



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

Distr.: General
16 July 2010

Original: English

Committee against Torture

Forty-fourth session

26 April–14 May 2010

**List of issues prior to the submission of the second periodic report of
Uganda (CAT/C/UGA/2)***

**Specific information on the implementation of articles 1 to 16
of the Convention, including with regard to the Committee's
previous recommendations**

Articles 1 and 4

1. In light of the previous recommendation of the Committee (para. 5 (a)-(d)), please provide information on steps taken by the State party to fully incorporate the Convention into national legislation, including up-to-date information on progress made towards the passing of the Ugandan Prohibition and Prevention of Torture Bill, 2009. Please inform the Committee on how the above measures will ensure an absolute prohibition of torture and a definition of torture that is consistent with article 1 of the Convention.
2. Please provide information on legislative measures envisaged by the State party to ensure that the Penal Code Act (especially arts. 219, 222, 223, and 226), the Uganda People's Defence Forces (UPDF) Act (art. 26), and the Anti-Terrorism Act (art. 21 (e)) prescribe punishments for acts that amount to torture and other forms of ill-treatment that are commensurate with the gravity of the crime.

*The present list of issues was adopted by the Committee at its forty-fourth session, according to the new optional procedure established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

Article 2¹

3. Please provide detailed information on all measures taken by the State party since 2005 to ensure, in practice, that all persons deprived of their liberty, from the outset of their detention, have access to an independent doctor, if possible of their own choice, access to a lawyer and that they can contact members of their families, as guaranteed under the Constitution.

4. Please provide information on steps taken, or envisaged, by the State party to reduce the grounds for the lawful deprivation of liberty as stipulated in article 23 (1)(a-h) of the Constitution, especially those which could lead to arbitrary deprivation of liberty (i.e. article 23(1)(d); (e); (f); and (h)). Pursuant to the Committee's previous recommendation (para. 10 (e)), please also provide information on legislative measures taken, or envisaged, by the State party with a view to reduce the permissible length of the pretrial period, in particular article 23 (6)(b) and (c) of the Constitution.

5. In light of the high number of persons held in pretrial detention, please provide information on measures taken by the State party to effectively enforce the constitutional right of arrested suspects to be brought before court within 48 hours and to enhance the capacity of the judiciary to expedite the disposal of cases.

6. Please provide information on steps taken by the State party to implement alternative methods of imprisonment, including community service court orders which have proved successful in certain regions of the State party. Please also inform the Committee on steps taken by the State party to ensure effective supervision of local administration prisons, including by implementing the recommendation by the Uganda Human Rights Commission (UHRC) to merge the central Government prison service with that of the local administration prison service.

7. In its previous concluding observations (para. 6(b)), the Committee expressed concern at the reported limited accessibility and effectiveness of habeas corpus. In light of the above, please provide information on measures taken by the State party to ensure that persons deprived of their liberty can avail of their right to apply for a writ of habeas corpus, including data on habeas corpus applications filed before courts in the State party and their results.

8. As requested by the Committee in its follow-up (para. 10 (i)) to its previous recommendations and in light of concerns of the Human Rights Committee (CCPR/CO/80/UGA (2004), para. 17), please provide information on steps taken by the State party to abolish the use of "ungazetted" or unauthorized places of detention, including "safe houses", and immediately provide information on all such places of detention, especially in light of complaints on alleged cases of torture and other cruel, inhuman or degrading treatment or punishment in such illegal places of detention received by the Uganda Human Rights Commission (UHRC) in 2009. In particular, please provide information on steps taken by the State party to close, in compliance with article 23(2) of the Constitution, the ungazetted detention centre of the Joint Anti-Terrorist Taskforce

¹ The issues raised under article 2 could imply also different articles of the Convention, including but not limited to article 16. As general comment No.2, paragraph 3, states "the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter "ill-treatment") under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. ...In practice, the definitional threshold between ill-treatment and torture is often not clear." See further Chapter V of the same general comment.

(JATT) headquarters in Kololo, Kampala, and all other illegal places of detention where detainees are held incommunicado, as requested by the special rapporteurs on extrajudicial, summary or arbitrary executions and on torture and other cruel, inhuman or degrading treatment or punishment, respectively.

9. Please provide information on measures taken to strengthen the capacity of the Uganda Human Rights Commission (UHRC) to monitor, document and investigate alleged cases of torture. In particular, please provide information on steps taken to ensure unhindered access without prior notice for staff of the UHRC to non-gazetted places of custody, including “safe houses” as well as army barracks and other military facilities, in line with its constitutional mandate (article 52(1) (b) of the Constitution).

10. In light of the follow-up request (para. 10 (h)) of the Committee to its previous recommendations, please provide information on steps taken by the State party to ensure that only those security agencies legally empowered to arrest, detain and investigate undertake such tasks. Please describe to the Committee what measures have been taken by the State party to prevent all cases of arbitrary detention, including by ensuring that individuals arrested by security agencies with no legal authority to detain, in particular the Uganda People’s Defence Forces (UPDF) (with the exception of violations of the military code of its personnel), including during its disarmament operations in the Karamoja region, and the Joint Anti-Terrorism Taskforce (JATT), are immediately handed over to the Uganda Police Force (UPF) for detention.

11. Please provide information on steps taken by the State party to put in place effective measures to prevent any act of torture and other forms of ill-treatment, including excessive use of force, committed by members of the Uganda Police Force (UPF), the Uganda Prisons Service (UPS) and the Uganda People’s Defence Forces (UPDF), including through effective penal sanctions and disciplinary systems, as per its obligations under the Convention. Please also provide information on measures taken, pursuant to its earlier recommendation (para. 10 (m)), to establish an effective mechanism within the prison system to receive and investigate reports of sexual violence and to provide protection, psychological and medical assistance to victims.

12. Pursuant to the Committee’s previous recommendation (para. 11(a)), please provide information on steps taken by the State party to establish a comprehensive legal, institutional and policy framework for legal aid service for cases of non-capital offences, including by extending and institutionalizing the system of legal aid through paralegals and pro bono services throughout the State party as initiated under the Justice, Law and Order Sector (JLOS).

13. Please provide information on measures taken by the State party to ensure that all activities undertaken by the Uganda People’s Defence Forces (UPDF) in the context of disarmament operations and law enforcement activities in the Karamoja region, especially during cordon-and-search operations, are conducted in strict compliance with the law and that no person under the authority of the UPDF is subjected to any form of torture or other ill-treatment.

14. Please provide information on reports made available to the Committee that a number of refugees and asylum-seekers, particularly from Ethiopia, Eritrea and the Democratic Republic of the Congo, have complained of unlawful and arbitrary arrests, harassment and extortion by the police and other state security agencies. In particular, please account for reports, including by the Special Rapporteur on the question of torture, alleging that refugees from the Democratic Republic of the Congo have been subjected to torture and other forms of ill-treatment whilst held in incommunicado detention.

15. Please provide information on measures taken by the State party in response to reports on cases of rape, sexual exploitation and sexual harassment of women in

particularly vulnerable situations, notably refugee women, internally displaced women and prostitute women.

16. Please provide information on steps taken to enact the Prevention of Trafficking in Persons Bill and, as recommended to it by the Committee on the Rights of the Child (CRC/C/OPSC/UGA/CO/1 (2008), para. 23) amend its Penal Code with a view to bringing it in compliance with the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and other measures to combat trafficking to, from and in particular within the State party, in particular trafficking of women and children for commercial sexual exploitation and labour. Please provide statistics (disaggregated by age, gender and nationality) on the number of trafficking cases investigated, prosecuted and on the convictions of perpetrators. Is the State party intending to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime?

17. With reference to earlier recommendations of the Human Rights Committee (CCPR/CO/80/UGA (2004), para. 11), please provide information on effective measures adopted to prevent domestic violence, including progress made towards enacting the draft Domestic Violence Bill and the Sexual Offences Bill. Until such legislation is in place, please provide information on the investigation, prosecution and punishment of perpetrators of domestic violence and other forms of sexual assault, including marital rape under existent applicable law.

18. Please provide information on measures taken by the State party to prevent acts of torture and ill-treatment among prison inmates and the infliction on inmates of such acts by “katikiros”. Please also provide information on reports of acts of torture and ill-treatment inflicted upon junior officers by senior officers within the Uganda Police Force (UPF). In addition, please provide information on measures to raise awareness among prison officials of the prohibition of corporal punishment, as pronounced by the Supreme Court in *Kyamanya v. Uganda*.

19. Please provide information on measures taken by the State party to effectively put an end to the practice of child sacrifice, including by putting in place an adequate legal framework, strengthening the capacity of police to investigate cases of child sacrifice, and undertaking comprehensive public awareness programmes to combat the belief in and accusations of child witchcraft and other measures as recommended by the Uganda Human Rights Commission.

20. In light of the Committee’s previous recommendation (para. 10 (p)), please provide information on comprehensive strategies adopted by the State party to effectively prevent and respond to instances of “mob justice” which reportedly is on the increase (199 individuals were killed as a result of mob justice between January-July 2009). Please also, in light of its previous recommendation (para. 10 (q)), provide information on steps taken by the State party to put an end to the practice of customary torture in Karamoja.

21. Please provide information on measures taken by the State party, in the absence of a concluded peace agreement with the Lord’s Resistance Army (LRA), to protect and release the approximately 3,000 children and women still associated with the LRA and who continue to be used as child soldiers, sex slaves, spies and subjected to inhuman and degrading treatment, and to provide for their rehabilitation and reintegration in the State party (CRC/C/OPAC/UGA/CO/1, para.24).

Article 3

22. Please provide information on measures taken by the State party, in light of its previous recommendation (para. 10(b)), to guarantee the principle of non-refoulement in domestic legislation and other obligations of the State party under article 3 of the Convention. How does the Refugee Act (2006), which entered into force in May 2009, incorporate the principle of non-refoulement? Please also inform the Committee on measures in place to ensure that the principle of non-refoulement is fully respected in practice, particularly in view of reports of forced return of refugees in connection to the closing of refugee camps in 2009.

23. Please provide data, disaggregated by age, sex and nationality, for 2005 and subsequent years concerning:

- (a) The number of asylum requests registered;
- (b) The number of requests granted;
- (c) The number of applicants whose requests were granted because they had been tortured or because they might be tortured if they were to be returned to their country of origin;
- (d) The number of extraditions and/or returns in the State party;
- (e) Whether any such requests were refused because of substantial grounds of danger of torture.

Articles 5, 6 and 7

24. Please provide information on (a) steps taken by the State party to ensure in domestic law universal jurisdiction with regard to acts of torture, as requested by the Committee in its previous recommendations (para. 10 (c)), and on (b) specific cases where, in the absence of such legislation, the State party has directly applied the Convention to extradite or, if extradition is not carried out, to prosecute offenders suspected of having committed acts of torture.

25. Please provide information on cases where the authorities of the State party have taken into custody a person alleged to have committed acts of torture in accordance with section 9 of the Extradition Act (apprehension of a fugitive criminal), and prosecuted such an individual, if the State party had not proceeded with extradition. Please provide information on whether the State party has requested for extradition by another State party of an individual suspected of having committed an offence of torture and has started prosecution proceedings against that person.

Article 10

26. With reference to the acknowledgement by the State party in its initial report to the Committee concerning shortcomings in education and training on the contents of the Convention, please provide information on:

- (a) Educational and training programmes developed and implemented by the State party to ensure that law enforcement personnel and penitentiary staff are fully aware of the provisions of the Convention;
- (b) Steps taken to ensure specific training for all medical personnel dealing with detainees, in the detection of signs of torture and ill-treatment and that the Istanbul Protocol

of 1999 becomes an integral part of the training provided to all physicians and others involved in health care of detainees as well as of those involved in the documentation and investigation of allegations of torture;

(c) Steps taken to develop and implement a methodology to evaluate the effectiveness of training and educational programmes, and its impact on the reduction of cases of torture and ill-treatment. Please provide information on the content and implementation of such methodology as well as on the results of the implemented measures.

Article 11

27. Please provide information on any review undertaken since 2005 of interrogation rules applicable to police, military and prison officials and other authorities with a view to ensuring an express prohibition of acts of torture, in particular in the Police Act and Evidence (Statements to Police Officers) Rules, the Police Officers Rules (1961), and the Prisons Act. Please provide information on the content and status of the administrative instructions against torture issued by the Commissioner General of Prisons and of the new curriculum that emphasized the human rights-based approach to correctional services. In particular, please provide information on measures taken by the State party to amend the broad powers with respect to the use of force of prison officers as per article 11(1-5) of the Prisons Act and of police officers as per the Uganda Police Force Act, in conformity with international standards.

28. Please provide information on steps taken to improve detention conditions in prisons, police stations, and military facilities of the State party, in particular urgent measures to reduce congestion and enhance living conditions, including through initiatives of the Justice, Law and Order Sector (JLOS). Please inform the Committee on steps taken by the State party to ensure adequate budgetary allocation for police and prisons services and measures taken to improve the working and living conditions for their staff as recommended by the Uganda Human Rights Commission (UHRC).

Articles 12 and 13

29. Please provide information, including statistical data, disaggregated by age, sex and type of crimes, on the number of complaints relating to acts of torture and other forms of ill-treatment in all places of detention during the reporting period and on related investigations, prosecutions, convictions and penalties applied. Please specify the relevant provisions of the Penal Act Code referred to in the State party's initial report (in particular arts. 219 and 222, 223 and 236) and of the Constitution (arts. 24 and 44(a)), the Police Act (arts. 44 and 25), the UPDF Act (sects. 26 and 27), and the Prisons Act (art. 15(1)) or other provision, which have been invoked in prosecution proceedings and in convictions.

30. Please provide detailed information on steps taken by the State party to investigate all alleged cases of torture and other forms of ill-treatment of suspects accused of treason, terrorism and other state security related offences, including those detained in headquarters of the Joint Anti-Terrorism Taskforce (JATT) and of the Chieftaincy Military Intelligence (CMI) in the capital of the State party, and the outcome of such investigation. Please inform the Committee of all forms of redress, including compensation and rehabilitation, provided to victims.

31. Please provide information on all steps taken by the State party to investigate all cases of deaths in custody, in particular of individuals held in detention by the Joint Anti-Terrorism Taskforce (JATT) (including the case of Mr. Semugenyi brought to the attention

of the State party by the special rapporteurs on extrajudicial, summary or arbitrary executions and on the question of torture) and by the Uganda People's Defence Forces (UPDF) and the Uganda Police Force (UPF) respectively. Please provide information on prosecutions undertaken pursuant to such investigations as well as on penal, disciplinary or administrative sanctions against perpetrators and compensation provided to members of the families of the victims, in accordance with the Convention and articles 50 and 53(2) of the Constitution.

Article 14

32. Please provide detailed information on measures taken by the State party to provide redress, including compensation and rehabilitation, to all victims of torture. Please provide information on the number of victims who have received compensation and rehabilitation as well as the amount of compensation awards granted. In particular, pursuant to its previous recommendation (para. 10 (k)) and to that of the Human Rights Committee (CCPR/CO/80/UGA (2004), para. 7), the Committee requests information on prompt compensation through the payment of awards ordered by the Uganda Human Rights Commission (UHRC) tribunal. Please also provide information on steps taken towards the setting up of a compensation fund for victims of torture to enable timely compensation of victims of torture and other cruel, inhuman and degrading treatment, as recommended by the UHRC and civil society. In this respect, please also provide information on the effective functioning of the Committee established by the Ministry of Justice and Constitutional Affairs to ensure quick payment to civil litigants who have pending awards against the State party.

Article 15

33. Please provide information on steps taken by the State party to ensure in law and in practice that evidence obtained through torture is inadmissible and prohibited in any proceedings. Please provide information whether the State party is considering to amending the Evidence Act, as well as the Evidence (Statements to Police Officers) Rules to this effect? Please provide information on cases where domestic courts have invoked article 24 of the Evidence Act as grounds for refusing the admissibility of evidence before it.

Article 16

34. Please provide information on measures adopted by the State party to enhance the rights and protection of children in conflict with the law in places of detention and prisons, in light of earlier recommendations by the Committee on the Rights of the Child. In particular, please provide information on steps taken to:

(a) Ensure that any child deprived of his/her liberty is entitled to their rights of in particular the right to access to a lawyer and to an independent doctor, if possible of their own choice, and to contact a person of their choice, members of their families, or legal guardian or consular personnel, where appropriate, from the outset of their detention;

(b) Adopt all necessary measures to ensure that no child is subjected to any form of torture or other forms of ill-treatment, including by ensuring the separation of adults from children deprived of their liberty and by ensuring that all alleged perpetrators of torture against children in conflict with the law are promptly investigated, and, if appropriate, prosecuted, convicted and punished;

(c) Ensure that deprivation of liberty of children in conflict with the law is only a measure of last resort and for the shortest appropriate period of time, including by introducing effective diversion programmes and other alternative measures;

(d) Consider further raising the minimum age of criminal responsibility of persons under the age of 18 years.

Other issues

35. According to information before the Committee on the lack of available records and statistics on torture and other forms of ill-treatment in the State party, please provide information on measures taken to establish a comprehensive system of data collection and storage of alleged cases of torture and other forms of ill-treatment within the Uganda Police Force (UPF), the Uganda Prisons Service (UPS) and the Uganda People's Defence Force (UPDF), respectively.

36. Please provide information on measures taken to enhance civilian policing and judicial presence throughout the State party, in particular in the northern region and in Karamoja region, including through the Peace, Recovery and Development Plan (PRDP) and the Karamoja Integrated Disarmament and Development Plan (KIDDP).

37. Please provide information on the legislative, administrative and other measures taken by the State party to respond to the threat of terrorist acts, and please describe if, and how, these measures have affected human rights safeguards under the Convention in law and practice and how it has ensured that these measures comply with all its obligations under international law. In particular, please provide information on any implications of the State party's obligations under the Convention subsequent to the adoption of the new anti-terrorism law of December 2008 and its rationale.

General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention

38. With reference to the Committee's earlier recommendation, please provide information on the intention of the State party to ratify the Optional Protocol to the Convention and, in light of the Committee's previous concluding observations, to make the declaration under article 22 of the Convention.

39. Please provide detailed information on the relevant new developments on the legal and institutional framework within which human rights are promoted and protected at the national level, that have occurred since the previous periodic report, including any relevant judicial judgments.

40. Please provide detailed relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level since the previous periodic report, including on any national human rights plans or programmes, and the resources allocated thereto, their means, objectives and results.

41. Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the previous periodic report, including the necessary statistical data.