

Torture and ill-treatment in Uganda

Introduction

The government of Uganda ratified the United Nations Convention Against Torture (UNCAT) in 1986. The right of freedom from torture cruel and inhumane degrading treatment is also guaranteed under Article 24 and 44 of the 1995 Constitution of the Republic of Uganda. Acts of torture are criminalized under the Prevention and Prohibition of Torture ACTV, 2012 (PPTA), where a penalty for a case of torture attracts a sentence of up to 15 years imprisonment, and life imprisonment for aggravated Torture. Furthermore, in 2017, the Ministry of Justice and Constitutional Affairs adopted the Regulations to the PPTA which provides a framework for handling torture complaints and investigations.

Although there is a legal framework in place which prohibits the use of torture, in practice the enforcement and implementation is ineffective, which allows torture to continue. According to ACTV data, a total of 6230 (4224 Male and 2006 Female) persons were registered and supported as survivors of torture from the year 2016 to 2020 at her treatment centres around the country. Of those registered, 5519 were Uganda Nationals and 711 were refugees from neighbouring countries. Security agencies are the main perpetrators of torture with Uganda Police Force accounting for 30.27% of cases registered, followed by Uganda People's Defence Forces (UPDF) 21.77%, Uganda Prison Services (3.10%), and other para-security forces like; crime preventer, local defence units among others (1.89%). Majority of the survivors of torture, are suspected criminals who are tortured during arrests and interrogations; other categories include politicians, journalists, and persons in places with land fights, lakes, and mineral rich areas.

Further, the enforcement of Covid-19 guidelines by security agencies and the 2021 general elections led to an increase in incidences of torture and cruel treatment. ACTV documented 95 cases of torture as a result of enforcement of Covid-19 guidelines by security agencies between the months of March 2020 - December 2020, and 69 cases in a period between January 2021 to March 2021 resulting from election violence and torture.

To address these problems, ACTV has identified three key change areas, which will be outlined in this briefing note:

1. Better investigation and prosecution of torture offences
2. Comprehensive reparation to survivors
3. Improved detention monitoring



Investigation and prosecution of torture and ill-treatment

Past UPR recommendations

- Put in place the necessary regulations to ensure the full implementation of the Prevention and Prohibition of Torture Act of 2012 and that appropriate training on the Act is carried out for security services to ensure its effective application. (115.7)
- Ensure that the police force, the Directorate of Public Prosecution and the Uganda Human Rights Commission investigate all allegations of torture to hold perpetrators accountable. (115.86)

Current state of Implementation

Responding to the 2016 UPR recommendations, Uganda adopted the regulations to guide implementation of the Prevention and Prohibition of Torture Act (PPTA). Uganda also established human rights coordination units in security agencies to oversee the observance and promotion of human rights within those institutions, and conducted human rights trainings together with civil society organizations such as ACTV.

However, torture continues. According to the Uganda Human Rights Commission (UHRC), at least 1,032 cases of torture were registered between the years 2016 to 2018, with an increase of 13% in 2018. ACTV registered 6230 cases of torture between the years 2016 to 2020.

Despite these high numbers, only a few cases have been investigated and there have been no criminal prosecutions of public officials using the PPTA. However, the PPTA has been for compensation claims against the Government in civil courts. For example, in 2017 the high court in Kampala Uganda ruled that the 22 suspects in the case of Murder of AIGP Kaweesi were tortured in detention during interrogation, and each was awarded 80Million. However, no criminal charges were instituted against the perpetrator. Other Civil cases include;

- Yahaya Lukwago & 4 Ors v. A.G & 3 Others, HCCS No. 226 of 2015 Decision of 20th December 2019 by Justice Ssekana Musa.

- Issa Wazembe V Attorney General Civil Suit No.154 of 2016 decided on 19th August 2019 by Justice Ssekana

Musa.

- Nakaziba v Attorney General (Miscellaneous Cause-2018/295) [2020] UGHCCD 31 (07 February 2020)

- Hon. Zaake Francis Vs A.G & 7 Others HCCS Miscellaneous Cause No.85 /2020

- Agaba v Attorney General & 3 Ors (Civil Suit-2016/247) [2019] UGHCCD 226 (20 December 2019);

A few criminal cases have used the PPTA but they have all be against private individuals:

- Uganda v Namsamba (Criminal Session Case-2015/) [2018] UGHCCRD 35 decided on 08 February 2018 by Justice Stephen Mubiru

- Uganda vs Alany Lochio & Anor, Kotido Criminal Case No.112 of 2018.

- Uganda vs Turbo Martin, Kabong CPS, CRB 283 of 2018.

The 2017 regulations to the PPTA which provides guidelines on effective investigations and documentation of torture cases have not been utilized by the respective state agencies. The Uganda Police uses the Penal Code Act Cap 120 to record cases of torture and documents the same using Police form 3, which is designed to record assault cases. This is evidenced in the annual crime police reports where an average of 30,000 assault cases are recorded annually and no cases of torture. Failure by the Uganda Police Force to fulfil her mandate to investigate and document cases of torture has led to increased incidences of torture and lack of accountability.

Furthermore, survivors of torture live in immense fear of reprisal from the perpetrators once they come out to report their allegations. ACTV during the awareness campaign on the importance of documentation of torture conducted between January 2021 - March 2021 noted that majority of the survivors contacted, were reluctant to report cases of torture to any institution because of fear of being rearrested and tortured again. The lack of a witness protection mechanism has hindered the access to justice for survivors and hence limits the promotion and protection of the right of freedom from torture and ill treatment.

Recommendations

- a. Conduct full and transparent investigations on all allegations of torture and other cruel, inhumane and degrading treatment or punishment to ensure accountability.

- b. Uganda Police Force should adopt the PPTA regulations and streamline them in the documentation and investigation of torture cases in Uganda.

- c. Enact a witness protection law to ensure protection of victims, witnesses and secondary victims reporting torture.

Reparation for torture survivors

Previous UPR recommendations:

Adopt the Prevention and Prohibition of Torture Regulation to make the Prevention and Prohibition of Torture Act operational (Denmark);

Current state of Implementation

Article 14 of the UN Convention Against Torture provides torture victims a right to redress including rehabilitation. Similarly, Section 6 of the PPTA stipulates that victims of torture should be compensated, restituted and rehabilitated. The PPTA regulations which operationalizes the Act, has investigation and documentation forms specifically form 4 which documents the physical and psychological effects of torture and this is key in determining rehabilitation and compensation to victims.

Despite a clear mandate under the UNCAT and the PPTA, the State has not established any rehabilitation programme for torture victims and it does not fund non-state services to provide support. This leaves ACTV as the only organisation that provides holistic rehabilitation to torture survivors. While doing their best with the resources available, ACTV is far from able to support all the torture victims needing rehabilitation in Uganda.

The courts of law in Uganda and Uganda Human Rights

Commission have continuously awarded compensation to survivors of torture. However, the absence of a compensation programme at national level to compensate victims has led to huge outstanding compensation sums totalling to over Uganda Shillings 5 billion (USD 1,402,661). Many survivors who have been awarded compensation take more than six years to receive it. This has impeded access to effective redress and access to timely quality treatment and rehabilitation.

Recommendations:

- a. Uganda should meet her obligation under the UNCAT and the African Charter of Human and Peoples Rights to mainstream mechanisms for rehabilitation within her health care system and redress of torture victims under General Comment No. 4 and General Comment No. 3 on Article 14 of the United Nations Convention Against Torture.

- b. Uganda should pass legislation providing strict time limits on within which a survivor of torture must have received their compensation in full following an order of a court or the Uganda Human Rights Commission.

Monitoring of places of detention

Previous UPR recommendations:

Implement, in practice, the Prevention and Prohibition of Torture Act, including through the establishment of an effective system of prevention of all forms of torture and other cruel, inhuman or degrading treatment. (115.6)

Current state of Implementation

Uganda has a total of 254 prison establishments whose official capacity is 17304 inmates, however, the current population of inmates in the prison system is over 50000 inmates. Although the Uganda Prison Services (UPS) has created human rights departments and other mechanisms to ensure observance

of human rights and only a few allegation of torture have been made against the Uganda Prison Services, the overcrowding in the prison system and the poor conditions both constitute ill-treatment and puts inmates at risk for acts of further torture and ill-treatment. ACTV during her prison visit activities registered 2334 survivors of torture in prison between the years 2016- 2020. Most of the survivors in prisons have been tortured during arrests and interrogations by other security forces and taken into prison where they don't have access to proper rehabilitation services and access to justice.

Uganda has still not ratified the Optional Protocol to Convention Against Torture (OPCAT) or established a National Preventive Mechanism (NPM). This means that there is no independent and effective system to monitor places of detention so that torture and ill-treatment can be detected and future violations prevented. Currently the Uganda Human Rights Commission is the only body mandated under the 1995 constitution of Uganda article 51(1b) to monitor places of detention. Other institutions including NGOs like ACTV that carryout prison visits/ monitoring, have to first seek permission from the Uganda Prison Authority to visit prisons. This makes the monitoring much less effective because it gives an opportunity to perpetrators to hide evidence of torture and ill-treatment.

Furthermore, the state has continued the use of illegal ungazetted detention places. According to the Report of the Committee of Parliament on Human Rights on Alleged Torture in Ungazetted Detention Centres in the Country, November 2019, several victims testified before the Committee that they had been tortured from different ungazetted detention centres commonly known as 'safe houses' that were operated by the Internal Security Organisation (ISO). ACTV between the years 2018 - 2020, registered 33 survivors of torture alleging to have been torture in various ungazetted places in the country. The survivors tortured in ungazetted place are suspected criminals accused of mainly treason, aggravated robbery, and murder.

Recommendations:

a. Uganda should ratify the Optional Protocol to the Convention Against Torture and other forms of cruel, inhuman, degrading treatment (OPCAT) in order to strengthen national implementation of the UNCAT to which Uganda is a state party.

b. The States should abolish all secret ungazetted detention facilities and ensure that all detainees are held in gazetted places of detention by making detention records obligatory.

About the African Center for Treatment and Rehabilitation of Torture Victims (ACTV)

ACTV is the pioneer provider of services to survivors and victims of torture in Uganda. ACTV is a registered non-governmental organisation in Uganda. ACTV is accredited by the Ministry of Health to operate a medical referral centre that provides physical and psychological care that supports the process of rehabilitation of victims of torture by state and non-state actors in Uganda and neighboring countries.

About the International Rehabilitation Council for Torture Victims (IRCT)

The IRCT strives to achieve "A World Without Torture." As a network of 158 torture rehabilitation centres across 75 countries, we are the world's largest membership-based civil society organisation providing rehabilitation to victims, preventing torture, increasing access to justice and fighting impunity. We believe that everyone has the right and obligation to stand up against torture. Together, we are a movement working in solidarity to advocate for the rights of victims, to shine a light on torture wherever it occurs and to end it.

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