disability (83%) and loss of self-esteem were the most frequently cited effects of torture. Old districts cited depression (62.4%), loss of self-esteem (47.3%) and disability (58.1%) as the most common effects of torture as shown in table 4.7.1 below.

**Table 4.7.1: Effects of Torture or Cruel Treatment**

	Old Districts		New Districts		Overall	
	No.	Percent	No.	Percent	No.	Percent
Depression	144.0	62.4	99.0	65.1	243.0	49.4
Death	166.0	51.6	74.0	48.7	240.0	48.8
Loss of self esteem	139.0	48.4	74.0	48.7	213.0	43.3
Disability	128.0	58.1	83.0	54.6	211.0	42.9
Trauma	117.0	39.8	56.0	36.8	173.0	35.2
Stigma	70.0	22.6	35.0	23.0	105.0	21.3
Neglect by community	60.0	18.3	26.0	17.1	86.0	17.5
Others	27.0	2.2	10.0	6.6	37.0	7.5

The effects of torture are summed up in the quotation below:

First of all that person has been denied his rights, secondly that person doesn't have what to eat, does not have peace, nowhere to stay, first of all the land was taken so you start moving around and you do not even have clothing and food. Me, I saw someone; the whole family has never gotten peace or settled because their land, cattle were taken and up to now they do not have peace because they were tortured, denied their rights they sold all they had to go to court and the old woman is even sick and bed ridden now due to that riot yet she has nothing to feed on. **FGD, Nyakasoma Village, Hoima**

#### 4.7.4. Gaps in Existing Medical and Rehabilitation Services

Respondents cited several gaps in the existing medical and rehabilitation services provided in their communities. Overall the most frequently mentioned gaps were: limited financing (44.4%), limited range of services provided (43.5%), and limited branches of existing providers (34.6%) making clients travel long distances to seek services.

**Table 4.7.2: Gaps in Existing Medical and Rehabilitation Services**

	Old Districts		New Districts		Overall	
	No.	Percent	No.	Percentage	No.	Percentage
Limited financing	128	38.8	85	56.7	213	44.4
Limited range of services provided	144	43.6	65	43.3	209	43.5
Few Branches	106	32.1	60	40.0	166	34.6
Not much attention is paid on psychosocial services	90	27.3	37	24.7	127	26.5
No investigation facilities	58	17.6	41	27.3	99	20.6
No recognized services at all	51	15.5	26	17.3	77	16.0
Lack of community participation	47	14.2	18	12.0	68	14.2
Lack of qualified staff	32	9.7	21	14.0	53	11.0
No post resettlement services	27	8.2	8	5.3	35	7.3
	<b>330</b>		<b>150</b>		<b>480</b>	

#### 4.7.5. Compensation Management

The survey aimed at establishing whether those who had been tortured, or those known to them had received compensation from the state. Overall 75% of the respondents reported they received no such compensation and only 25% reported to have been compensated. We then inquired if those who received compensation were actually satisfied with the compensation process.

Overall, an overwhelming 81.7% reported that they noted that they were not satisfied with the process and so was 83.3% and 78.3% in old and new districts respectively. Overall only 18.3% reported that they had been satisfied with the compensation process. Most of the reasons given for the lack of satisfaction included: the too much bureaucracy involved (63%), the corruption involved in the compensation process (40.7%), the long court processes (37%). Other reasons included the fact that the amounts are actually low (18.5%), and often delayed (11.1%) among others. This is further amplified by the quotes below.

It is not right; a person can leave here with the chairman's letter reach at the police and they tell you they pushed the case to Hoima in court and you do not have transport yet you are arguing with someone who is rich so when you get there they tell you the file is at Police when you come back to Police they tell you the file cannot be found and the case ends there.....When you go to Police they ask you for fuel yet we believe Government caters for that and if you do not give them they do not follow up your case or they keep tossing you around that the in charge is in the field or give other reasons and the case takes long to be heard so you give up. We should try to fight corruption, if you get someone trying to take a bribe and report that person it can scare some people so it will at least reduce on corruption. We should be sensitized about our rights that if someone does this I will apply this law and act in truth or if the Police confuses me I will run to this office but we can't because we do not know our rights..... So the government should try to fight corruption, they should put a law on everyone involved in taking a bribe should be punished in a way that the rest of the people will learn from that person.....Another thing is that if I go to the authority and say out my issues and they do not listen to me, the government which appointed that person should punish that person in a manner that will hurt him. ...For us people on the grassroots, we should be educated to know what to do, also the Police should be educated on corruption because they are the first ones to accept bribes for sure bribes have gone beyond even on the roads the traffic officers make signs to these drivers so they should fight this that if you are found you lose your job and go back home that thing may work.  
**Nyakasoma Village, Hoima District.**

#### **4.7.6. Conclusion on availability of treatment and rehabilitation services to torture victims**

We noted that the levels of awareness of the availability of organisations providing rehabilitation and treatment services for torture victims is low with only 39.64% of respondents reporting that they know the availability of such services. This limited that fewer organisations provide treatment and rehabilitation services; and that even when the providers are few, less has been done to communicate to the public about these services. Of the respondents who knew about availability of services, only 33.3% had ever used services after undergoing torture. Respondents mentioned medical treatment (57.5%) and counselling (50.9%) as the most dominant forms of rehabilitation services. It is therefore important for ACTV to invest in advocacy to inform the public about where to find services. This will also work better if providers are network through referral mechanisms so that through advocacy the public can be made aware of the institutions which they can approach in different parts of the country. The study also revealed that even fewer organisations provide post torture rehabilitation, resettlement and income generation support. These services are critical for helping victims of torture be accepted in their communities. Income generation is necessary to enable them cope and sustain their families. In some instances—especially in case of disability, such individuals may require vocational training so that they can engage into appropriate carriers.

## 4.8. ADVOCACY AGAINST TORTURE

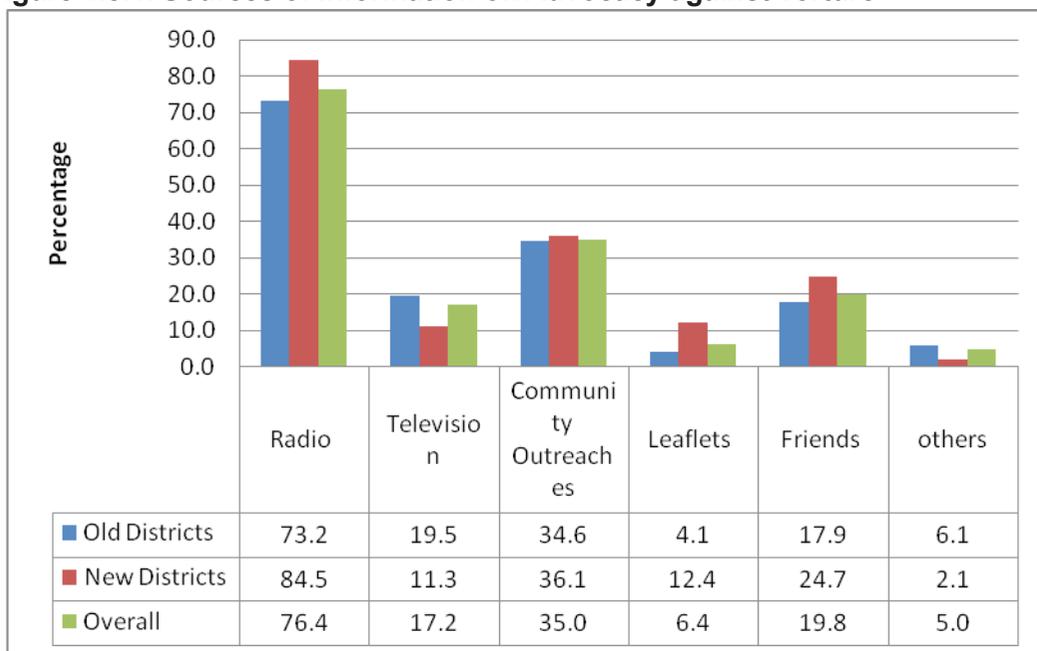
### 4.8.1 Knowledge of Information on Advocacy against Torture

We asked our respondents if they had ever heard about information on prevention of torture. Overall only 34.6% had ever had about information on prevention of torture while 65.4% reported that they had never heard about such information. Despite this fairly high number having heard about torture, close interactions revealed that whereas they have heard about torture and broadly human rights, they face several challenges to report and also reach out to agencies supporting victims of torture.

### 4.8.2. Sources of Information on Advocacy against Torture

We asked respondents to name the main sources of information against torture. Overall, radio was the main source of information about prevention of torture reported by 76.4% of all respondents, followed by community outreaches (35%), and television 17.2% while 19.8% of the respondents reported to have heard about information from friends (19.8%) as shown in figure 4.8.1 below.

**Figure 4.8.1. Sources of Information on Advocacy against Torture**



Radio is obviously dominant because of its wide reach and affordability. Community respondents reported to have heard information on torture from local radio stations through talk shows and radio and radio spots/adverts. Community outreaches have

been noted in both new and old districts however interactions with community members through focus group discussion have cited issues of ineffectiveness in this method because they are not frequent.

There is no sensitization on the existing laws, these laws are passed by the members of Parliament but they don't even take the initiative to come and teach the people they are representing or devise means to ensure that people are taught on the laws. Even when they come you hear they call only the leaders like someone was saying but what about the local people. How can the law be enforced to benefit people who do not know of its existence. **FGD community members Mpenja, Gomba**

People confuse the UHRC to be an NGO and when you take time to explain to them that it is a state body, they become reluctant because usually it is a government body that has inflicted torture on them and you are telling them to go another government body to help them now you see this makes these institutions quite ineffective in resolving people's problems when it comes to torture. You see, ok!, the departments that have been created in Police such as the Professional Standards Unit (PSV), Human Rights Legal Department but the problem is that the Police is not comfortable with these departments so they should manifest themselves as independent organizations. The people who work there are Police people are you know people are not comfortable with Police. The department is also not facilitated and then, the policemen are not trained, they are not given refresher courses in Human Rights. **FGD with Human Rights NGO, Eastern Uganda**

#### **4.8.3 Conclusions on Advocacy against Torture**

From the survey, only 34.6% of the respondents had some kind of information regarding prevention of torture. 65.4% of people sampled did not have an idea, with community outreaches (at 35%) and the radio (76.4%) as well as television (17.2%) as the most dominant media through which anti-torture information has been passed. The findings suggest therefore that the level of anti-torture advocacy is still very low and this possibly provides explanation for the low levels of reporting of torture cases. Efforts to reduce acts of torture both those that are orchestrated by individuals within the community and those orchestrated by members of the security forces or the police require significant and sustained advocacy to provide information, generate public and institutional support and engagement communities in a dialogue to sustainably address torture issues at those levels. Advocacy efforts should thus combine awareness and information dissemination through the mass media and engage civil society and the state in bearing their responsibilities and promoting the rule of law. All these will however not be attainable if good governance is not entrenched and there is lack of political will on the part of government.

#### **4.9. CHALLENGES AFFECTING THE EFFECTIVE IMPLEMENTATION OF THE PREVENTION AND PROHIBITION OF TORTURE ACT, 2012**

Respondents cited several factors that affect the implementation of the Prevention and Prohibition of Torture Act, 2012 and these included: lack of political will, corruption, lack of awareness about personal rights and lack of deterrent action among others. These factors limit the effectiveness of the Anti-torture Law and these have further been amplified from our interviews with Key Informants and through Focus Group Discussions as explained below.

##### **i. Institutional challenges in the Justice, Law and Order Sector.**

First and foremost, despite the law having been enacted in 2012, there has been no test case. In other words there is not a single offender who has been convicted under the Anti-torture Law (PPTA). With a lack of precedent, it is a big challenge to get this law enforced. Secondly, whereas the Police force is the first point of contact for victims of torture, the Police does not seem to make reference to the anti-torture law when charging suspects even where there is glaring evidence of potential torture. Instead they charge offenders under the Penal Code Act. This could be partly due to lack of extensive training and awareness within the Justice, Law and order sector especially the Police officers. The Office of the Directorate of Public Prosecutions has also not come up to challenge the submissions by Police and yet they have the mandate to sanction the files informed by Police investigations. This has undermined the implementation of the Anti-torture Law as illustrated below.

We have not had a test case where the DPP has actually said that do you know what, the case in this file shows that this person should be charged with torture and not excessive use of force or anybody charged with assault or grievance bodily harm we have not seen that happen. **Officer, Foundation for Human Rights Initiative, Kampala.**

Well we do refer people who have been tortured to the Police for possible investigation and prosecution but if you are to look at the number of those who have been prosecuted are really negligible. You have Police officers who have not yet appreciated this law. Some of them know torture exists but they do not know that it is a criminal offence so there is no way you are going to have such an officer charge someone with the act of torture when he does not know that the law exists' **Regional Head UHRC, Northern Uganda**

'Much as the law was passed; it has not reached every part of the country. Sensitization has been inadequate and many people still do not know about it.' **FGD with Police Officers at a Police Station in Western Uganda.**

Related to the above, respondents complained of the difficulties in accessing institutions preventing torture including both state and non-state. Several of them reported that

whereas they receive information on prevention of torture through radio, it is rather difficult to trek long distances to report cases of torture and cruel treatment whenever these happen. They cited the example of Uganda Human Rights Commission and noted that whereas the institution is doing a commendable job in fighting torture—given its independence from Government, it is not accessible to many people who need its services. Similarly, because of limited awareness and sensitisation, respondents in remote rural areas are not aware of institutions both state and civil society where they can report cases of torture as reflected below.

For example the human rights commission which handles most of these cases as I said the office is in Fort Portal and very few people are aware of its existence they can hear over radio but how it works itself is not known to the people' **Executive Director, Rwenzori Peace Bridge of Reconciliation, Kasese.**

Those who are wise usually report to Uganda Human Rights |Commission, but not many people know about it. Most people are not aware of the organizations.' **FGD with Police officers at a Police Station in Western Uganda.**

Although it is doing a good job many people are not aware about them and what they do especially in remote areas like this one. If a victim from here was to take a case to Uganda Human Rights Commission, it would be costly on their part and most of them don't have the resources. **Chief Administrative Officer, District Local Government, Central Uganda.**

For me I think there's lack of information among the communities. People in the communities do not know about these anti torture laws so they face torture but are not even aware that there are laws that should protect them. And the few who know about the laws, do not know where to seek help. **FGD with students at Bishop Stuart University, Mbarara**

Well, I think, the accessibility gap is too great, the victims and institutions supposed to implement are so wide apart. **Town Clerk, Amuru**

## **ii. Corruption and abuse of office**

As explained in several sections of this report, respondents cited corruption and abuse of office as major setbacks to the implementation of the Anti-torture Law. Corruption is manifested in several instances including: cases where the evidence is tampered with or altered to the interest of the offender; cases of the rich using redress mechanisms to torture the poor especially in cases related to confiscation of land among others. Respondents also cited instances where some individuals pay bribes to have victims or suspects tortured while in custody. In other cases perpetrators go unpunished due to inducements. In other cases, torture perpetuated by officials from state institutions

have not been prosecuted or in other cases are reduced to lesser charges.

They are ineffective for example; right up from the Police sometimes, there is a lot of corruption in terms of statement taking, doing the investigations. These processes are easily manipulated and that can easily make the processes ineffective' **Senior Research and Advocacy Officer (Psychosocial), Refugee Law Project**

Some perpetrators know how to pay the officers in charge when they are in trouble so that they do not have to face the consequences of their actions, so in the end they have no lessons to learn. **District Police Commander, for a District in Western Uganda.**

We still face torture by Police who are supposed to enforce this law but instead they come and torture us. They arrest a person who has not committed any offence due to their selfish reasons because they know they will get money. Once you reach the station you are beaten and jailed for no reason. **FGD Community members, Isingiro.**

According to me cases are reported to the police but they are not solving them because they need bribes first. Even the LCs are taking long to solve cases because they need bribes. You find that people report cases of torture related to land to the LCs but they take very long to solve them and in some cases victims end up people end up being murdered. And the police is not doing much to help us. **FGD with students at Bishop Stuart University, Mbarara.**

### **iii. Poor attitude among law enforcement officers.**

The poor attitude is linked to limited awareness creation and training within the respective law enforcement agencies especially the Police force. It is common knowledge that on several instances the Police uses more than legitimate force when conducting arrests—which in turn results into torture and cruel treatment of the suspects. Most law enforcement officers still believe in the use of force to extract information from suspects whom they refer to as hard core criminals. The officers fail to follow the law yet they are the ones who are supposed to enforce it.

But you find police using more than reasonable force. Why are they not being held accountable? If they realize that there is pressure, they lift the corporate veil and the person will be left alone instead of looking at the person who gave the command. **Senior Research and Advocacy Officer (Psychosocial)-Refugee Law Project**

But in my personal opinion, if a thug who has been killing people is finally caught and there is evidence but he does not want to reveal where the gun is

hidden, then I think it might be necessary to exert some reasonable force so that this gun is not used to kill more innocent lives. And moreover when you take him to court; he will get bail and have access to his gun. **Office in Charge of a Police Post in South Western Uganda**

If a police officer still believes in excessive use of force which many times has resulted into torture and cruel inhuman and degrading of human treatment, you find that there is no way the police can then be more aware of the need to prevent torture because already for them they have it more or less inculcated in them. **Officer, Foundation for Human Rights Initiative, Kampala.**

#### **v. Limited financing for anti-torture activities**

Amidst competing priorities, less than adequate finances are allocated to sensitisation on human rights issues by the state for both state institutions and community outreaches. Training within the security institutions is very essential so that officers are able to follow the law, when conducting investigations and arrests.

We also have limited resources to conduct our duties properly. **District Police Commander for a District in Western Uganda.**

But then it even goes back to the issue of limited financing because we might say why aren't they doing enough sensitization but at the same time you find also the police is over whelmed and also their priorities. So it's an issue of priorities and other challenges because if the police officer doesn't have fuel do you think you are going to tell him to come and I talk to you about human rights yet for him is worried about preventing crime in the communities. **Officer, Foundation for Human Rights Initiative, Kampala.**

#### **iv. socio-cultural factors**

In some cultures within the country, there some cultural/clan bye-laws that perpetuate torture. These clans take it upon themselves to punish people that violate such bye-laws and in the process end up torturing its members. Some of the punishments involve beating and public humiliation to offenders and yet most of them are petty offences like theft, failure to attend a clan meeting and other related issues. The members of such clans often do not realise that the punishments tantamount to torture and this causes them to disregard some Government laws especially in this case the anti-torture law.

Clan members are also engaging in acts of torture. Some clans have bye-laws that prescribe for beating in case someone falls short of a particular bye-law. So in some cases you have clans beating up members. They are very passionate about their bye-laws. So you can see that some of those beliefs really draw us back in as far as the fight against torture is concerned. **Regional Head UHRC, Northern Uganda**

People in this area usually report to local leaders and also clan leaders but

some of the punishments they give are not commensurate with the crime. **FGD with students at Bishop Stuart University, Mbarara**

‘You see them advocating for a little beating then that is a setback in the fight against torture. Same thing, parents, teachers in school, tell you these children cannot learn without a being beaten. So until society gets to that point where they appreciate that torture is wrong, torture is a criminal offence we will still have some of these challenges’ **Regional Head UHRC, Northern Uganda**

#### **v. Negative perceptions about fairness of the justice system**

From the interviews with respondents, it was evident that the public has limited faith in the justice system. In as much as the laws on human rights have been passed, these have still been perceived as weak. There is a perception that only the rich can get justice and that the voices of the poor cannot be heard. This has been worsened by lengthy court processes that have seen victims give up on their cases midway; and the lack of established witness protection where some witnesses have been intimidated off cases. The other challenge relates to the costs incurred during the tedious process of seeking justice which many poor people cannot afford. This could partly explain why cases of torture are often not reported and could also explain instances of mob justice—where the public decides to take the law into its own hands.

One is public perception in as far as justice is concerned. You will interact with people and they will tell you this person, you will go to police and he will come back following you. So they would rather beat him and finish it there and then because we know the justice system will not be able to help us. **Regional Head UHRC, Northern Uganda**

But why should I go to report yet within me I am very sure I will not get any kind of help from there. The person will choose to keep silent and some are not even aware of these organizations. **FGD with Taxi Operators, Hoima**

No justice is ever served to the poor person if you report to the LC and the police they want money and when it comes to those judges it is worse they are very corrupt, they want money and will never give a rightful judgment and you fail to get what to do so instead of losing even the small amount that you have better not report and die silently for example I had a case reported to LCI and won the case but this man went ahead and re-opened the case at the local council II after 2 years we had a hearing he never had witness and never showed up he kept quiet after 6 years he went to the district and reported a case now against me so the poor man will never win a case yet I had won him at LCI, II, III and I never got satisfied.’ **FGD with community members, Isingiro**

The above sentiments limit the implementation of human rights related laws and the Anti-torture Law is not an exception.

## 6.0 CONCLUSION AND RECOMMENDATIONS

While the standard definition of torture involves significant amount of force and injuries to individuals current perception of torture among community members builds on all type of violence meted out on the individuals. This ranges from relational violence between the couples (domestic)...and other violence which brings about physical, emotional and psychological injuries. Violent acts meted out on individuals by members of the armed forces, police and rebels especially in northern Uganda were also mentioned. The bottom line is that acts of violence exist and they seem to be occasioned by civil strife and political struggles, armed conflicts and other such forms of disagreements. At personal levels gender issues seem to play a key role in the incidence of torture. Torture incidence also seems to be higher in areas where civil disobedience and discontent over issues seem to emerge like the Apaa land issues in northern Uganda, the Lakang land in Amuru district, areas experiencing influx of refugees and displaced persons, and communities within the oil rich region of Western Uganda including Hoima, Kibaale up to Kasese and Ntoroko. The districts of Kasese, Ntoroko and Bundibugyo have besides land conflicts experienced tribal conflicts that have resulted into deaths, loss of property and livelihoods. This region has also suffered from a series of rebel insurgencies the main one being the Allied Democratic Forces—which has relatively been suppressed by the Government of Uganda. As adequately explained in various sections of this report, we note that the understanding of torture by communities overlaps the legal definition of torture to include other forms of cruel and degrading treatment. We also note that even in international law, there are many similarities between these crimes—often meted using similar methods differing largely in the severity of pain inflicted and whether torture specifically is committed by state agents. Uganda’s law—the Prevention and Prohibition of Torture Act 2012 has widened the definition of torture to include private individuals. This is a most welcome definition also given the fact that complaints reported to the UHRC several of which have semblance for torture are perpetuated by individuals—as the second respondent only after the Police. The civil society and Government should take advantage of the PPTA, first to educate the public about torture and establish mechanisms of investigating cases including encouraging the directorate of Public Prosecution to guide the Police to be able to enter cases of torture as so—instead of only recording all such cases as assault and other forms—notwithstanding the burden of proof in cases of torture.

Moreover as the country gears for the next general elections there is a possibility of more acts of violence from across section of the population or putting one political group against another even in individual capacities as supporters of political opponents.

It is recognized that the human rights desk at the Ugandan Police provides an important opportunity for civil society (human right defenders) to engage with and reduce police

excesses and violations of human rights..

An emerging issue in the reporting of torture case is that up to 53% of the respondents do not report cases of torture when they happen. When more enquiries were made on why this was so, it emerged that many respondents feel nothing would be done about it anyway, for fear of retaliation and also for lack of resources to pursue the case. This indicated a kind of community apathy and attitudes regarding reporting of torture cases. It also suggests that there is need to build more capacity among organisations and community members on reporting on torture occurrences in the community. However resources to support work of anti-torture agencies and human rights defenders remains a critical challenge. The findings also points to a high proportion of torture cases that are handled out of courts. While this may be seen as a much needed relief on the part of the justice system, it also potentially denies the victim justice as it is not clear whether the cases would be resolved in the best interest of the victim or whether adequate compensation would be provided.

Of importance is that the study also sought to establish the reasons for the high prevalence of torture in spite of the new legislation directed at curtailing torture in the country. What emerges is an interesting picture. While the ant-torture law has been in place, no test case has been concluded. Implementation guidelines have recently been developed and these should be widely disseminated and actors in the justice, law and order sector sensitised on their use and the law in general. While the law state clearly state that public officials who commit acts of torture on individuals will be personally liable, little political will prevails on the part of government to enable this happen. With the political imperatives high on the horizon, it appears there is reluctance on the part of the prosecution arm of Government to prosecute the public officials. In other cases the connectivity of the perpetrator to people high up in the echelons of the security forces also makes sustaining cases against them difficult.

A whole 57% of the respondents cited lack of awareness about human rights issue as a key factor in the continuation of torture and abuse of authority by security forces. What this means is that while some information may exist among these public officials, they lack complete and comprehensive knowledge on the human rights and how particular situations should be handled. These revelations suggests the need to design an anti-torture campaign or program which focuses on the supply side (information and knowledge) directed at the security forces and authorities on the one hand and another one which also directly addresses itself to the core stakeholders and the potential victims: members of society.

Experiences from actors implementing human rights programmes such as Human

Rights Centre Uganda, HURINET, HURIFO, Refugee Law Project, AHURIO, UNICEF, War child among others, suggests that the knowledge of human rights and international laws among members of the security forces inclusive of judicial officials is actually low, with many of them even unaware of the provisions of emergent laws and legislation on human rights. This is not only among junior officers (rank and file) but also among senior officers who often need to be reminded and trained on these legislations. The experience from these actors also suggests that security forces and the Police and UPDF are open to training collaboration and always respond to them, what matters is appropriate entry system which recognizes hierarchy and seeks permission to work with members of the armed forces. Addressing issues of torture on a sustainable basis therefore suggests that a collaborative approach needs to be devised where the local and central authorities and the forces are brought on board as partners. It also suggests that there is need for engagement on the advocacy front to ensure the political hierarchy accept the situation and are committed to improving the human rights landscape and issue of torture to enhance social wellbeing. Without engaging the political hierarchy there is no evidence to suggest that the knowledge and information provided will result into meaningful change in the philosophy and practices of those that wield power and authority.

Analysis of services to victims of torture indicate that medical treatment and counselling were often provided (58 and 42%) although it is also not clear whether such services were structured, adequate nor paid for by the perpetrator. Lessons of experience from development organisations suggest that the security agencies remain receptive to training opportunities from civil society organisations. It also suggests that when the security agencies are regarded as partners then the chances of success of the engagement process is much higher than when a confrontational approach is used. It is worth recognising that the Government of Uganda has the good will to address issues of human rights, reflected in Uganda's subscription to the Universal Periodic Review (UPR) process for which it makes periodic reports. It is also indicated by Government institution of the several institutions to enhance rights promotion and protection of human rights such as the Uganda Human Rights Commission, the Police Professional Standards unit (PSU), the human rights desks at the Police and several other initiatives. It is the well-considered view of the consulting team that ignorance of the law plays a critical role in promoting protection of human rights. In other words the low knowledge of security forces and law enforcement officials make them more prone to violating the law. In some communities men have an indefensible belief that they have a right to beat their wives. Media reports and reports from other countries suggest that people actually die in the situation of domestic violence which in many cases is preceded by several other acts of torture or trauma.

It is noted therefore that attempts at addressing torture as manifested in personal

and social relationship would require actual attention to the social cultural institutions, norms and practices, it would also require actively engaging the institutions that regulate behaviour and community dialogues. Addressing torture and violence at community level also require related intervention in the socio-economic development sphere, as poverty has been mentioned as a key aspect of torture with the poorest quintile seemingly at greater risk of torture than the better-off population. This suggest that any development effort to address issue of torture at sub national level should be ensconced within the socio-economic development framework, promoting perhaps local economic development initiative which raise the capacity of the target groups to access credit and micro finance and utilizes other resources to improve livelihoods and wellbeing. In other words there is need to enshrine anti-torture programs in a sustainable economic development frameworks, or at least link them to existing poverty reduction initiatives. These programs should thus not only have a medical but socio-economic and community capacity building focus to ensure those at risk from torture are targeted and supported to reduce risk and vulnerabilities.

We also note that earlier intervention in this field have not given adequate attention to rehabilitation services (as shown by the findings). In a nutshell former victims of torture have not been adequately provided with means of livelihoods that they can sue to generate income and resources for survival. It is imperative that post-rehabilitation support should incorporate an approach which enables the victims to develop new skills and knowledge that they can use to derive livelihoods in spite of their new changed situation.

## Recommendations

### Recommendations to Civil Society

- 1. Lobby the state to implement the Anti-torture Law.** As has been noted whereas the Prevention and Prohibition of Torture Act 2012 is in existence, no single perpetrator has been convicted under the law. There is need to continually lobby the state, especially the justice, law and order sector to push through with implementation of this important law. Unless this is done, torture and cruel, inhuman and degrading treatment is likely to continue. Implementation guidelines for implementation of the anti-torture legislation have been developed and there is need to make them widely available to law enforcement officers and make sure there is distribute and to train law enforcement agencies on application of these guidelines.
- 2. Training and awareness creation including training of lawyers and health workers.** Some of the security officials that we spoke to especially the Police officers mentioned that several of them are not conversant with the provisions of the PPTA 2012. This implies a need to contribute to efforts for massive awareness about the law within the justice, law and order sector so that the law is implemented. There should also be mechanisms for following up the training to make sure that it is effective. Training should involve front line staff that interacts with the community on a day to day basis, the managers and top echelons of leadership. Training of the security forces would also help them to better appreciate the laws and government obligations to international human rights laws and conventions, and also ending torture as a matter of urgency.

Similarly, whereas ACTV has in the last couple of years, trained several lawyers and health personnel in prevention and prohibition of torture, we propose that funds should be mobilised to continue training these critical professionals to create a critical mass necessary to effectively represent victims of torture and also be able to prepare adequate documentation necessary to adduce evidence of torture in courts of law. We commend ACTV on these technical training but hasten to add that more needs to be done.

- 3. Expanding medical treatment and rehabilitation services to other regions of the country.** Respondents noted that whereas ACTV in particular is providing a specialized service of treatment and rehabilitation of torture victims in Kampala, and Gulu, these services are not available to many other victims of torture who actually need these services. There is need to spread the services to other regions for example Western Uganda a region that has witnessed

conflicts in the Rwenzori region and the discovery of oil, its prospecting and upcoming exploitation. Partly because of these developments torture, cruel and degrading treatment in the oil rich region arising from land acquisition for speculation and migration.

- 4. Strategic focus on advocacy.** Whereas ACTV has performed well with regard to treatment and rehabilitation of torture victims, this baseline survey has illustrated the need to invest in advocacy against torture through television and radio talk shows and adverts, radio spot messages, print media, information, education and communication materials. We therefore recommend that additional funds be allocated to support a robust advocacy campaign on prevention of torture through the media. We also recommend continuous and sustained dialogue with the Justice Law Order sector to make sure the PPTA is implemented and that relevant implementation guidelines are implemented. It is also recommended that ACTV works together with the Coalition of Human Rights Defenders housed by Human Rights Network (HURINET) to make sure that implementation of the Prevention and Prohibition of Torture Act 2012 is made an agenda item in the meetings held with the Inspector of Government, the Minister of Internal Affairs. This same platform should be used to hold with the Attorney General, and the Minister of Justice and Constitutional Affairs. There is need for ACTV to be seen as an even stronger actor in the prevention of torture—maintaining its role in treatment and rehabilitation of torture—but also be seen as a strong advocate against torture.
- 5. Development of Guidelines for Implementation of the Prevention and Prohibition of Torture Act 2012.** Whereas the PPTA was enacted in 2012, until now, guidelines are now in advanced stages of development. Once finalised these should be widely disseminated and stakeholders sensitised about them. Related to this, is the fact there is currently no law providing for effective victim and witness protection, yet, victims and witnesses continue to face intimidation and harassment, which is an adverse impact on the ability to pursue cases. The law and its implementation is necessary for the protection of victims or others who report acts of torture and ACTV can play an advocacy role to make sure the law is enacted.
- 6. Establish Regional Networks for Prevention of Torture.** It was noted by several respondents that anti-torture services are not accessible especially treatment and rehabilitation of torture victims. In addition respondents reported not to be aware where to report cases of torture. We strongly recommend the establishment of regional coalitions against torture which could involve other Human Rights Defenders including organisations, journalists, lawyers, medical personnel and other actors. This would help to provide information to several

actors without necessarily introducing offices countrywide. It would also help improve referral of cases to ACTV and other actors in the prevention of torture.

- 7. Advocate for prevention of torture by individuals.** This baseline survey highlighted the fact that torture by individuals is equally prevalent. Whereas most reports highlight the high incidence of torture meted by state agents, at the community level, most respondents said most of the torture is perpetrated by family members, community members and security personnel. Whereas there is strong focus and advocacy on torture by security agencies, there is equally need to pay attention on sensitisation of entire communities against torture and also to make sure that referral networks are strengthened and that information on where to report cases of torture including state and non-state entities is widely disseminated.

### **The State and Ministry of Justice and Constitutional Affairs**

- 8. Expedite the Appointment of Commissioners at Uganda Human Rights Commission.** The Uganda Human Rights Commission continues to do a commendable job with regard to the protection and promotion of Human rights in Uganda. As described in this report, the contract of the Commissioners expired in April 2015 and have not been renewed since then or indeed new ones recruited. This creates a very big challenge to the leadership of the Commission and to its role especially as we move closer to the elections scheduled for February 2016. Every effort should be made to lobby the President of the Republic of Uganda to appoint commissioners for UHRC at the earliest opportunity possible.
9. The State Should finalise and disseminate the implementation guidelines for the PPTA 2012 and endeavour to make every effort to make these available to all actors in the Justice, Law and Order Sector as well as sensitise them on their use and application of the law.
10. The Directorate of Public Prosecutions should sensitise and encourage the Police Officers to record cases of torture where investigations indicate this to be so. This is also based on observations that since 2012, no case even those that fit into the description provided by the law have ever been entered as torture. Guidance from the DPP would be most helpful.

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<b>A BACKGROUND INFORMATION</b>			
<b>No</b>	<b>Question</b>	<b>Responses</b>	<b>Skip</b>
1	Time Interview Started	_ _  :  _ _  AM / PM	
2	Sex of respondent (by observation) CIRCLE ONE ONLY	1) Male 2) Female	
3	How old were you at your last birthday? WRITE IN ESTIMATE IF NECESSARY	Age in completed years  _ _	
4	Residence of respondent	1) Village: _____ 2) Parish: _____ 3) Sub County: _____ 4) District: _____	
5	What is your marital status? CIRCLE ONE ONLY.	1) Married, living with spouse 1) Married, not living with spouse 2) Not married, living with partner 3) In a relationship, not living with partner 4) Single, not in a relationship 5) Divorced / separated 6) Widower / Widow 7) Other (Specify) _____	
6	Have you ever attended school? CIRCLE ONE ONLY	1) Yes 2) No	If No, skip to 8.
7	IF YES, what is the highest education <u>grade /level/form</u> you have completed? CIRCLE ONE ONLY	1) Primary 1) Secondary 2) Technical/vocational Cert. 3) University/college Diploma 4) University/college Degree 5) Other	
8	What is your occupation?	1) Crop farmer 2) Livestock farmer 3) Artisan 4) Shop keeper 5) Bar owner 6) Trader/ 7) Other (specify):	

9	How long have you been living continuously in this area?	<input type="text"/> Number of complete years <hr/> WRITE IN. IF LESS THAN ONE YEAR INDICATE '00	
<b>B</b>	<b>INCIDENCE OF TORTURE AND PERCEPTION OF TORTURE</b>		
10	Have you ever been tortured or treated in a violent/cruel way?	1) Yes 2) No	
11	Is there anyone known to you that has been tortured or treated in a cruel way?	1) Yes 2) No	If no, skip to 16
12	If yes, who conducted this act of torture or cruel treatment on you or the person known to you?	1) Police 2) Army and other security agents 3) Rebels 4) Politicians 5) Vigilant groups 6) Other.....specify	
13	How long ago was this act of torture done to you or to the person known to you?	1) Less than one year 2) 1 to 4 years 3) 5 to 9 years 4) 10 year+	
14	What type of torture were you or a person known to you subjected to/	1) Punching 2) Kicking 3) Beating with batons and barrel of a gun 4) Verbal abuse 5) Food deprivation 6) Denial of sleep 7) Electrocution 8) Threat to harm family members 9) Tying arms and legs causing extreme pain (kandoya)	
15	What are the reasons why yourself or people in your community were tortured?	1) Engaging in political activities 2) Unemployment 3) Land conflicts 4) Tribal conflicts 5) Civil conflicts 6) Others.....specify	
16	If you were taken into custody today, are you confident that you would be safe?	1) Strongly agree 2) Somewhat agree 3) Somewhat disagree 4) Strongly disagree 5) I am not able to answer the question	

17	Security agencies including the police and prisons follow the law when arresting and detaining people in my area?	1) Strongly agree 2) Somewhat agree 3) Somewhat disagree 4) Strongly disagree I am not able to answer the question	
18	There are special circumstances when torture is acceptable to gain information from suspects	1) Strongly agree 2) Somewhat agree 3) Somewhat disagree 4) Strongly disagree I am not able to answer the question	
<b>C</b>	<b>PERPETRATORS</b>		
19	Who are the main perpetrators of torture in your area?	1) Police 2) Army/other security institutions 3) Local vigilantes 4) Politicians and their aides	
20	Was the torture meted out to you or the person known to you reported?	1) Yes 2) No	if No, skip to 22
21	If yes, to which institution was the torture case reported?	1) Police 2) Courts of Law 3) Uganda Human Rights Commission 4) Non Governmental Organisation 5) Local Government 6) Others.....specify	
22	If not reported, for what reasons did you not report?	1) Belief that no action would be taken 2) Did not know where to report 3) Was threatened not to report 4) I do not trust the justice and law order system 5) Fear of reprisals 6) Did not have the money required to pursue the case 7) Other .....specify	
23	Was any action taken by the authorities to whom the case was reported?	1) Yes 2) No	If No, skip to 29
24	If yes, what action was taken?	1) Perpetrator arrested 2) Perpetrator prosecuted 3) Settled out of court 4) Received compensation 5) Perpetrator released without charge 6) No arrest was made	

25	Were you satisfied with the redress/action taken by the authorities?	1) Yes 2) No	If No, skip to 27
26	If Yes, how satisfied were you with the action taken?	1) Very satisfied 2) Satisfied 3) Not satisfied 4) Dissatisfied	
27	If no, for what reasons were you not satisfied?	1) Perpetrator not arrested 2) Perpetrator bribed his way out 3) No compensation received 4) Reprisals and threats continued	
28	How long did it take you to receive justice?	1) Less than four months 2) 5 months -1 year 3) Between one and 3 years 4) More than 3 years	
29	What factors drive/perpetrate torture in your area?	1) Weak anti-torture laws 2) Lack of knowledge on human rights and redress mechanisms 3) Poverty 4) Corruption among law enforcement officers 5) Lack of political will to fight torture 6) Other .....specify	
<b>D</b>	<b>PATTERNS OF TORTURE</b>		
30	What are the main forms of torture in this region?	1) Beating 2) Restraining the body into painful position 3) Humiliation (including insults) 4) Denial of food 5) Denial of sleep 6) Incarceration into dark and lonely places 7) Suspending the suspect	
31	Have there been any changes in the pattern of torture or cruel treatment in the last five years?	1) Yes 2) No	If No, skip to 34
32	What have become the new forms of torture?	1) Political persecution 2) Kidnapping 3) Death threats 4) Confiscation of land 5) Beating 6) Humiliation 7) Incarceration 8) Others.....specify	

33	What could have caused the changes in torture or cruel treatment in this area?	<ul style="list-style-type: none"> <li>1) Politics</li> <li>2) Anti-terrorism drive</li> <li>3) Corruption within the security agencies</li> <li>4) Poverty</li> <li>5) Discovery of natural resources</li> </ul>	
34	Do you consider yourself or other people in your community to be under any threat from these new trends of torture?	<ul style="list-style-type: none"> <li>1) Yes</li> <li>2) No</li> </ul>	
35	For what reasons do you think that yourself or people in your community are vulnerable to these new torture methods in your community?	<ul style="list-style-type: none"> <li>1) Engagement in political activities</li> <li>2) Unemployment</li> <li>3) Poverty</li> <li>4) Natural resources conflict for example land</li> <li>5) Corruption</li> <li>6) Others.....specify</li> </ul>	
<b>E</b>	<b>PREVALENCE OF TORTURE</b>		
36	How does torture rank among other social problems like poor quality education, poor quality healthcare, restricted political freedoms?	<ul style="list-style-type: none"> <li>1) Very high</li> <li>2) High</li> <li>3) Low</li> <li>4) Very low</li> <li>5) I do not know</li> </ul>	
37	Do you consider torture an acceptable for extracting information from suspects	<ul style="list-style-type: none"> <li>1) Always acceptable</li> <li>2) Sometimes acceptable</li> <li>3) Never acceptable</li> <li>4) I do not know</li> </ul>	
38	How common is torture in your community	<ul style="list-style-type: none"> <li>1) Very common</li> <li>2) Somewhat common</li> <li>3) Rare</li> <li>4) Very rare</li> <li>5) Does not exist</li> <li>6) I do not know</li> </ul>	

<b>F</b>	<b>DRIVERS OF TORTURE</b>		
39	What in your opinion explains the continuation of torture despite enactment of the anti-torture and related laws?	1) Lack of political will 2) Silence by the government officials 3) Lack of deterrent action 4) Abuse of authority (orders from above) 5) Poverty—search for survival by security forces 6) Need to obtain quick solutions (confess under duress) 7) Weak legislation 8) Lack of awareness about personal rights and existing legislation	
40	Who is most vulnerable to torture and cruel treatment in your community?	1) Political activists 2) The unemployed youth 3) The poor 4) Human Rights Defenders 5) Others.....specify	
41	For what reason do you think that such people are vulnerable?	1) High levels of domestic abuse 2) High levels of child abuse in the community 3) Weak anti-torture laws 4) Corruption in the institutions meant to protect people against torture 5) Lack of tolerance in politics 6) Others.....specify	
<b>G</b>	<b>REHABILITATION SERVICES</b>		
42	Are you aware of any organisations that provide treatment and rehabilitation services to victims of torture or cruel treatment?	1) Yes 2) No	If No, skip to 49
43	What is/are the names of such organisations?	1) ..... 2) ..... 3) ..... 4) .....	
44	What services do they provide?	1) Medical treatment 2) Counseling 3) Litigation/ legal aid 4) Advocacy against torture 5) Psychosocial support 6) Livelihood support	

45	Have you or anyone known to you received treatment and rehabilitation services from such organisation?	1) Yes 2) No	If No, skip to 49
46	If yes, which services did you receive?	1) Medical treatment 2) Rehabilitation services 3) Counselling 4) Psychosocial support 5) Legal assistance 6) Compensation 7) Referral 8) Other.....specify	
47	Were you or the person known to you given any medical care?	1) Yes 2) No	
48	If yes, what type of medical care did you receive	1) Physical medication 2) Physiotherapy 3) Counseling 4) Psychosocial support 5) Post resettlement support	
49	What do you consider to be the effects of torture/cruel treatment?	1) Affects livelihoods 2) Loss of self esteem 3) Neglect by the community 4) Disability 5) Depression 6) Trauma 7) Other.....specify	
50	What do you consider to be the gaps in existing medical service providers to agencies supporting victims of torture?	1) No investigation facilities 2) Range of services limited 3) Limited financing 4) Few branches requiring us to travel long distances 5) Lack of qualified staff 6) Not much attention to psychosocial issues 7) No post resettlement services	
51	Are you or anyone known to you ever received compensation from courts of law/ Uganda Human Rights Commission for torture?	1) Yes 2) No	

52o	If yes, were you or the person known to you satisfied with the compensation process/	1) Yes 2) No	
53	If no, for what reasons were you or the person known to you not satisfied with the compensation received?	1) The amount was low and not commensurate with the crime 2) The compensation delayed 3) No effort to support my resettlement/livelihood 4) Corruption involved in the compensation 5) Others.....specify	
<b>H</b>	<b>ADVOCACY AGAINST TORTURE</b>		
54	Have you heard any information on prevention of torture?	1) Yes 2) No	
55	If Yes, which organisations are promoting prevention of torture in your area?	1) ..... 2) ..... 3) ..... 4) .....	
56	From which source did you hear information on prevention of torture	1) Radio 2) Television 3) Outreaches 4) Literature 5) Referrals 6) Friends 7) Other.....specify	
57	What do you consider to be the existing gaps in advocacy?	1) ..... 2) ..... 3) .....	

## ii) KEY INFORMANT INTERVIEW GUIDE FOR THE A SITUATIONAL ANALYSIS ON THE PREVALANCE OF TORTURE IN UGANDA

### Introduction

The African Centre for the Treatment and Rehabilitation of Torture Victims is conducting a situational analysis on the prevalence of torture in Uganda. The exercise involves obtaining information on a range of issues pertaining to incidence of torture, and related human rights abuses, patterns of torture, types of torture, perpetrators, treatment and rehabilitation of torture victims, legislation and effectiveness of advocacy. You have been selected to participate in this interview and the results are expected to inform ACTV and other stakeholders about the prevalence of torture in your region. The information collected will only be used for the above purposes. We request you to kindly respond to the following questions.

### Consent Statement

At this time, do you have any questions?  
Are you willing to participate in this survey?  
Can we begin the discussion now?

Yes                                    1àContinue with Interviews  
No                                        2à**STOP HERE**

This FGD is being conducted by \_\_\_\_\_

(Name of Interviewer/Researcher)

Date: \_\_\_\_\_

Start time \_\_\_\_\_

End Time \_\_\_\_\_

Thank you for your time

- What is the perception of the respondents on what constitutes torture in Uganda?
- What are the emerging patterns and trends of torture in Uganda?
- Have the respondents had any particular experience with torture on themselves or their close family members?
- What are the common forms of torture used by perpetrators in Uganda? Of these, which method is most dominant?
- Does torture vary with age, religion, economic class, region, rural/urban and ethnicity among others?
- Which occupations or activities do you consider to be more at risk of torture and cruel treatment? (Lawyers, civil servants, security personnel, Human Rights Defenders) In what ways are they vulnerable?
- Who are the main perpetrators of torture?
- Why in your opinion is torture prevalent in spite of the available anti-torture laws?
- Do you find the existing anti-torture laws effective? What challenges have limited the implementation of the Prevention and Prohibition of Torture Act?
- What legislation is available at national, regional and international levels on the prevention of torture? What are the gaps in the existing legislation?
- Why in their opinion is torture perpetrated despite enactment of necessary anti-torture legislation?
- Are there any special circumstances under which torture might be justified?
- What administrative and legal institutions are available for redress for victims of torture? (Police, Courts of law, Uganda Human Rights Commission, Professional Standards Unit of the Police).How effective have these institutions been?
- How effective are the redress mechanisms including court processes and compensation? How can this process be improved?
- What services are available including medical and psychological, physiological treatment and rehabilitation of survivors of torture?
- What is the quality of services available for torture victims? How accessible are these services?
- What challenges do torture victims face when re-integrated into communities? Are there any organisations providing post community re-integration services? What is the quality of these services?
- What do you consider to be the effects of torture (Social, economic, political among others)?
- Are their sub populations that are specifically vulnerable to torture? (Children, women, refugees, internally displaced persons, youth among others)
- What specific challenges do refugees face?
- What is the quality and access to outreach services for torture victims?
- For what reasons may people not report observed or inflicted cases of torture? What do you consider to be the barriers to seeking redress from both state and non-state human rights defenders especially those focusing on anti-torture?
- What challenges do HRDs working on anti-torture face?

### iii) FOCUS GROUP DISCUSSION WITH COMMUNITIES

#### AFRICAN CENTRE FOR TREATMENT AND REHABILITATION OF TORTURE VICTIMS SITUATIONAL ANALYSIS ON THE PREVALENCE OF TORTURE IN UGANDA

##### Introduction

The African Centre for Treatment and Rehabilitation of Torture Victims is conducting a situational analysis on the prevalence of torture in Uganda. The exercise involves obtaining information on a range of issues pertaining to incidence of torture, and related human rights abuses, patterns of torture, types of torture, perpetrators, treatment and rehabilitation of torture victims, legislation and effectiveness of advocacy. You have been selected to participate in this interview and the results are expected to inform ACTV and other stakeholders about the prevalence of torture in your region. The information collected will only be used for the above purposes. We request you to kindly respond to the following questions.

##### Consent Statement

At this time, do you have any questions?

Are you willing to participate in this survey?

Can we begin the discussion now?

Yes                                    1àContinue with Interviews

No                                        2àSTOP HERE

This FGD is being conducted by \_\_\_\_\_  
(Name of Interviewer/Researcher)

Date: \_\_\_\_\_

Start time \_\_\_\_\_

End Time \_\_\_\_\_

Thank you for your time

1. What is torture? How do you know that a specific individual has been tortured?
2. For what reasons are people tortured in this community?
3. Who carries out torture or cruel treatment activities in this community?
4. How common is torture in this community? What methods are used to torture people in this community? Which is the most dominant method used?
5. Are cases of torture reported in this community?
6. If not for what reasons are such cases not reported?
7. If reported, to which institutions are such cases reported?
8. How satisfied are you with the help received from anti-torture agencies in this community?
9. What is the perception of the respondents on what constitutes torture in Uganda?
10. Are there any trends or changes in the incidence of torture in this community?
11. Have you yourselves or someone known ever been tortured? How long ago was this?
12. What are the common forms of torture used by perpetrators in Uganda? Of these, which method is most dominant?
13. Does torture vary with age, religion, economic class, region, rural/urban and ethnicity among others?
14. Why in your opinion is torture prevalent in spite of the available anti-torture laws?
15. Are you aware of laws on prevention of torture in Uganda? If yes, do you find the existing anti-torture laws effective? What challenges have limited the implementation of the Prevention and Prohibition of Torture Act?
16. Are there any special circumstances under which torture might be justified?
17. How effective are the redress mechanisms including court processes and compensation? How can this process be improved?
18. What services are available including medical and psychological, physiological treatment and rehabilitation of survivors of torture?
19. What is the quality of services available for torture victims? How accessible are these services?
20. What challenges do torture victims face when re-integrated into communities? Are there any organisations providing post community re-integration services? What is the quality of these services?
21. What do you consider to be the effects of torture (Social, economic, political among others)?
22. Are there sub populations that are specifically vulnerable to torture? (Children, women, refugees, internally displaced persons, youth among others)
23. What specific challenges do refugees face?
24. What is the quality and access to outreach services for torture victims?
25. For what reasons may people not report observed or inflicted cases of torture? What do you consider to be the barriers to seeking redress from both state and non-state human rights defenders especially those focusing on anti-torture?
26. What challenges do HRDs working on anti-torture face?

## ANNEX II: STUDY REGIONS AND DISTRICTS AND JUSTIFICATION FOR THEIR SELECTION

Region	Name of District	Rationale for selection
Northern region (Purposively selected)	Gulu	Many victims of torture arising out of the Lord Resistance Army insurgency. Several Civil Society Organisations working on rehabilitation in this area and it would be good to capture their experiences, knowledge and challenge on working towards prevention and elimination of torture
	Amuru	This district too suffered human rights abuses related to the Lord's Resistance Army insurgency. In the recent past, there have been violations related to land conflicts at Lakang, Kololo and Apar in Pabbo sub county.
West Nile	Nebbi	Randomly selected, also miles within the Oil basin. It is an old district
	Zombo	New District within West Nile selected purposively
Eastern Uganda	Soroti	Affected by the Holy Spirit Movement insurgency and the brutal suppression of the uprising by Government—leaving many victims of torture. It is an old district.
	Mbale	This district has had series of politically related conflicts—that often result into arrests and torture. It is a major urban district in the Eastern Region.
Western	Hoima	Old district Discovery of oil has resulted into significant land related conflicts and displacement
	Kasese	This area has suffered several tribal conflicts involving the Bakonzo on the one side and other tribes in the region including but not limited to the Bamba and Bagwisi. The different suffered the Allied Democratic Forces attacks and is also part of the Albertine oil region.
Kampala	Kampala	Randomly selected. However the choice is very important being the headquarters of many civil society organisations. There are also many victims of torture especially relating to political activism. There are also many unemployed youth who are vulnerable to arrests.
Central	Gomba	Randomly selected.
South Western	Mbarara	Randomly selected.
	Isingiro	Randomly selected. An important district that has received an influx of refugees from Tanzania over the last couple of years.







### **HEAD OFFICE, KAMPALA**

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**Fax:** +256 312 263 919. **Email:** [actv@actvuganda.org](mailto:actv@actvuganda.org)

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### **GULU OFFICE**

Layibi A and B Village Left Hand side on Gulu – Kampala Road

½ km after railway Crossing. Plot 16-18 Olanya Tony Road

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