

**ASSESSING THE IMPLEMENTATION OF THE CONVENTION  
AGAINST TORTURE IN DECENTRALISED  
ADMINISTRATION IN UGANDA:  
A CASE STUDY OF  
GULU DISTRICT**

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**A DISSERTATION SUBMITTED AS PARTIAL FULFILLMENT OF THE  
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**DECLARATION**

I **OKEMA LAZECH SANTO** declare that this dissertation is my original piece of work and has never been presented anywhere for academic qualification.

Sign:.....

Date:.....

This research report has been submitted with the approval of my supervisor

Sign .....

Date.....

**Dr. WILFRED LAJUL (Fr)**

## **Dedication**

I dedicate this dissertation to my dear mother Elviria Julaina Aparo and father B.B. Olak Alier (RIP) who kept on telling me that knowledge is gained by hard work. May the light of their encouragement illuminate the family in the arduous search of knowledge and wisdom!

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## **List of acronyms and abbreviation**

ACHPR	African Charter on Human and People Rights
ACRWC	African Charter on the Rights and Welfare of the Child
ACTV	African Center for rehabilitation and treatment of Torture Victims
CAP	Chapter
C M I	Chieftaincy of Military Intelligence
FHRI	Foundation of Human Rights Initiative
GCs	Geneva Conventions
GUSCO	Gulu Support the Children organization
H/Q	Headquarters
HURIFO	Human Rights Focus
HURINET	Human Rights Network
ICCPR	International Covenant on Civil and Political Rights
IDP	Internally Displaced Persons
IGG	Inspector General of Government
L Cs	Local Councilors
NGOs	Non Governmental Organizations
NRM	National Resistance Movement
NSC	National Security Council
UDHR	Universal Declaration of Human Rights
UHRC	Uganda Human Rights Commission
UNCAT	United Nations Convention Against Torture

## **Abstract**

The study sought to assess and describe the challenges met in the implementation of the convention against torture (CAT) in terms of promotion and protection of Human Rights, in particular achieving freedom from the act of torture cruel, inhuman or degrading treatment or punishment. To that end the study focused on establishing factors responsible for the occurrence and persistence of torture in decentralized administration. It examined the legal framework in place to address the crime of torture, assessed the strength and weakness of Local Administration, Law enforcement institutions vis a vis the criminal justice system available to victims of torture.

The study was carried out in the former Gulu District when Amuru District was not yet carved out of it. The district had experienced the most atrocious conditions in the period of study aggravated by the twenty years Kony's war. Over 90% of the cases reported on torture to Uganda Human Rights Commission in Northern Uganda came from Gulu District. Interviews were conducted with individual members of the Local Administration Police and Prisons, Local leaders and torture victims and documents relevant to this research were consulted.

The research found that law prohibiting torture was not in place, although the constitution of Uganda (1995), Articles 24, 44 addressed the issue of torture but there was no description / definition of torture in Ugandan law, thus no explicit penalty for the offence was prescribed by the law. The majority of people were ignorant of their rights and especially the rights to freedom from torture, cruel inhuman or degrading treatment or punishment. Law enforcement institutions were ill-equipped to address the escalation of the act of torture.

The study revealed that the rights to freedom from torture, inhuman or degrading treatment or punishment was massively violated by law enforcement institutions and to a lesser extent abused by private individuals. It was exposed that Uganda lack fully trained law enforcement personnel. The Local Administration Police (LAP) did not have the capacity to carry investigation and adduce evidence before arrests were carried out. The study revealed many suspects were detained for more than 48 hours thus breaching their rights to liberty (Article 23) of the constitution of Uganda (1995).

It was suggested that in order to protect the police and prisons against committing torture, inhuman or degrading treatment or punishment, torture should be defined in Ugandan Law. The constitutional provision against torture should be made operational by enacting enabling law that could punish the offence. More resources should be allocated at Law enforcement officers training, maintenance and supervision.

The Uganda Human Rights Commission be fully supported or facilitated to carry mass sensitization of the people about their rights and duties to enable victims of violation of human rights report cases of violations and seek reparation.

## CHAPTER ONE

### **1.0 INTRODUCTION AND BACKGROUND**

#### **1.1 Introduction**

The study was carried out on the assumption that with the decline of authoritarian regimes in Uganda, the promulgation of the 1995 constitution, the rule of law and the establishment of decentralization as a system of governance, the implementation of the United Nations Convention against Torture could be accomplished and the people of Uganda would enjoy the Rights to freedom from torture. Torture was prevalent, customary and legally sanctioned in many civilizations throughout recorded history. It remained prevalent, and customary in some societies although now comprehensively outlawed. The infliction of physical pain had formed part of the judicial process as means of indicating innocence or guilt in “trail by ordeal”, and torture had been practiced as a means of securing confession of guilt- “the queen of proofs”. That form of proof now has a much less regal countenance, having been tarnished by methods adopted to secure confessions, the extraction of false confessions; and serious miscarriages of justice. Torture had also been practiced to terrorize the victim of torture and a wider population, and to punish. In some cases it was clear that the end of torture was the destruction of the individual as a person either through that person’s death or through the severity of the damage to the person’s physical and mental integrity. The special rapporteur on torture in its report to the 43<sup>rd</sup> session of United Nations Human Rights Commission, (24/01/2006) indicated that torture was a widespread phenomenon and that no society whatever its political system, was totally immune.

- Torture persisted in situation where human being found themselves in absolute power of other human beings.

- When state of emergency was declared in response to civil strife or civil war, it was likely that torture would be practiced on opponents of the regime, especially when such people were held incommunicado detentions.
- Human Rights violations in themselves were also identified as being conducive to the practice of torture.

## **1.2 Background to the problem**

Torture had its roots far back in history and was known from many ancient cultures. It was documented in Egypt during the rule of Rames II. Torture was practiced publicly during the middle ages, as an accepted part of the judicial system. Torture reached a horrifying climax during Spanish inquisition in the 15<sup>th</sup> Century when it was used to force confessions from persons who thought and believed differently. An unknown but undoubtedly huge number of victims died at the hands of torturers (Wiesenthal, 1993).

In the 18<sup>th</sup>.Century the Enlightenment philosophers turned against the use of torture and by the start of the 19<sup>th</sup>. Century Torture was almost over. The French author Victor Hugo thought that the fight against torture was won; he proclaimed in 1874, that torture had ceased to exist (Peters, 1996). Nevertheless, within the International Community and in the fields of International relations, individuals if they were taken into account at all were treated not as subjects but objects dominated by Sovereign states who were the real and only actors in the world arena<sup>1</sup>, individuals were subjected to whims of rulers and ownership passed from one ruler to the other<sup>2</sup>.

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<sup>1</sup>Duner Bertil(Ed), (1998), An end to torture, Zeal book limited, Loudon P.3.

<sup>2</sup>Ibid P.3

In Uganda, torture has been a problem since pre-colonial era; it was used as an instrument of power. Bill of Rights in the constitution of 1962 and 1967 prohibited torture inhuman and degrading treatment or punishment against any person; article 12 and 21 respectively explicitly outlaw torture, nevertheless, those articles had been honored more in the breach than in observance of the Convention.<sup>3</sup> Evidence have shown that a very large number of people in Uganda were subjected to torture between 1962-1986. Similarly, the subsequent years saw people suffering from similar fate. The systematic and Government sanctioned torture had been categorized in the following contexts in Uganda; firstly, as a way of creating general anxiety in society and suppressing the opposition, those who worked for democratic development, secondly, torture of both soldiers and civilians in arms conflicts was a strategic move ever to expand power and territory, suppress opposition and national minority and lastly, torture was practice reminiscent of authoritarian regimes, it was an individual exhibition of power abuse used by military or law enforcement personnel to win over the vulnerable, marginalized and the minority groups especially those opposed to the regime. This study was carried in Gulu District. Gulu district has been in war situation since 1986 when National Resistance Army overthrew the then Tito Okello Lutwa government. The war resulted into massive abuse and violation of Human Rights including deprivation of the Rights to freedom from torture by the Uganda People's Defense Forces (UPDF), the Police and other Law enforcement personnel. On the other hand, war crimes and crime against Humanity were committed by the Lord's Resistance Army (LRA) rebels. All those were aggravated by the state of lawlessness caused by the 18 year war.

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<sup>3</sup>Oder Arthur HO (JSC) (1994), Pearl of blood. The Uganda Commission of inquiry into the violation of Human Rights , Government of Uganda, p.29

The repression of common criminality, political opponents and ill-treatment were the inheritance of practices to political challenges or phenomenon that had persisted over the decades. It was puzzling whether freedom from torture was overlooked due to concern on more visible political dimension contrary to Article 24 and 44 of the Ugandan Constitution (1995) became the concern of the researcher. This phenomenon was brought to bear on the decentralization policy in the work. Similarly, the increasing allegation of torture was verified with the political and administrative mandate of the actors in the implementation of the convention against torture.

However, it should be noted that torture was mainly a question of breaching impunity, for torture could be tackled preventively, in which preventive measures could aim at removing opportunity for torture, since torture typically took place when the victim was at the unsupervised mercy of his or her captors and interrogator(s) without access to the outside world, notably, family and lawyers in a condition called incommunicado detention. On the other hand, repressive mechanism would be to incarcerate the culprit(s) or perpetrator(s) of torture.

### **1.3 Statement of problem**

Despite the fact that Uganda ratified the Convention Against Torture in 1986, the International Covenant on Civil and Political Rights (ICCPR) Optional protocol in 1995, the Geneva Convention in 1964 and a signatory state party to the African Charter on Human and People's Rights since 1986, there was persistent allegation of torture being reported to authorities and Human Rights activists in Gulu District. The Bill of Rights in Chapter four of the Constitution of Uganda, (1995), and especially Article 24 and 44, all which up-held freedom from torture, cruel, inhuman or degrading treatment or

punishment appeared to have shouldered the greatest percentage of the allegations reported on Human Rights violation and abuse in the district. It was on that premise that the researcher wanted to know how the Convention against Torture was being implemented so as to establish factors which affected achieving the rights to freedom from torture in Gulu District Local Government.

## **1.4 Objectives of the study**

### **1.4.1 General objectives**

The general objective is to analyze the implementation of the convention against torture in decentralized administration in Gulu district. It will also make suggestion and recommendations for effective promotion and protection of the Rights to freedom from torture.

### **1.4.2 Specific objectives**

- (i) To establish the concept of the Rights to freedom from torture in the district.
- (ii) To establish the roles of stakeholders in the implementation of the Convention against Torture in Gulu District administration.
- (iii) To find out the factors which affect achieving the rights to freedom from torture.
- (iv) To lay out strategies to eliminate torture in decentralized administration in Uganda.

## **1.5 Research questions**

- (i) What is the meaning of the Rights to freedom from torture?

- (ii) How is the Convention against Torture being implemented in Gulu District?
- (iii) What are the factors affecting achieving the Rights to freedom from torture?
- (iv) What are the strategies to eliminate torture in decentralized administration?

### **1.6 Scope of the study**

Although there were many challenges in the protection and promotion of Human Rights, the study has centered only on assessing the implementation of the Convention Against torture in decentralized administration in Uganda. The study only covered Gulu District administration with twenty three (23) sub-counties/divisions. The target population for data collection were the law enforcement officers, local administration police, the local administration prison warders / wardresses and their institutions, local councilors; one, three and five, sub-county chiefs, chief administrative officer(s), people in detention and former torture victims. A qualitative approach was employed in obtaining information from primary and secondary sources. The detention places were police and prison cells directly under the district administration. The study covered the period between 2001 and 2005.

### **1.7 Significance of the study**

Basing on the scope of the study, the finding of this research will be an eye opener to encourage academic and professionals in the fields of human rights to carry out more research and documentations on torture Vis a Vis decentralized administration in Uganda which area, hitherto has not been the subject of scrutiny. It is hoped that this study will

contribute towards bridging the gap between what is generally known about torture, its effects, and the protection and promotion of human rights in local government in Uganda.

### **1.8 Definition of Key terms**

**‘Human rights abuse’**-is an inhuman treatment meted on an individual or group of persons by non state actors like in domestic violence and by those who did not have legal responsibility to protect.

**‘Human rights violation’**- are torture meted on an individual or group of persons by public official or with acquiescence of a public official or someone acting in official capacity.

**‘Trial by ordeal’**- Infliction of physical pain as part of judicial process as means of indicating innocence or guilt

**‘The Queen of proof’**- Torture as means of securing confession of guilt

**‘Incommunicado detention’**- a secret lock-up where there is no interaction with the outside worlds but the cell.

**‘Inhuman treatment’**-is the harsh treatment meted both mentally and physically on an individual to extort information or just for dislike and revenge. It can be by public official or non state actors.

**‘Torture’**- severe pain mentally or psychologically meted on one to divulge information or confess by a public official or one acting on order of public official or with his/her knowledge

**‘Inquisition’**- the organization appointed by the Roman Catholic Church to suppress people who opposed its beliefs

**‘Falanga’**- torture where severe beating on the soles of the feet is administered leading to very painful experience

**‘Jus Cogen’**- a pre-emptor law endowed with special legal force which was valid for all. There was no room for state to hide behind the principle of sovereignty and violate human rights

**‘Non-derogable’**- absolute rights, inviolable rights

**‘Safe house’**-a kind of incommunicado detention usually in private location not gazette.

**‘Non-refoulement’**.-No return of refugee to country of origin when there is well founded fear of Persecution.

**‘Inter alia’**- among others

**‘Kandoya’**- a torture method in which the arms are tied at the back of torture victim to yield excruciating pain

## **CHAPTER TWO**

### **REVIEW OF RELATED LITERATURE**

#### **2.0 Introduction**

The review of related Literature presented arguments and findings by researchers, scholars, policy makers and administrators on the horror of torture. The researcher inevitably accessed some literature in from of published and unpublished textbooks, journals, periodicals, newspapers, published and unpublished dissertations and papers presented. The study carried out was examined under the below objectives:

- (I) establish the concept of the Right to freedom from torture in Gulu district.
- (ii) To establish the roles of stakeholders in the implementation of (CAT).
- (iii) To find out factors affecting achieving the Right to freedom from torture
- (IV) And what strategies were there to eliminate torture in Gulu district.

#### **2.1.0 The concept of Torture**

##### **2.1.1 Torture defined**

Torture has been a perturbing terminology, however, Gonslaves et al, conceptualized torture as sophisticated institution that targeted and undermined the individual as well as social structure through systematic and deliberate campaigns; illegal house search, kidnapping, domestic secrecy and disinformation abroad, threats against ones life, disappearance, unlawful imprisonment, isolation, physical and psychological abuse, psychological warfare, violation of basic Human Rights, Massacre, selective execution and exile of specific sectors of population. The torture threshold was found to have been established in Askoy versus Turkey (1977), where the applicant was stripped naked with his arms tied behind his back, and suspended by his arms. It was significant that this treatment was administered with aim of obtaining admissions or information from the

Applicant<sup>4</sup>, nevertheless, Duner (1998) refers to torture as an act by which severe physical or mental pain or suffering is inflicted upon a person<sup>5</sup>. He categorically postulated that the perpetrator is public official or any person acting in an official capacity, to him, the aim of torture was intentional and was executed for the purpose in particular of obtaining from the victim or third person an information or confession or for the purpose of punishing for an act which him or a third person had committed, or generally for the purpose of any kind.

The corresponding definition of torture was found in Denmark Versus Greece (1969), the Athens security, police were found to have used a system of torture and ill treatment of detainees. This included the infliction of mental suffering by creating a state of anguish and stress by means other than bodily assault<sup>6</sup>. The commission's finding of torture was confirmed by the council of ministers. However, for the purpose of this research and in direct relevance to the Convection Against Torture, Rukooko (2001), ascribed torture to any act by which severe pain or suffering, whether physical or mental is intentionally inflicted on a person for such purposes of obtaining from him or a third person information or confession, punishing him for an act he or a third person has committed or is suspected to have committed or intimidating or coercing him or a third person for any reason with the conscience or acquiescence of a public official or other person acting in official capacity<sup>7</sup>.

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<sup>4</sup> Spencer Maureen and Spencer John (2001) Nutshells Human Rights, Sweet and Maxwell P.54

<sup>5</sup>Ibid, P.5

<sup>6</sup> Ibid, P.54

<sup>7</sup> Rukooko A.B, (2001), A Compilation of major International Human rights Instruments, Makerere University, Kampala. P.117

Treatment or punishment is inhuman within the meaning of Article 3 of CAT if it causes “intense physical or mental suffering”<sup>8</sup> (Ireland versus United Kingdom (1979)). In that matter detainees in Northern Ireland were obliged to stand against the wall for hours. They were interrogated wearing dark hoods and deprived of sleep and adequate food and drink. They were also subjected to noise. The commission found these techniques to be torture, but the court found them to be inhuman and degrading treatment. However, the distinction between torture and inhuman or degrading treatment or punishment was a matter of degree.

The study revealed several methods of torture employed in Uganda; the physical torture that caused extreme pain for instance, severe beating of the victim with chain, iron bars, cables, fist and belts, the Falanga; that is, the torture where severe beating on the soles of the feet is administered leading to very painful experience, still the torturer could tell the victim to jump on stony surface, walk bare feet and put pepper in the victims sore feet, nevertheless there were other methods; electrical torture suffocation, sham execution where perpetrators could blind fold the victims and place him on a wall and say a vehicle was going to run over him, others were mental torture; deprivation of the victim of sensory stimuli such as lights, coercion techniques, where victims are coerced to perform activities or witness actions which torture him mentally like threats and humiliation which could be directed to victims family, relatives and friends.

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<sup>8</sup> Ibid, P.55

Crawshaw et al (1998), defined torture as inflicting excruciating pain as practiced by cruel tyrants, savages and brigands from a delight in watching the agony of the victims, in hatred or revenge, or as a means of extortion by a judicial or quasi judicial authority for the purpose of forcing a judicial or quasi judicial authority for the purpose of forcing an accused or suspected person to confess or an unwilling witness to give evidence or information<sup>9</sup>. The deliberate infliction of intense suffering, official sanctioning of that, and malice and coercion<sup>10</sup> would seem to compromise the essential elements of torture according to this type of general definition of the practice.

The researcher therefore viewed torture as purposeful and forceful disorienting of body functions important for somatic as well as psychological wellbeing with the common Loci on the brain and sexual organs. Torture encapsulated acts that caused physical pain or suffering, corporal punishment including exercise chastisement ordered as punishment of a crime or as educative or disciplinary measures performed in official capacities.

### **2.1.2 The right to Freedom from torture explained**

It is universally held that Human Rights are based on fundamental principles that human beings are born free and equal in dignity and rights and they are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. In essence, all human beings possess inherent and inalienable human dignity without distinction of sex, age religion or political differences. Nevertheless, denial of human right resulted in human tragedy, political unrest, violence and conflict in society.

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<sup>9</sup>African Centers for Rehabilitation and treatment of torture victims (1998) p.9

<sup>10</sup> Crawshaw Ralph et al (1998), Human Rights and policing, Kluwer law International Law p.136

Freedom from torture, according to Harris (1998), is state of independence from torture or cruel, inhuman or degrading treatment or punishment. In particular no one shall be subjected without his or her free consent to medical or scientific experimentation <sup>11</sup> on the same note Article 2(3,a) of ICCPR, obliges the state party to the present covenant to ensure that any person whose rights or freedom as herein recognized are violated shall have an effective remedy notwithstanding the violation has been committed by person acting in an official capacity.<sup>12</sup> Article 2 (3,b) of ICCPR ensures that any person claiming such remedy shall have right thereto determined by judicial, administrative or legislative authorities or by any competent authority provided competent for by the legal system of the state. The society is free from torture when that freedom is within the meaning of Article (1), of CAT and when that freedom adds to the Customary International law, and prohibition of torture through the Municipal law is enforced. Freedom from torture is also achieved when the Convention provided further International procedure for investigations of torture, thus adding to the obligations and enforcement mechanism in the ICCPR and other Regional Human Rights Principles, Declarations and Treaties concerning torture. Freedom from torture is achieved when there is prohibition against torture unambiguously expressed, “No one shall be subjected to torture...”<sup>13</sup> However, the preamble of the UDHR proclaims that, ‘disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind’, <sup>13</sup> the acts of barbarism referred to include torture and other atrocities committed by Nazis and Fascist during and immediately proceeding the Second World War.

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<sup>11</sup>Harris D.J (1998) cases materials on international law, Sweet and Maxwell P. 639

<sup>12</sup> Ibid P.637

<sup>13</sup> Op cit P. 143

In nutshell, freedom from torture is acquired when the use of the International, Regional and domestic Human Rights instruments and laws pertaining to torture are promoted and protected, Article 5 of the African Charter on Human and Peoples' Rights, Article 3 of European Convention on Human Rights, all express the prohibition of torture and ill-treatment in terms similar to those of the International Covenants to achieve the rights to freedom from torture. Freedom from torture is total autonomy, deliverance, exemption or immunity<sup>14</sup> from all acts of torture, cruel, inhuman or degrading treatment or punishment.

Total adherence to the four Geneva Conventions, Article 3, which prohibits a number of acts against persons it protect, that is, violence to life and person for instance; murder of all kinds, mutilation, cruel treatment and torture and outrages upon personal dignity, rape, enforced prostitution and any form of indecent assaults. Freedom from torture is defined within the meaning of the principles of the charter of the United Nations of 1945:

“ We the people of the United Nations determined to save the succeeding generation from scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and reaffirm faith in fundamental Human Rights, in dignity of human person, in the equal Rights of men and women of Nations large and small, and to establish condition under which justice and respect for the obligation arising from treaties, and other sources of international law can be maintained and to promote social progress and better standards of life in larger freedom...Have resolved to combine our efforts to accomplish these aims (Gordon Paul Lauren, 1998,:194)”

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<sup>14</sup> Manser Martin (Ed) (1990), Dictionary of Synonyms and antonyms, W & R chamber Ltd P.144

.Nevertheless Wilson and Lindy (1994) in their research in Chile specified freedom from torture as freedom from stressor events such as; direct repression, indirect repression, social Marginalization and individual marginalization. Despite all what others had advanced on the eligibility of the rights to freedom from torture, there seemed to be many Ugandan who did not know torture was unlawful. For instance beating and coercing a suspected thief was seen normal because the suspect was purported to be facing what was due to the offence he committed contrary to the principle of suspect being innocent until proven guilty.

## **2.2 Roles played y stakeholders in the implementation of CAT**

The principles of humanity did not rest on the reciprocity or the maintenance of perfect contracted balance between rights and duties, but have now acquired “jus cogen”, pre-emptor law endowed with special legal force which was valid for all. There was no room for states to hide behind the principle of sovereignty and refuse scrutiny of the way they dealt with Human Rights issues. The United Nations Charter, Article (3) and 55, and particularly in the Universal Declaration of Human rights in 1948, Human beings were designated as subject on international law<sup>15</sup>.

Nevertheless, human conscience put elimination of torture central, adopting the UDHR (Article 5), CAT (Article 2) and the African Charter on human and peoples rights of 1981 (Article 5), clearly prohibit torture among others, ‘every individual shall have the rights to respect of the dignity inherent in human being. All forms of exploitation, inhuman or degrading treatment or punishment shall be prohibited’ (Rukooko, 2001:188).

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<sup>15</sup> Ibid, P.5

Indeed, the international preventive and protective mechanisms devolved to regional sphere and later to domestic or state parties through ratification of International Conventions, Treaties and the adoption of International Principles. Uganda ratified several of the International Human Rights instruments in an attempt to keep to International standard of human rights, in this case, freedom from torture, for instance Article 7 of the ICCPR re-assures the international community thus:” No one shall be subjected to torture..., no one shall be subjected without consent to medical or scientific experiment”.<sup>16</sup> While the ICCPR Article 7 broadens the scope of freedom from torture, the Convention against torture in Article 2 obliged state parties:

- (i) To take effective legislative, administrative, judicial or other measures to prevent act of torture in any territory under its jurisdiction.
- (ii) That no exceptional circumstances whether, state of war or threat of war, internal political wrangles or any other public emergency could be invoked as a justification of torture.
- (iii) That an order from a superior officer or a public authority may not be invoked as justification of torture.

Further on the international scene, torture was outlawed by the declaration on the protection of all persons from torture and other cruel inhuman or degrading treatment or punishment adopted by United Nations General Assembly on 9<sup>th</sup> December 1975 desired to make a more effective struggle against torture. Nevertheless, the United Nations General Assembly Resolution 34/169 of the 17<sup>th</sup> December 1979 adopted code of conduct for law enforcement officials. In this resolution (34/169) the following precepts were included among others.

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<sup>16</sup> Ibid, 2001 P. 2

“That, like all agencies of the criminal justice system every law enforcement agency should be representative, responsive and accountable to the community as a whole.”

Uganda having ratified the Geneva Convention in 1964, the Convention against torture in 1986, the African Charter on Human and People’s Rights and ICCPR in 1995 had enshrined in its constitution (1995), the Bill of rights, chapter 4, article 24 and 44. While Article 24 prohibited torture, “no person shall be subjected to torture ...,” Article 44 placed torture among non- derogable rights. Torture has not been clearly defined in Ugandan law to the extent that it was relevant to the International definition (CAT Art 1) neither was its prohibition legalized by act of parliament; for instance; the police Act, prison Act (2000) and the Penal code, law of Uganda, (2000) volume VI, Cap 120; section 235, put what was probably torture as common assault.<sup>17</sup>”, yet the torturers were people acting in official capacities or with the acquiescence of a public officer and the damage caused on the victims were immense and severe beyond mere assault. To that effect any person, who unlawfully assaulted another, committed a misdemeanor and if the assault was not committed in circumstances for which a greater punishment was provided in that code, was liable to imprisonment for one year (law of Uganda, 2000: 2818). Section 236; on “assault causing actual bodily harm”, “any person who commits an assault occasioning actual bodily harm commits a misdemeanor and is liable to imprisonment for five year.<sup>18</sup> In attempt to keep to International standard of protection and promotion of Human Rights, Uganda ratified the Rome Statute of the International criminal court (ICC) in the year 2002.

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<sup>17</sup> Uganda (2000), laws of the republic of Uganda, the commissioners of law revision P.2818.

<sup>18</sup>op cit P.2818

That was the law to protect the people from the crime of genocide and crime against humanity in which torture, inhuman and degrading treatment or punishment is a central component. Nevertheless, the criminal law section 21 (e) of the anti – terrorism Act 2002 provided that:

Any authorized officer, who engages in torture,  
inhuman and degrading treatment or punishment  
illegal detention ...commits an offence and is liable  
on conviction to imprisonment not exceeding five  
years or fine not exceeding two hundred fifty currency  
point or both.

Besides, there were administrative laws or regulations prohibiting torture by police. Section 44 of the police Act (2000) established a code of conduct, which was the basis for developing control over all officers and other person's employed in police force while Section 24 (b) of the schedule to the police Act provided that a Police Officer was guilty of unlawful or unnecessary exercise of authority if he/she used any unnecessary violence against any prisoner or any person in the execution of their duty, and section 28 of the schedule to police Act stipulated penalties for disciplinary offences and those included; dismissal, discharge, demotions, imprisonment. However, articles 50 and 137(4) of the constitution of Uganda (1995) authorized redress, seeking reparation for torture in the court of law. It should be noted that Article, (221) of the constitution of Uganda (1995) obliged security organizations to observe human rights in the execution of their duty<sup>19</sup>.

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<sup>19</sup> Ibid P.138

That included the UPDF, Uganda Police, Prison, all Intelligence services and National Security Councils. It manifested itself in abolition of corporal punishment following Criminal Appeal no 16 of 1999 (Supreme Court of Uganda), *Kyamangwa Vs Uganda*

.In the struggle to promote and protect Human rights and in particular CAT, Uganda established the Uganda Human Rights commission by Article 51 of the constitution (1995), Amnesty commission by Act of parliament (2000) and the Inspectorate of Government, by the constitution of Uganda of (1995) Article 223 (1).<sup>20</sup> Besides, to enforce the rule of law in Uganda, there was local government Act 1997 which gave power to Democracy and rule of law through the local council in decentralized governance, hence autonomy to make ordinances and by-laws to suit the interest of the people in a particular area of administration. Article 212 (a) of the constitution (1995) empowered police to protect life and property. Article 99 (c) and (d) allowed parliament to investigate on its own initiative human Rights violations. In 2002 Parliament of Uganda, **Ad hoc** Select committee investigated allegation of torture, safe houses and other unlawful places of detention. Despite all the struggle by Ugandan government in promoting and protecting Human Right rights, torture had been the highest on allegation of human right abuse, take for instance, the conclusion and recommendation of the committee against torture – Uganda 21/6/2005 CAT/C/CR/34/UGA, in its 651<sup>st</sup> and 654<sup>th</sup> meeting held on the 11<sup>th</sup> and 12<sup>th</sup> May 2005. The committee noted with concern that Uganda had neither incorporated the Convention into its legislation nor introduced corresponding provision to implement several Articles of the Convention.

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<sup>20</sup> Ibid P.139

Nevertheless, the committee acknowledged the difficult situation of internal conflict in Northern Uganda, but was quick to point out that no exceptional circumstances whatsoever may be invoked as a justification of torture (CAT. Article 2 (2))<sup>21</sup>

It was important to note that the concern raised by the Committee against torture was centered on the inconsistency of the domestic legislation on the interpretation of torture in the Penal Code of Ugandan law. The following areas were of the key importance:

- (a) The lack of comprehensive definition of torture in the domestic law as set out in Article 1 of the Convention (CAT)
- (b) The lack of an absolute prohibition of torture in accordance with Article 2 of CAT.
- (c) The absence of Universal jurisdiction for act of torture in Ugandan law.
- (d) Lack of compliance with other articles in the Convention, including article 6 to 9.<sup>22</sup>

It is important to note that Uganda as a State had put in place some control over abuses of Human Rights which really touched on some aspect of torture. Below were some of the enabling laws which could punish those Acts similar to torture. **CAP 303 the police ACT (2000), S. 25**, disposal of a person arrested by a police officer. **S.25, (4)** “where a complaint of torture of a suspect in custody was made to a magistrate, the magistrate should order an investigation into the allegation; and if the allegation was proved to be true, the magistrate should order for the examination and treatment of the person affected at the expense of the state, any person responsible for the torture should be charged”.

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<sup>21</sup> Ibid, P.118

<sup>22</sup> United Nations Human Rights Website, committee against torture CAT/C/CR/34/UGA  
P.2 (<http://www.chr/tbs/doc.1/24/2006>)

**S.23. Confessions**, to police officer and power of minister to make rules.

**S .23 (1)** “No confession made by any person, while he or she was in the custody of a police officer should prove against any such person, unless it was made in the immediate presence of:-

- (a) A police officer of above the rank of assistant inspector
  - (b) Or (b) a magistrate. But no person should be convicted of an offence solely on the basis of a confession made under paragraph (b), unless the confession was corroborated by the material evidence in support of the confession, implicating that person.
- (2) The minister might, after consultation with the Chief Justice, could make rules prescribing generally the conduct of and procedure to be followed by police officers, when interviewing any person and when recording statement from any person, in the course of any investigation.

#### **S.24 when confession is irrelevant**

“A Confession made by an accused person was irrelevant if the making of the confession appeared to the court, having regard to the state of mind of the accused person and to all the circumstances, to have been by any violence, force, threat, inducement of promise calculated in the opinion of the court to cause an untrue confession to be made. It is important to note that other state parties for instance Korea (13/11/1998) the committee (CAT/C/32/Add 1) at its 266<sup>th</sup> and 26<sup>th</sup> meeting was concerned that Korea did not incorporate a specific definition for the crime of torture in its Penal legislation in consonance with the definition contained in Article 1 of the Convention. Similarly, Jordan, 1995, (CAT/c/16/add.5) at its 218<sup>th</sup>.and219<sup>th</sup> meeting, the committee report indicated that Jordanian Constitution did not contain specific provision as to the

relationship between international Convention and domestic laws. The committee was also concerned that the definition of the act of torture as specified by Article 1 of the Convention is not catered for; nevertheless, Germany shared the same fate of the Committee against torture. The concern was that the precise definition of torture as contained in Article 1 of the Convention had not been integrated into German legal order while Section 340 of the German Criminal Code and Act on suppression of crime, dated 28/10/1994 would seem to cover most incident of torture statistical coverage of the incidence of torture with specific intent (douse specialist) and incidence causing severe mental pain or suffering (mental torture) was so far not covered by Section 343 of the German Penal code in the current legislative provision as required by the Convention (CAT),<sup>23</sup> likewise it was not absolutely clear that all exaltation by justification and superior order was categorically excluded as required by the Convention. With the above examples, the number of state parties not heeding to standards set by article 1 of CAT was bigger than expected. That appeared to explain why torture was dominant among human rights abuses in most countries including Uganda despite all the Conventions, Laws, Treaties and Principles in place.

### **2.3 Factors affecting freedom from Torture:**

As acknowledged by the African Centre for rehabilitation and treatment of Torture Victims (ACTV, 1995), there were institutions responsible for enforcing good governance, protection and promotion of Human Rights in Uganda; The Uganda Human Rights Commission, Amnesty Commission, the Inspectorate of Government, the Judiciary the Police, Prisons, the Army and the local councils.

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<sup>23</sup> Holms trÖm (Ed), (2000) conclusions and recommendations of the U N Committee against Torture, Kulwer law International, p.16

But despite all the lawful institutions in place, the strong Constitution and fully trained Law enforcement personnel in Uganda, there was continuous allegations of torture in Gulu district. It is questionable to what extent was CAT being implemented. We can draw from Duner to examine whether government was responsible for the implementation of (CAT) or otherwise. ‘The fact remained that the State was unwilling to take the necessary measures to ensure that their law enforcement and other security or military personnel maintaining public order did not succumb to the temptation to commit crime to combat it’. Duner, (1998: Vii). It was important that repressive measures were brought to bear by the criminal justice and to some extent by disciplinary procedures of the law enforcement agencies in question, because, the more police, prosecutors, judges and civil society continued to turn a blind eye to crime committed by law enforcement officials, usually abetted by the screen of incommunicado detentions, the more those officials would have reasons to believe that their criminal practices were tolerated or even expected. Accordingly, article 24 and 44 of the constitution (1995) clearly prohibited torture, but unfortunately the term torture was not defined and interpreted in the Penal Code, an enabling law which should give effective punishment to the offence of torture. The Penal Code Act, Cap 106, revised edition 1991, chapter XXIV elaborated on assault and categorized them as; section **227**, common assault, section **228**, assault causing actual bodily harm...<sup>24</sup> it was difficult to ascertain whether it was an oversight or deliberate that the definition of torture was missing in that version and the subsequent volume (V1) of the law of the Republic of Uganda (2000). This has created a big gap in the law and to a larger extent has favored perpetrators of torture than redeeming torture victims.

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<sup>24</sup> The Republic of Uganda (1999), the penal code Act Cap 106, basic legal materials project, Kampala, p,95

Another factor for effective protection of detained persons from acts of torture was, they should be held in officially recognized places of detention, where the names of person(s) responsible for their detention are displayed, time and date of detention are displayed on official public register for viewing by those concerned including relatives. Time and place of all interrogations are recorded with the name of the officer(s) carrying interrogation<sup>25</sup>.

Contrary to that, there were unlawful detentions in Uganda like those said to be at Kololo in Kampala ...”last week the Uganda security told me that I am a free man... I am happy” said the overjoyed man whose first interview with Sunday Vision was in the Kololo” Safe house”<sup>26</sup>. It was evident that the so called ‘Safe houses’ existed in Uganda.

In its 6<sup>th</sup> Annual report (2003), the Uganda Human Rights Commission continued to put pressure on government to eliminate torture and on 29<sup>th</sup> January 2004 the Commission met members of National Security Council (NSC), minister of internal affairs, minister of state for security, directors of internal security organization, CMI... it was agreed that steps be taken to eliminate torture and punish those staff who practice it<sup>27</sup>. Nevertheless, among the methods the Commission selected to combat violation and abuse of human rights was, Human Rights and Constitutional Education. This exercise was carried out in the Year 2004 and the following numbers of people were trained at workshops in 2004<sup>28</sup>.

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<sup>25</sup>. See Duner B. 1981, P. 12

<sup>26</sup> See the new vision Tuesday, April 18, 2006, Uganda frees Al Qaeda suspect, p.2

<sup>27</sup>. Uganda Human Rights Commission (2003), 6<sup>th</sup> Annual report, p, 23

<sup>28</sup>. Uganda Human Rights Commission (2004) 7<sup>th</sup> report, Uganda Human Rights Commission, Kampala, P.1.

**Table 1 Number of people at Human Rights Constitutional workshops in 2004**

<b>S/NO</b>	<b>TARGET GROUP</b>	<b>NUMBER SENSITISED</b>
1.	UPDF	440
2.	Intelligence officers	100
3.	Special police constables and police constables	374
4.	Local council leaders	1119
5.	Youth leaders	70
6.	Secondary school teachers	230
7.	Civil servants, private sector, youth	157
	<b>TOTAL</b>	<b>2,490</b>

**Source: Uganda Human Rights Commission 6<sup>th</sup> Annual Report (2003) page 76**

Critically analyzing the number displayed in the above table vis-à-vis the population of Uganda of about 27.7 million and given that the Human Rights and Constitutional Education trained 2490 per annum, how long would it have taken to sufficiently change the attitude of all Ugandans. The projection was that it was ineffective and negligible, because at that speed by the time the last Ugandan got the training, the 2490 who got the first training would have forgotten and about it. Freedom from torture might not basically be achieved if methods of creating awareness took the above structure and time. Agger and Sørensen (1996) in their research in Chile asserted that the frequent recommendations to governments to refrain from facilitating torture testified to the gap between ‘should’ and ‘was’<sup>29</sup>. It was an administrative failure.

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<sup>29</sup> Ibid P. 67

In Uganda, the continued recommendation to government by Uganda Human Rights Commission and other non – governmental organizations, for instance, Amnesty International, Foundation for Human Rights Initiative and Human Rights Focus were clear testimony that the allegations on torture appeared to be true and persisting in Uganda.

There were a number of challenges which affected achieving the rights to freedom from torture in Uganda: The absence of the definition of torture in Ugandan law as contained in CAT, and the reluctance of the state to accept the responsibility to protect its Citizens as prescribed by state obligations in the Convention against Torture. However the Anti-Terrorism Act 2002 section 21 (e) provided that “any authorized officer who engaged in torture, inhuman ... illegal detention or intentionally causes harm or loss of property commits an offence and was liable on conviction to imprisonment not exceeding five years or a fine not exceeding 250 currency point or both.” The challenge was that there was no evidence that anybody had been prosecuted under that law in spite of many complaints of torture<sup>30</sup>. Section 219, 222, 223, 236 of the penal code Act (CAP 120) provided for the offences of assault, causing bodily harm, grievous, harm, failure to provide necessities of life and health likely to be endangered, and wounding which carry heavy penalties. The challenge was, the law did not specifically provide for an offence relating to torture, cruel...torture was heavier than assault and therefore the provisions were inadequate to deter torture.

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<sup>30</sup> See Article 2 (2), of the constitution of Uganda 1995, P.11 Op cit P. 168.

The police Act (CAP 303), section 25, that law provided that where there was complaint of torture on suspect in custody was made to the magistrate, the magistrate should order an investigation into the allegations and if the allegations proved to be true, the magistrate should order for the examination and treatment of person affected at the expense of the state, and any person responsible for the torture should be charged<sup>31</sup>. The implementation of the Act had been lacking hence torture continued. Though the Act provided for the perpetrator to be charged, it did not provide for the nature of offence with which they should be charged, worse still the problem was aggravated in that, the institutions concerned would be the one asked to investigate their own agents, an unbelievable situation! The Uganda People's Defense Forces (UPDF) Act (CAP 307), particularly Section 26, legislated against torture within the military; and provided that a person subject to military law who unlawfully strike, drew lifted up a weapon ... or in a way ill treated any person who by reason of rank or appointment was subordinate to him committed an offence and was liable on conviction to imprisonment for a term not exceeding five years. But, the implementation of this Act was questionable, since some UPDF soldiers still engaged in torture. The sanctions against torture carried light penalties and were not prohibitive in nature; secondly, the practice in the Army discipline often ignored this provision. Nevertheless, Administrative law prohibited torture by police, section 44 of the police Act established a code of conduct, which was the basis for disciplinary control of all officers and other persons employed in police force. Section 24 (b) of the schedule to the police Act provided that a police officer was guilty of unlawful or unnecessary exercise of authority if he/she used any unnecessary violence against any prisoner or any person in the execution of his or her duty.

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<sup>31</sup> Ibid, P.68

And section 28 of the schedule to the police Act stipulated penalties for disciplinary offences and those included; dismissal, discharge, demotion, stoppage, and fine, imprisonment in police custody, confinement, severe reprimand or communal labour. This law was lacking in its implementation because there was no enabling law in Uganda to pin perpetrators of torture.

**The table 2 below shows report on torture.**

**Number of complainants alleging torture against the state organs in 2004**

<b>State Organs</b>	<b>UHRC H/Q</b>	<b>Gulu</b>	<b>Mbarara</b>	<b>Jinja</b>	<b>Soroti</b>	<b>Fort Portal</b>	<b>Motero</b>	<b>Total</b>
<b>REGIONAL OFFICES</b>								
Police/Local Administration Police	63	07	19	11	24	23	03	<b>150</b>
UPDF	26	29	08	04	27	06	08	<b>108</b>
VCCU	45		03	05	02	02	-	<b>57</b>
Local Government/ Administration	22	01	09	02	15	-	-	<b>49</b>
Prisons	14	01	-	04	12	04	01	<b>36</b>
ISO	14	-	01	03	06	-	-	<b>14</b>
CMI	15	-	-	01	-	-	-	<b>16</b>
Government Department	03	-	-		-	-	-	<b>03</b>

**Source: Uganda Human Rights commission 7<sup>th</sup>. Annual Report, (2004), P.75**

Section 2 (a), section 46 of the UPDF Act and schedule 14 prohibited torture of civilian by the Army, but, several cases of torture of civilians still persisted particularly in Gulu.

Nevertheless, section 11 and 59 of the prison Act (CAP 304) prohibited torture by regulating the use of force, weapons and fire arms by prison officers. The officer in charge should cause to be entered in a register, to be open to the inspection of visiting justices, a record of all punishment imposed upon prisoners...This law did not specifically provide for an offence of torture, cruel, inhuman and degrading treatment. Torture was still reported in prisons.

#### **2.4 Strategies to eliminate Torture in Gulu District**

Despite the legal obligations and many political commitments made, violation of the most gruesome in nature, including torture and other forms of ill treatment continued to plague the world; innovative approaches or strategies were called for to complement the Human Rights mechanisms already in place to enhance accomplishment of the implementation of the Convention against Torture<sup>32</sup>. Duner,(1998), reiterated emphasis on supervision by treaty bodies or United Nations organs such as the Commission on Human Rights. Nevertheless, the implementation of the Convention against torture needed to be more effective if the existing work practices were supplemented with a more developed approaches focusing on prevention and early warning mechanisms, thorough observation, presence in the field of Human Rights monitoring personnel and technical assistance where needed. The Penal Code Section (216 – 236) criminalized certain Acts that may amount to torture: acts intended to cause grievous harm, causing grievous harm, wounding and similar acts, excess use of force, common assault and assault causing actual bodily harm, while section 21 (e) of the anti terrorism act (2000) provided that:

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<sup>32</sup>UN Body of principles for the protection of all persons under any form of detention or imprisonment was adopted by General assembly resolution 43/173 of 9 December 1988.

“Any authorized officers who engaged in torture, inhuman and degrading treatment, illegal detention ... committed an offence and was liable on conviction, to imprisonment not exceeding 5 years or a fine not exceeding 250 currency points or both (government of Uganda, 2000). Nevertheless, it was essential to take effective legislative, administrative, judicial or other measures to prevent torture, for instance; not expelling or extraditing a person to a country when there was substantial grounds for believing that the persons would be tortured ( the principles of non-refoulement), ensuring that any statement that is established to have been made as a result of torture should not be invoked as evidence in any proceeding, except against a person accused of torture as evidence that the treatment was made, and ensuring that the prohibition of torture was included in the training of law enforcement and medical personnel, and other relevant officials<sup>33</sup>. It was important to ensure that general safeguard against torture existed in places of detentions such as; granting detainees prompt and unrestricted access to lawyer and doctor of their choice, informing family members or friends about the person’s detention, providing detainees access to family members and friends and not holding of persons in incommunicado detention.<sup>34</sup> However, it was key to effectively investigate allegation of torture by ensuring that the relevant authorities undertake a prompt and impartial investigation whenever there were reasonable grounds to believe that torture had been committed and guaranteeing that all allegations of torture were effectively investigated and handled.

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<sup>33</sup>See the resolutions on guidelines and measures for the prohibition and prevention of torture, cruel, inhuman and degrading treatment or punishment in Africa, adopted by the African Commission on Human and People’s rights at its 32<sup>nd</sup> ordinary session.

<sup>34</sup> See, UN bodies of principles for the protection of all persons under any form of detention or imprisonment, principle 29.

To ensure that alleged perpetrators of torture were subjected to criminal proceedings by; criminalizing acts of torture including, complicity or participation, in making torture as an extraditable offence and providing assistance to other national government seeking to investigate and or prosecute persons accused of torture and ensuring that the alleged perpetrators were subjected to criminal proceedings if an investigation established that an act of torture appeared to have been committed<sup>35</sup>.

It was meaningful to ensure that victims of torture had the rights to effective remedy and adequate reparation by; ensuring that victims of torture had effective procedural remedies to protect their rights to be free from torture, in law and practice and guaranteeing that domestic law reflected the different forms of reparation recognized under international law and that the reparations afforded reflected the gravity of the violation(s).

### **Laws relating to torture in Uganda**

Uganda's participation at the International Regional level has ratified the following:

The Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), African Charter on Human and People's rights (ACHPR).

United Nations Convention Against torture, cruel, inhuman or degrading.

Treatment or punishment (UNCAT), the United Convention on the Rights of the Child (UNCRC), African charter on the rights and welfare of the child (ACRWC) and the Geneva conventions (GCS)

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<sup>35</sup>Ibid

## **The constitution of Uganda of 1995**

Article, 24 of the constitution (1995), – ‘no person shall be subjected to any form of torture, cruel, inhuman or degrading treatment or punishment’. The Constitution offered extensive protection against torture such that; Article 44 (a) puts freedom from torture, cruel, inhuman and degrading treatment or punishment, the right to a habeas corpus, the right to fair hearing and freedoms from slavery as Non-derogable Rights

## **Investigations**

Article 212 (a) of the Constitution of Uganda (1995) gave the Police powers to protect life and property including protection from the act of torture, Article 90 (3) (c) and (d) allowed Parliament to investigate on its own initiative violation of human rights; in 2002 for example, Parliamentary committee on Defense and Internal Affairs (PCDIA) formed an Ad hoc select committee to undertake a study of: torture, safe houses and other place not gazetted for detention. Article 51 established the UHRC with several functions inter alia; to investigate, at its own initiative or on a complaint made by any person on violations of human rights.

## **Powers of U.H.R.C were the legitimate Ugandan attempt to eliminate torture**

The commission could issue summons, can question any person in respect of any subject matter of investigation, could require any person to disclose any information within his/her knowledge relevant to any investigation and could commit person for contempt of its orders. While in article 53, it could give compensation.

### **Others Laws relating to torture in Uganda;**

All the below Sections in the law were instrumental in trying to eliminate the act of torture in all the Institutions or state machineries; S. 21 (e) of the Anti-terrorism Act 2002, S. 219, 223, 236 of the Penal Code Act 2000, S. 25 of the Police Act, Cap 303, S. 26 and 59 of the Prison Act, S.24 of the Evidence Act, Cap.6, the Evidence statements of Police officers Rules s.1143-1. And the Administrative Instructions No. 7/1995, No. 1/1996 and No. 5/1998 specifically addressed issues of torturing prisoners

### **Civil suits**

Civil litigation for damages of torture could also be sought in the high court. See the authority of Hon. Ronald Reagan Okumu and John Livingstone Okello Okello versus Attorney General at Gulu High Court, February 14, 2003.

### **Determining the nature and amount of compensation for torture**

These factors include actual injury (physical or mental) to a victim  
Prospective injury to the complainant based on prediction of future  
Aggravation of damage; consequential injury or damages to a third party  
And in particular, loss of financial and emotional support; and, the  
Conduct of the defendant or his agents.

### **Roles of civil society in protecting people from torture**

The following Human Rights organizations were in operation in Uganda and some of them were based in the North – Gulu District: African Centre for rehabilitation and treatment of torture victims (ACTV), Foundation for Human Rights Initiatives (FHRI), Human Rights and Peace Centre (HURINET), FIDA and Human Rights Focus

(HURIFO). However, there were limitation to Administrative remedies caused by; Political considerations, ignorance of the law and the basic human rights among the local populace, bureaucracies that existed in Government which impeded reporting and prosecution of perpetrators of Torture, lack of effective Civil, Political and Judicial Infrastructure to successfully handle cases of Torture and Cultural Attitudes against reporting torture cases. For instance in Acholi Sub- Region Torture was not mostly reported by men because a man was never to be called a coward especially when that man was harmed by a fellow man. That belief loomed high among the Locals, and therefore was the roles of the Civil Society to sensitize them.

#### **2.4.1 The emerging gaps**

Most studies reviewed focused on the factors responsible for violation of the Convention against Torture (CAT), the possible attempt by United Nations, regional and domestic legislations to protect against the violation of (CAT) and ensure freedom from torture. But none had brought to light any literature concerning implementation of the Convention against torture in decentralized administration in Uganda, a phenomenon hitherto unresolved.

Studies were concerned with how torture was administered, how the anonymous and indefinite power of the state became present in deliberate and intentional action of torturers who were acting under its command<sup>36</sup>. Nevertheless, the elusive act of ratifying Conventions, Treaties, Declarations and Principles prohibiting torture Vis a Vis effective implementation of (CAT). In effect, none of the studies mentioned had taken the multi-dimensional approaches as a way of fighting the violation of the Convention against

Torture. And none of those studies examined whether Local government in decentralized administration in Uganda had political and administrative will to implement (CAT).

Studies reviewed did not focus on systematic engagement of the civil society as partners in the implementation of government policies including CAT. The authors missed to point out that law enforcement officials' formal relationship with person in custody enforced by laws and close supervision ensured freedom from the act of torture and that force therefore, could be used lawfully only when it was strictly necessary for the maintenance of security and order within the institution, or when personal safety was threaten.<sup>37</sup>In the same trend, no study had addressed itself to the effort/force exerted by the people at the grassroots (local government) in quest for freedom from torture through popular democracy and pro- people administrative mechanism. However, implementation of CAT where democracies prevailed had required plebiscite (a vote by the people of a country on a matter of National importance) which torture could not be an exceptional case.

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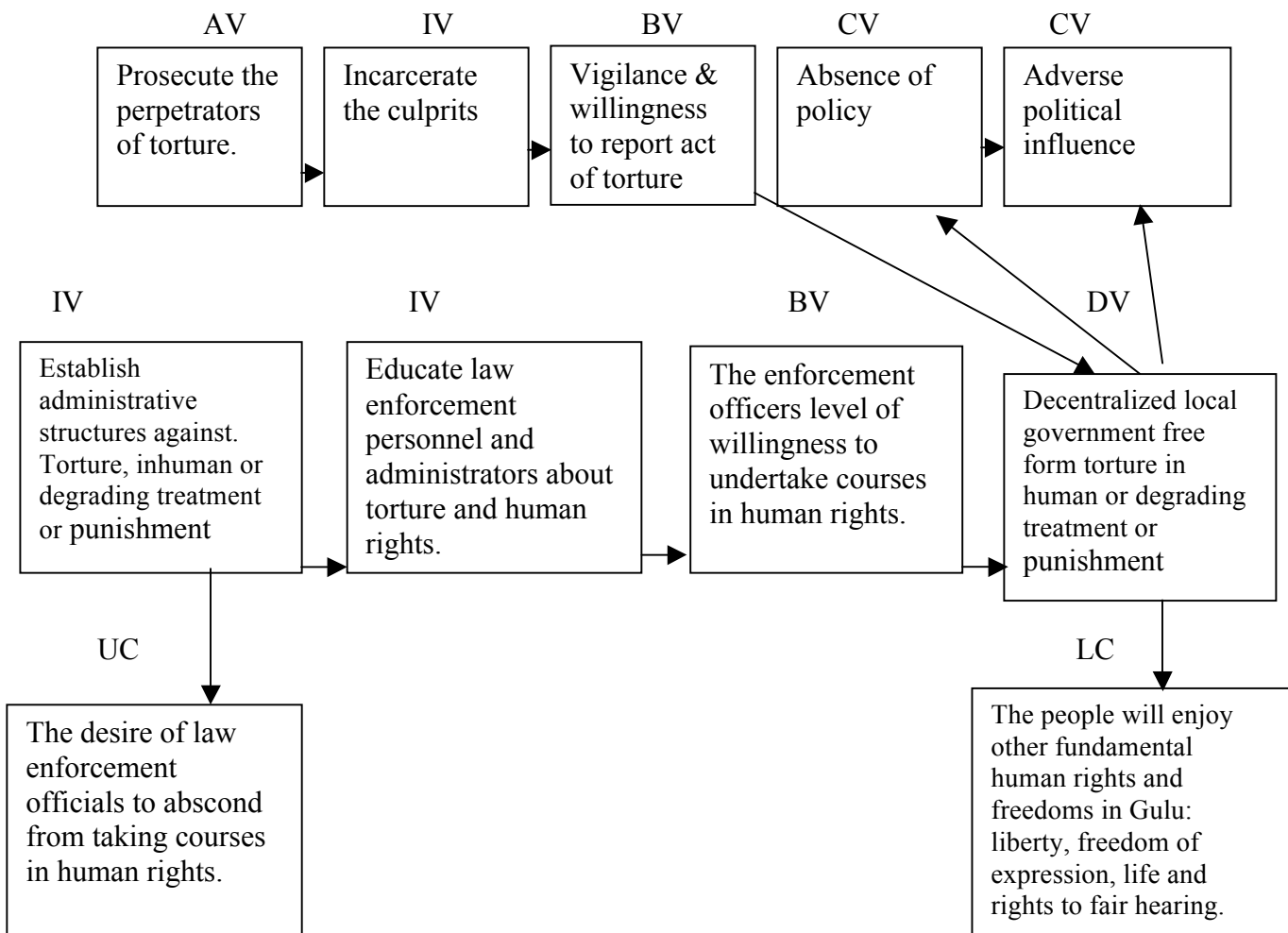
<sup>36</sup>Alson Philip (Bustelo Mara and Heenan James) 1998, European Union and Human rights, London, P.131.

<sup>37</sup>Ibid, p.174

### 2.4.2 The conceptual framework

The conceptual framework specifies possible assumption in the implementation of CAT in Gulu. It is hoped that the laid out structure would lead to freedom from torture in Gulu District Decentralized Administration by establishing administrative and political structure to implement the Convention against Torture, and see Gulu disentangled from the bond of Torture

**Table 3 the conceptual framework illustrated**



**Note:** IV= independent variables

DV= dependent variables

BV= bridging variables

LC= latent consequences

CV= constrainers variables

UC= unintended constraints

## **CHAPTER THREE**

### **3.0 THE RESEARCH METHODOLOGY**

#### **3.1 Introduction**

In this section variety of sources of data were approached and a combination of methods where used in this study in order to ensure the collection of valid and reliable data, which achieved the objectives of the study. Nevertheless, this chapter described the various methods which were used prior to and during data collection; the study design, study area as well as study population and sample size were presented. However, the chapter closed with presentation of the problem encountered and the limitations of the study.

#### **3.2 Research design**

This research used a case study design. A single case on the topic: “Assessing the Implementation of the Convention against Torture in decentralized administration; a case the study of Gulu District”. The design employed a qualitative and quantitative approach in order to display in-depth descriptive account of the issues under study. Questionnaires where administered to people who could read and write, taking into account their level of understanding. Interview was administered to Inmates, the busy enforcement officials and the Local councilors ones (LC 1) the respondents were selected using purposive approach. A group of respondents were deliberately selected because they were believed to be having the information required for the research.

#### **3.3 Research instruments**

The major research instruments used were interview, observation checklist and questionnaires, hence primary data were randomly and purposively collected. Secondary sources of data in form of documentary were consulted.

### **3.4 Study area**

The study was limited to the Gulu District in Uganda. The study area was desired for its proximity to the researcher. Gulu District has been under decentralized local government. The district has been under a unique condition of civil strife in which violation of Human Rights prevailed since the inception of decentralization governance in 1997. The study focused only on the roles of local government; policy makers and policy implementers in as far as implementation of CAT was concerned in the District.

### **3.5 Pre-field Activities**

To care for ethical issues and ensure sufficient collection of quality data and maximize response rate, the researcher had to do the following

:

#### **a) Pre-test**

The research instrument were pre-tested with a sample of respondents from lower local government staff; LC 1, L C 3 and sub-county chiefs, the pre test involved 5 persons of each group. The purpose was to enable the final research instrument gather the relevant data it was designed for. Corrections on the instrument were accordingly made in the event where faults were detected. This approach also provided knowledge and skills for the training of research assistants.

#### **b. Recruitment and training of research assistants**

The research assistants were recruited from undergraduate and 'A' Level leavers, because the nature of this study touched security and required high level of conceptualization, creativity in reporting and recording skills. The research assistants were taken on a two days training which equipped them with the knowledge of the objectives of the study, the

issues under investigation, the methods, location of respondents and how to carry out interviews.

**c. Familiarization and listing of information sources**

A list of information sources was prepared. This exercise benefited the researcher with the knowledge of the study area and from the advice of some key informants approached; the researcher and the assistants proceeded to familiarize themselves with the data sources, their physical addresses and values as information sources.

**3.6 Sample size and selection**

Various categories of respondents were selected to give information on various aspects of the study. These included key informants; suspects in detention and remand, Local council ones, Local council threes, Sub-county Chiefs, Law enforcement in the municipality, the Local administration Police, Local administration Prison warders/wardresses, LC V Executives and Chief Administrative officers. The above categories were drawn from Sub-counties/Divisions as administrative units, Prison and Police stations and Gulu Local Government administration headquarters.

**Table 4 showing distribution of sample and size of population**

<b>CATEGORY OF RESPONDENTS</b>	<b>NUMBER</b>
Suspect in Detention	20
Local Council One	20
Local Council Three	23
Sub-County Chiefs	23
Law Enforcement (Municipality)	10
Local Administration Police	10

Local Prison Warders/Wardress	10
Local Council V Executives	05
Chief Administrative Officer and the assistants	04
<b>Total</b>	<b>125</b>

The categories of respondents were selected to give information on the various aspects of the study. A purposive method was used to select the key informants; law enforcement officers, Police officers, prison warders/wardresses and suspects in detention. A purposive sampling technique was used to select; Local council one, Local council three, Sub-county Chiefs, LC V Executives and Chief Administrative officers.

### **3.7. Locating the respondents**

It had been an anticipation that locating some respondents would be very difficult, for instance, the Police and the suspects in detention but to overcome this problem the researcher had to make pre-visits to those security installations and make prior arrangement to meet the required number of Police officers and suspects in question. Formal arrangement was done by seeking permission first from head of department. Although impromptu visits were carried in detention places to detect the act of torture and ascertain the condition of the Inmates in detention.

### **3.8 Data collection**

Data collection was done between 27<sup>th</sup> September 2005 and 20<sup>th</sup> December2005. This followed a number of stages. Both quantitative and qualitative methods were used to obtain the required information and other issues under investigation.

### **3.9 Key Informant Interviews**

Interviews were conducted with Police officers, Prison warders/wardresses, law enforcement officers, LC I and suspects in detention. Each group was subjected to different set of interviews. Key informant interviews were preferred because of the opportunity for flexibility they presented to the interviews other than questionnaires. This allowed in-depth investigation and probing of issues under study.

#### **3.9.1 Questionnaires administration**

This was meant for the higher order of policy makers and implementers at sub-county level and district level taking into account their level of interpretative skills and understanding.

#### **3.9.2 Documentary Review**

The review was centered on the various reports on torture and Human Rights violations, text books, newspapers, journals and magazines were the consulted sources of the secondary data.

#### **3.9.3 Qualitative method**

Structured interview schedule was meant for security officers LC ones and suspects in detention to enable the researcher access in-depth information that otherwise might be concealed.

#### **3.9.4 Quantitative method**

Questionnaires were administered to people who can read, write and understand at Sub-county and District levels.

### **3.9.5 Quality control**

In order to ensure the collection of quality data, the following measures were undertaken;

- 1) Research assistants were thoroughly trained on the objectives and methodology of the study, obtaining an interview, creating report and use of research instruments.
- 2) Initial data editing was done right in the field where gaps and inconsistencies were rectified.
- 3) Research assistants were required to carry field dairies in which they noted some sensitive issues and observations in the field that would enrich the collected data.

### **3.9.6 Data Analysis**

Raw data was analyzed by both quantitative and qualitative methods and interpreted in terms of figures and percentage.

### **3.9.7 Ethical issues**

This study did not raise serious ethical questions, however, using quotations without identifying their immediate sources ensured confidentiality. Letters were used for names to protect the source of data since torture was a sensitive security issue.

### **3.9.9 Shortcomings of the Study**

The study had been arduous with some impediments, which certainly deserved discussion. Torture was very sensitive issue in Uganda because the chief perpetrator was the state. No wonder the research was conducted in state institutions; the local government law enforcement institutions in twenty three sub-counties/ Division in the Gulu District. There was difficulty in accessing of information both from the enforcement officials and district officials except those elected leaders, the researcher had to explain

the purpose of the research and the level of confidentiality accorded to it in order to obtain the much needed data form the respondents.

Poor record keeping also hampered the speed of the research work some Sub-counties/ Division the researcher failed to access some of the Police Station Dairy as a result of war which persisted over the period of study. But Local councilors and enforcement officers were able to respond effectively on the questions of the research.

The area covered in the research was very wide, five Counties (23 sub-counties) which took three months to cover in data collections, still it would not have finished if the researcher had not used more research assistants to make rapid follow-ups of the research questionnaires and carried out interviews at whatever research data collection points they reached. The researcher used three research assistants.

## **CHAPTER FOUR**

### **PRESENTATION AND INTERPRETATION OF DATA**

#### **4.0 Introduction**

As already mentioned the study sought to describe and analyze the implementation of the Convention against Torture in the Local Government in Gulu district. It focused on the roles of policy makers and policy implementers in the district, analyzed the challenges of torture in terms of human rights protection and promotion in Gulu District Local Government and laid out strategies to eliminate torture in the decentralized administration in Uganda as a whole.

In particular, the study aimed to; establish whether the people understand the meaning of the right to freedom from torture, find out the roles of the state and other stakeholders in the implementation of the Convention against torture in Gulu District, identify some of the factors which affected achieving the right to freedom from torture and find out whether there were some strategies to eliminate torture in the District. Finally, the study interpreted the data presented in order to find out how many understood the meaning of the right to freedom from torture and how many did not, it was geared to find out the extend to which CAT was being implemented in Gulu District. The study compared the factors for and against successful implementation of CAT and listed possible solutions to the challenges of torture.

This chapter is devoted for data presentation and interpretation under the following headings.

1. To establish the concept of the rights to freedom from torture

2. Roles of the state and other stakeholders in the implementation of CAT in Gulu District
3. Factors which affect achieving the right to freedom from torture
4. strategies to eliminate torture in the decentralized administration in Uganda

The section attempted to define what torture was and its meaning in relation to Article 1 of the Convention against Torture and described the responses of the respondents on the meaning of torture. Notwithstanding examining the relevant documents and records available, questions were put to key informants and interviewees on what they understood by the term ‘torture,’ and examined their perception of the right to freedom from torture.

#### **4.1.0 The concept of the rights to freedom from torture**

It is universally held that human rights are based on fundamental principles that human beings are born free and equal in dignity and rights and that they are endowed with reason and conscience and should act toward one another in spirit of brotherhood. All human beings possess inherent and inalienable human dignity without distinction of sex, age, religion or political differences<sup>38</sup>.

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<sup>38</sup>Ibid, p12

#### **4.1.1 Definition of torture**

Torture has been a perturbing terminology, many authors defined torture differently. To the majority of respondents the researcher interacted with; the suspects in detention, Local council ones, Local council three, Law enforcement staff and Sub-county Chiefs in Gulu District, torture was merely beating any body by anybody. Even within the Police and Prison staff the definition of torture was just beating of anybody by any person, to many, torture was assault and vice versa.

Documentary evidence also gave different perception of torture. Torture threshold was found in *Askoy versus Turkey* (1977), European Court of Human rights where the applicants were stripped naked with his arms tied behind his back, and suspended by his arms. It was significant that the treatment was administered with the aim of obtaining information from the applicant. An act could only be torture when; the act was intentional, was for obtaining confession, it was severe mental or physical suffering or pain meted with the conscience or acquiescence of a public official or persons acting in official capacities. Torture was an act that could be directed on a person or a group of persons. But based on our operational definition, torture was any action that evoked pain and suffering both physical and mental in effect an act could qualify to be torture if it met the following criteria. The act was intentional and unlawful as it evokes the use of force; to emit severe pain and suffering, for the purpose of extorting information or confession from suspects, inflicting mental suffering causing state of anguish, stress and anxiety by means other than only bodily assault. To the respondents torture was perceived as beating of any person by another person and they were able to confuse torture and assault as one.

## Assessing the peoples' understanding on the rights to freedom from torture

**The table below shows their responses as tabulated.**

**Table 5**

CATEGORY OF RESPONDENTS	NUMBER OF RESPONDENTS	NUMBER WHO RESPONDED	DO KNOW ABOUT FREEDOM FROM TORTURE	DO NOT KNOW ABOUT FREEDOM FROM TORTURE
SUSPECTS IN DETENTION	20	18	01	17
LOCAL COUNCIL ONE	20	20	05	15
LOCAL COUNCIL THREE	23	18	06	12
SUB-COUNTY CHIEFS	23	16	05	11
LAW ENFORCEMENT OFFICERS	10	08	04	04
LOCAL ADMINISTRATION POLICE	10	10	06	04
LOCAL PRISON WARDERS/WADERESSES	10	10	07	03
LOCAL COUNCIL FIVE EXECUTIVES	05	05	05	00
CHIEF ADMINISTRATIVE OFFICERS	04	04	04	00
<b>TOTAL</b>	<b>155</b>	<b>139</b>	<b>54</b>	<b>85</b>

**Note:**

The above table significantly exposed the level of understanding of a cross section of the society living in Gulu district on torture and what they understood by the rights to freedom from torture. It is evident that the majority of people at grass root did not know about torture and the rights to freedom from torture. Suspects, local council one, local

council three and sub-county chiefs were the most hit by ignorance of the knowledge of the particular rights in question as compared to enforcement officers, local Administration Police and Prison warders local council five and chief administrative officer. The former are the true representation of the majority of the people living in the camps who had information barrier and they remained innocent of whatever change socially, economically, legally and otherwise, while the latter clearly showed the elite; Policy makers and policy implementers at the District level. They were well informed about their rights. The police and the warders were equally well informed.

It is at this point that the table exposed Gulu though decentralized, did not have good governance with institutional framework that guaranteed citizens participation in public affairs, rule of law, and prevention of torture and promotion of legal and human rights<sup>39</sup>.

The information on the table is able to explain why incidences of torture were not reported to authorities at grass root. Nevertheless, freedom from torture could only be achieved when there is total prohibition against torture as expressed in Article 5 of the UDHR, 'No one shall be subjected to torture, cruel in human or degrading treatment or punishment'

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<sup>39</sup> See Newsletter of the African Center for treatment and rehabilitation of torture victims, Volume 4 issue 4, June 1998, p.11

**The data tabulated below are expressed in percentage showing the level of ignorance of the different stakeholders on what freedom torture is. The bigger the percentage, the more the level of ignorance is.**

**Table 6**

Suspects in detention	LC one	LC three	Sub county chiefs	Law enforcement officers	Local Administration police	L C prison warders	L C five executives	Chief administrative officers
94%	90%	67%	67%	69%	50%	40%	30%	00%

The above table clearly showed deficient in the implementation of Article 10, of, the Convention against torture, cruel, inhuman and degrading treatment or punishment. Article 10, (1), obliges state party; to ‘Ensure that education and information regarding to prohibition against torture were fully included in the training of law enforcement personnel, civil or military, medical personnel, or public officials and other persons who may be involved the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment<sup>40</sup>. The biggest section of the society as displayed, were ignorant of the offence of torture and what it took to be free from torture. The table also disclosed that the said Convention, article 10, (1), was being implemented in the training of security personnel because the entries showed; law enforcement officers lack of awareness was at 50%, local administration police lack of awareness was at 40% and local prison warder’ was at 30%. Article 7 of the Inter-American Convention to prevent and punish torture reiterates that, ‘state parties shall take measures, so that in the training of Police officers, and other public officials responsible for custody of persons temporarily or definitely deprived of their freedom, special emphasis should be put on the prohibition of the use of torture in interrogation, detention or arrest’.

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<sup>40</sup> Ibid, p. 120

#### 4.2.0 How is CAT being implemented in Gulu district

As earlier on mentioned a state party had obligations to protect and promote Human rights. Indeed there were international treaties, declarations and principles which when ratified obliged states to implement those international instruments and promote their implementation by enacting domestic laws related to it. In assessing the implementation of the Convention against Torture, the researcher examined the roles played by the state in achieving the rights to freedom from torture in Gulu District basing on the International standard set by CAT.

**To find if the rights to freedom from torture are being observed in detention places in Gulu district: Local Administration Police and Prison detention houses.**

**Table 7**

Local Police	Number of police posts visited	Number of items in place	Number of items not in place	Local Prison	Number of prison stations visited	Number of items in place	Number of items not in place
Station Diary/registers seen	18	02	16	Detention registers	02	02	00
Separate cells for male and female	18	04	14	Separate cells for male and female	02	06	00
Torture cases registered	18	22	16	Torture cases registered	02	10	60
Suspects in	18	08	30	Suspects in	02	05	55

detention without trial				detention without trial			
Good detention facilities	18	00	18	Good detention facilities	02	00	02
Adequacy of meal for inmates	18	00	18	Adequacy of meal for inmates	02	00	02

**Explanatory note table 7**

**Police/Prison stations**

The expected police station to have been visited were twenty-three (23), but only eighteen were visited and of the eighteen visited two had station diaries for booking in suspects and booking them out. Four stations had separate cells for male and female. There were twenty-two cases of torture noted during data collection when thirty-eight suspects were interviewed. Eight out of thirty suspects in detention were in cell without trail for over forty-eight hours. There were no conducive detention houses observed in Gulu District local police posts since all of them lack the basic health facilities; toilet, dormitory, bedding and water supply. The researchers discovered that Gulu local Government did not provide food for suspects in police cells. However, relatives and friends were the source of food for the suspects. While all he two prison stations visited had well-laid detention registers displayed at the counters in the reception in consonance with the rules of the general application of the standard minimum rules for the treatment of prisoners. The rules states that in every place where a person was imprisoned, there should be a bound registration book with numbered pages, in which should be entered in

respect of each prisoner received: (a) information concerning his identity; (b) the reasons for his commitment and the authority therefore; (c) the day and hour of his admission and release.<sup>41</sup> There were six separate cells enough for the entire female inmates in detention at the time of the visit. Ten out of sixty inmates complained of torture and one was admitted in Gulu referral hospital due to torture by a prison warders/wardresses and the case was under investigation by Uganda Human Rights Commission. Five detainees were on remand for over one month without being taken to court. Both the prison stations visited did not have good detention facilities, any adequate meals, water and the inmates lacked rest, which made them visibly look worn out.

#### **4.2.1 Policy makers and implementers at lower local government; their roles in the implementation of CAT.**

Many of the respondents contacted showed ignorance of any roles policy makers and implementers played in eliminating torture. The majority of local council one and three members who were contacted thought torture was normal and required no control. Their explanation was that the local Police and the Army were Government Authorities who could treat any one with harshness it deserved if he or she breached the law. The ignorance of local council one, local council three and sub-county chiefs about torture, further reiterated the fact that torture was not defined in Uganda law<sup>42</sup>.

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<sup>41</sup> see first UN congress on prevention of crime and the treatment of offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) and 2076(LX11) of 13<sup>th</sup>. May 1977.

<sup>42</sup> see general recommendation of the special rapporteur on torture E/CN.4/2003/68, para.26

Otherwise in an attempt to combat the act of torture the state had instead instituted other laws that tackled some aspect of offences that to international standard could constitute torture, but were termed to be assault<sup>43</sup>. Nevertheless, the local leaders at this level were ignorant of the CAT and any law pertaining to it.

**Table 8: State controls over law enforcement institutions (2004-2005), CAT article 2(I), (2) and (3).**

Activity	No of police posts	Number of police post visited	Activity	Number of prison stations	Number of prison stations visited
Inspection by external police superior officer	23	06	Inspection by external prison superior officers	02	02
Inspection by Uganda Human Rights Commission	23	00	Inspection by Rights Commission	02	01
Supervision by internal police superior officer	23	03	Supervision by internal prison superior officer	02	02

**Explanatory note on table 4**

Of the twenty-three police posts visited by the researcher only six were found to have been inspected by superior officers at the rank of Assistant Superintendent of Police

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<sup>43</sup> see the laws of the republic of Uganda (2000) P.2818

Within the said time 2004-2005 there was no evidence of visits by the Uganda Human Rights Commission to Local Administration Police posts, however supervision by internal superior officers was evident in three police posts within the mention period. The prison received inspections and supervision but were insufficient as evident in the table above given the period of one year. In effect Article 2 of the Convention against torture and especially clause (1) which states that, each party shall take effective legislation administrative, judicial or other measures to prevent the act of torture in any territory under its jurisdiction.<sup>44</sup> had not been practicable as displayed by the table above. The greatest laxity was seen in the Police where very few inspections and supervision visits were realized. The prison stations received more supervision and inspection than the Police in the findings. The Police standing orders prohibited torture and administrative circulars against torture were regularly issued<sup>45</sup>. The administrative instructions; No.8 of 1990, for instance, the commissioner for prison informed all prison officers about state of obligation under the convention, warning them against the use of force in their line of duty. In 1992, circular No.6 was released as reminder of the earlier communication No. 8 against torture; Administrative instructions, No. 7/1995. No. 5//1998 specifically addressed the issue of torturing prisoners. The state further put in place judicial measures in form of the Court of judicature which included; Supreme Court, court of appeal, constitutional court, the high court and other courts subordinates to it, could hear all cases on torture. Apart from court of law, the constitution mandated UHRC to investigate and handle cases of court although its judgment could be appealed to the high court.

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<sup>44</sup> see committee against torture, CAT/C/SA Add 32, 30 June 2004, p.8/9

<sup>45</sup> see committee against torture,CAT/C/5Add.32, 30, June 2004, p.8/9

Records have shown that administrative orders were issued from time to time. The researcher found at local administration prison and police headquarters in Gulu District Copies of instruction relating to administrative orders pertaining to prohibition of torture but to the contrary no traces of such orders were found at Sub-county headquarters where the majority of the local police officer worked

#### **4.2.2 Human Rights guaranteed under law and Criminal Justice System in Uganda**

This section handled Criminal Justice system and human rights laws guaranteed which torture victims should enjoy. It described some international treaties, declarations and principle that have provision for torture and sought to ascertain whether those were being applied or handled by the judicial system in Uganda.

#### **4.2.3 A brief looks at the law of Uganda and Criminal Justice**

The Uganda Criminal Justice system was modeled on the British system. The police were responsible for investigating allegation of criminal awry and arrest those suspects of such criminal activity. Most regimes in Uganda ignored the Civil Police, for instance, Amin regime in that regime, the function of police to arrest and detain were taken over by the military and other security organs. In 1986 NRM came to power and considered the police the most corrupt institution. It screened the force and dismissed approximately 5000 officers.<sup>46</sup> At that point the NRA assumed the roles of the law enforcement officers, but with time the police force was beefed up and the military relinquished their roles of investigation and arrest. That contention was refuted by many of the interviewees the researcher interacted with during this research.

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<sup>46</sup> See Amnesty International reports 1997

There were repeated allegations of military involvement in arrest and unlawful detention, torture, corruption and mishandling of investigations.<sup>47</sup> Torture victims revealed detentions in secret places and extortion of confession by the military. Uganda under NRM promulgated the constitution of Uganda in 1995 as the guiding principles upon which the enabling laws were made. Formation of institutions which oversaw human rights violations in Uganda, the Uganda Human Rights Commission, Article 51 of the Constitution in consonance with the African and International Human rights standard. It had educational component to train the masses on their rights and obligation and a tribunal to prosecute those who violated human rights in Uganda. But as far as torture was concern the impact of its effectiveness had been very negligible due to lack of man power and continued government denial of responsibilities in the offence of torture as revealed by records at the UHRC.

#### **4.2.4 International Standard of Human Rights on Torture**

Uganda has ratified several of the International and regional treaties declaration and principles, those for instance included the Geneva Convention (1964), CAT (1986), ICCPR (1995), African charter on Human and People Rights ACHPR (1984) and the ICC Rome Statute (2002), that was not yet fully ratified (see constitutional petition No. 1 of 2005, challenging the ratification). The African Charter of Human and People Right forbade arbitrary arrest and detention and guaranteed the presumption of innocence, the rights to be defended by consul of choice and the rights to be tried within reasonable impartial court of tribunal<sup>48</sup> the Convention against Torture undertook to prevent all acts of torture, cruel, inhuman or degrading treatment or punishment.

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<sup>47</sup> See Anti-torture Activists' statement. The New Vision, June 26, 2006 p, 8

<sup>48</sup> See source of laws Article 7 of the African Charter on human and people rights

It investigated allegations of torture and prosecuted alleged culprits against Torture. Many of the International and regional treaties, declarations and principles cited above reiterated the rights to freedom from torture, cruel inhuman and degrading treatment or punishment. Those included the ICCPR, the Code of conduct for law enforcement officers, and the basic principles on the independence of the judiciary. The code of conduct for enforcement officers was to respect and protect human dignity and uphold human rights of persons in detention. Article 2 prohibits the infliction of pain or any form of inhuman treatment. It also provided for investigation of any act of torture. But respondents interviewed by the researcher showed torture, lack of food, water and denial of the freedom to meet their relatives and friends.

#### **4.2.5 The Fundamental and other Human Rights and Freedoms**

The Constitution of Uganda like any other Constitutions of the world provided for enjoyment of fundamental human rights and freedoms by every person. The Constitution further provided that human rights were inherent and not granted by the state and that the rights and freedoms of individual and groups should be respected upheld and promoted by all state organs and by all persons (1948). Chapter IV of the Constitution of Uganda has the Bill of Rights based on the Universal Declaration of Human Rights. It was the Universal quest for liberty of the individual. The Constitution of Uganda (1995) provided that no person should be subjected to any form of torture...It also provided that any suspect or person charged with criminal offense was presumed innocent until proven guilty or had pleaded guilty. The person therefore should be immediately informed of the offense he or she was being charged with in the language he or she understood. It was therefore a violation of a suspect's human rights not to be informed as soon he or she was apprehended. He must also be given adequate time and facilities for the preparation of his

or her defense. Several respondents and key informant interviewed and record available at Police stations indicated many torture victims were in detention at that period under study, many of whom were being held beyond the legal 48 hours, some of whom were first not held in gazette detention places and were in incommunicado. ‘Many people were detained for long period of time in safe houses.’<sup>49</sup> more so, to make the matter worse and unbelievable! It was found that the current practice in the court was to interpret Article 23 (6) of the constitution of Uganda 1995 as prohibiting the granting of bail to persons charged with certain offences for set period of time.<sup>50</sup> Most of torture victims during the period of study were found to have been under that law. The law also stated that criminal suspects should be charged within 48 hours of arrest. While it was possible to understand it, in most cases it was difficult for police units to comply with this time limit, despite that, authorities were still obliged to comply with longer detention. Besides, Police arrest and detain suspects before investigation. A local councilor asserted, ‘arresting suspects before investigation violated the rights of many innocent suspects’.The researcher also found cases where for minor offenses soldiers arrested suspects and left them at the local police post without taking statement. Such suspects stay in custody for very long period of time due to fear that the arresting soldiers might come to complain that the police had been compromised if the suspect was released. Most of such suspects the researcher interacted with had scars of torture, denied food, water and meeting their relatives as they were incommunicado detention. Some of them feared that narrating their ordeal could lend them into more torture since they lived with their tormentors in the same I.D.Ps Camps.

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<sup>49</sup> See Amnesty International reports 2000.p.246

<sup>50</sup> See Judges fight safe houses; The Monitor Thursday, 10<sup>th</sup> August 2006, P.5

### 4.3.0 Factors which affect achieving the right to freedom from Torture

**Table 9**

Factors	Law enforcement officers		Local Councilors		Sub-county Chiefs		People in Detention	
	Yes	No	Yes	No	Yes	No	Yes	No
War in the north	86%	14%	93%	07%	78%	22%	100%	00%
Ignorance CAT	83%	17%	100%	00%	70%	30%	100%	00%
Lack training for enforcement personnel	69.5%	30.5%	94%	06%	74%	26%	75%	25%
Corruption	15%	85%	100%	00%	82%	18%	100%	00%
Poverty	67%	33%	26%	74%	65%	35%	100%	00%
No effective control over enforcement personnel	33%	67%	90%	10%	78%	22%	80%	20%

#### **Explanatory note on table 5**

The above table had accounted for the views of four different groups of people in Gulu District. An average of 89.25% put the war in the North as the major obstacle to achieving the rights to freedom from torture in Gulu District. The highest single percent was obtained from people in detention who unanimously shot 100% blaming the war in the North, an average of 88.25% attributed the escalation of torture, cruel, inhuman and degrading treatment or punishment to ignorance of the masses and law enforcement personnel about CAT and other laws of human rights. On the other hand, 78.1%

attributed persistence of torture...to lack of proper training offered to law enforcement personnel in human rights. While the lowest single percentage was on the acceptance of corruption as possible cause of torture by law enforcement officers. It was 13%; however, generally, the views of 74.25% maintained that corruption was a strong factor which affected achieving the rights to freedom from torture. And 64.5% claimed persistence of torture was due to poverty, lastly, 70.25% expressed that lack of effective control over enforcement personnel was responsible for persistence of torture.

#### **4.3.1 Whether Uganda legal system had the capacity to eliminate torture**

Under this sub-heading the researcher has examined the documentary evidence vis-à-vis the performance of the judicial institution on elimination of torture in Uganda as a whole and Gulu District in particular. The Local Police and Prison personnel interviewed told the researcher that torture was an offense and was punishable under Assault law. Penal code 1991 edition, Cap 106, section, 227 and 228 punishes assault as offense. Similarly, subsequent law of Uganda (2000) Penal code Cap 120, section, 219, 222, 223, 235 and 236 all punish the act of assault Section 235 provided that “any person who unlawfully assault another commits a misdemeanor. And, if the assault was not committed in circumstances for which a greater punishment was provided in that Code, was liable to imprisonment for one year.” Section 236 provides that. “Any person who committed an assault occasioning actual bodily harm was guilty of a misdemeanor and was liable to imprisonment for five years. It provided for offences of assault, causing grievous harm and wounding which carried heavy Penalties. Those however were not substitute for torture. There was no explicit definition of torture in Ugandan National law<sup>51</sup> the lack of definition of torture made it difficult to prosecute torture as a specific crime.

Documentary evidence on legal framework for protection against torture has revealed that the constitution provided for separation of powers between the executive, Judiciary and the Legislature it is the supreme law upon which there could emanate other laws in line with implementation of the Convention against torture, Acts of Parliament, Case laws, Principles of common laws, Customary laws and Doctrines of equity. But to no avail any enabling law had been enacted to punish the act of torture though it remained a Constitutional issue. The Court systems in Uganda were composed of Courts of judicature, magistrate Courts and the local council Courts. The Courts of judicature include; Courts of Appeal, Constitutional Courts and High Courts. On the other hand, magistrate Courts included magistrate Courts grade one and two<sup>52</sup>. The Local council Courts were not part of the judiciary, their jurisdiction was only limited to the villages. Other Courts included the industrial Courts the Land tribunal and the military Courts martial. The researcher also found other institutional frameworks for protection against torture. The Constitution mandated the Uganda Human Rights Commission among other things to protect people against torture, cruel inhuman and degrading treatment or punishment. This mandate previously was handled by the Inspector General of Government (IGG) from 1987 to 1995. However, under article 24 of the constitution (1995), all law enforcement institutions through their administrative mechanism were prohibited from engaging in torture.<sup>53</sup> Therefore the police and prison were the most important institutions in protection of people against the crime of torture. Nevertheless the Judiciary, the Amnesty Commission and the Army are some of the legal in institutions noted.

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<sup>51</sup> See committee against torture; (CAT/C/5/Add 32, 30<sup>th</sup> June 2004, Addendum, Uganda 19-21

<sup>52</sup> See laws of Uganda 2000, p, 2819

<sup>53</sup> Ibid, p, 28

### **4.3.2 The Role of Civil Society**

In 1987 Uganda government enacted the NGO's Statute to facilitate the registration of NGO's as result of that policy framework, many International and national NGO's were registered in Uganda and among them there were those NGO's specifically engaged in promotion and protection of Human Rights and especially protection against torture. HURINET, FHRI, ACTV, HURIPPEC, NUDIPU, FIDA, URC, HURIFO and GUSCO are the example of NGO's advocating against torture. The researcher found 40% of the respondents had interaction with NGO's in workshops organized by them on the basic Human Rights and freedom. However, 30% of the respondents admitted knowledge of NGO's operating in Gulu District but did not know their mission. 30% of the respondents could not differentiate between NGO's and government institutions operating in their midst.

### **4.4.0 What are strategies to Eliminate torture in Gulu District**

#### **Introduction**

Regardless of the all the legal obligations and political commitments made, violations of the most gruesome in nature, including torture and other ill-treatment continued to happen in Gulu District. There was need for innovative approaches to actualize the human rights instruments in place to accomplish implementation of the Convention against Torture.

#### **4.4.1 Uganda at International Level**

Evidence has shown the state attempted to eliminate torture in Uganda. At international level, Uganda had ratified: The Universal Declaration of Human Rights – (UDHR), International Covenants on Civil and Political Rights-(ICCPR), African Charter on Human and people Rights-(ACHPR), United Nations Convention against Torture cruel, inhuman and degrading treatment or punishment-(UNCAT), United Nations Convention

on the Rights of the child-(UNCRC), African Charter on the Rights and Welfare of the Child-(ACRWC)), the Geneva Conventions-(GCS) and the Rome Statute of the International Criminal Court. But the implementation of those Conventions and Treaties were a nightmare as revealed by the UN Committee report on torture CAT/C/5/Add 32 Uganda had not adhered to the principles of the ratified treaties, Conventions and Principles.

#### **4.4.2 Uganda through Domestic Law Attempts to Eliminate Torture**

The Constitution of Uganda (1995), Article 24 clearly states that ‘no one shall be subjected to any form of torture, cruel, inhuman and degrading treatment or punishment. ‘The Constitution offered extensive protection against torture, article 44 terms the rights to freedom from torture as non-derogable rights, it also included the rights to Habeas Corpus, Fair hearing and the Rights to freedom from slavery. Article 212 of the Constitution (1995) gives the power to police officers to protect lives and property including protecting them from the act of torture Article 90 (3) (c) and (d), allows parliament to investigate on its own human rights violation and abuses. In 2002 for example, Parliamentary committee on Defense and Internal affairs (PCDIA) formed an Ad hoc select committee to undertake a study of torture, Safe houses and other places not gazette for detention in Uganda and report to Parliament. The Uganda Human Rights Commission is a constitutional body mandated to protect and promote human rights including the rights to freedom from torture. Article 51 of the Constitution establishes the UHRC with several functions inter alia, to investigate at its own initiative or on complain made by any person on violation of human rights. That body had a tribunal and could issue summons, could commit any body for contempt of its orders and could give compensation to victims of torture and other human rights violations or abuses. But record has shown that reparations to torture victims were delayed and sometimes not paid

at all.<sup>54</sup> There were other laws in Uganda against torture; section 21 (e) of the Anti Terrorism Act 2002, Penal code Act; sections 219, 223, 235 and 236 of the Penal Code 2000 protect people from assault and bodily harm section 25 of the Police Act CAP 303 prohibits torture, section 24 of the Evidence Act CAP 6, the Evidence Statement of Police Officers Rules No 1143-1 all which held that evidence out of confession from torture was not admissible in Ugandan Court of law. “What an Irony? The elected government of Uganda through its agents tortured the people who elected it to power, and to escape from the criticism it set up the Uganda Human Rights commission to watch over those tortures which the commission in most cases found the same government guilty of torture and fined it heavy sum of money for reparation <sup>55</sup>” But this good government did not honor the fines thus subjected its victims to double torture. Complaints were ripe that torture had taken a political dimension where when you complained about it you would be termed anti-Government. Nevertheless there were administrative remedies to torture Parliamentary committee governing institutional bodies like the Army, Police and Prison the IGG the UHRC and Amnesty Commission were obliged to Monitor compliance of those institutions with both the International Conventions; Treaties and Principles and the domestic laws prohibiting torture and other human rights violations. The civil society also has a role to play; African Center for Treatment and rehabilitation of torture victims- ACTV, Foundation for Human Rights Initiative-FHRI, FIDA and Human Rights Focus-HURIFO all which work for the protection and promotion of Human rights. Nevertheless, the issues of torture had taken a conflicting trend, in that though torture...was central in their endeavor no enable people enjoy all the fundamental rights, evidence had shown

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<sup>55</sup> Ibid p, 20

<sup>54</sup> See Mwanghya Charles; “A torture fund,” The daily Monitor, 9 / 8 / 2006, p, 20

conflict on the issue of torture between government and Enforcement officers on the one side and Civil Society and the Masses on the other side where the former over exercised its power and the latter accused and exposed the formers weakness.

#### **4.4.3 Gulu District Local Government effort to eliminate torture**

The local Government Act of 1997 empowered decentralized administration autonomy in governance to make ordinances and by-laws to suit the interest of the people in a particular administrative area. The laws could be formulated at the level of LCI, LCII, LCIII or LCV. Such laws were made on serious matters affecting the people, for instance; in the face of an epidemic, community projects that demanded involvement of the masses on disastrous problem like Ebola, Cholera and political matters like security and torture. The laws enacted enabled the decentralized administration to solve its problem in the most appropriate manners since the whole idea had been decided by them. One must understand that Ministry of Local Government continued to mentor the performance of decentralized Local Government through; support monitoring supervision, inspection and training “Through this process they were able to resolve a number of outstanding issues such as accountability conflicts, interpretation of statutory instruments and national guidelines and human resource competencies<sup>56</sup>.” Despite the above discretion, the researcher did not find any ordinance or by-law in the entire Gulu District Local Government, which comprised of twenty three sub-counties and Divisions.

Yet the District faced disastrous phenomenon in the period of the study; insurgency which drove people to the camps, Ebola diseases struck in 2001 and the escalation of torture in the district aggravated by the uncontrollable spate of violent and lawlessness

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<sup>56</sup> See Makara Sabiri, (Journal, 2000), decentralization for good governance and development, Uganda experience p, 16

**Gulu District attempts to eliminate torture; through formulation of By-law and Ordinances. Are they aware the law on torture was formed?**

**Table 10**

<b>Interviewee category</b>	<b>Number of participants</b>	<b>Yes</b>	<b>No</b>
LC I	20	Nil	20
LC.III	23	Nil	23
Sub-county/division leaders	23	Nil	23
Local police	10	Nil	10
Local prison	10	Nil	10
Inmates in detention	20	Nil	20

**Explanatory note on table 5**

The projection in the above table clearly showed the ineffectiveness of the local leaders in Gulu District. No law was formulated in the district over the period of the study regardless of the many serious problems which befell the district including torture. Therefore the obligation of the local government to monitor, inspect, supervise support training and demand accountability of its activity at grassroots was thwarted by the kind of negligence deduced from the table above. Even visit to detention places over the years had not been an issue in the administration of the District. Simply there was no trace of it at all.<sup>57</sup>

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<sup>57</sup> See World Conference on Human Rights Vienna, 14-15 June 1993, NU DOC A/CON F. 157CON F, 157124 (Part I) at <sup>20</sup> (1993), resolution 61

## CHAPTER FIVE

### DISCUSSION AND ANALYSIS OF RESEARCH FINDINGS

#### 5.0 Introduction

In the previous chapter raw data were presented and interpreted. In this chapter the researcher has discussed and analyzed the data presented in chapter four basing on the four objectives of the study: the concept of torture; roles of the state and other stakeholders; factors which affect achieving freedom from torture and strategies laid

#### 5.1 Understanding the concept of the rights to freedom from torture

The definition of torture, as in article 1 of CAT, restricted torture to action committed by public official or anyone acting in an official capacity or with the acquiescence of a public official only. No enabling law was enacted to broaden the definition of torture to include private persons and other circumstances in which torture occurred. Besides no law was enacted in Uganda which specifically defined and treated torture as a crime. As a result, the definition had been misused and many torture victims had suffered without reparation.<sup>58</sup> Torture in private sphere was on the increase in Gulu District. In the camps it was not a rare sight to see children being battered for petty mistake, battering of women or men by each other depending on the strength of the assailant. The offence was committed but, the culprit walked Scot – free simply because there was no explicit definition of torture in the law. Torture was assault and vice versa without taking into account torture was a more grievous crime than assault<sup>59</sup>. Similarly, article 10 of the Declaration on the protection of all persons from being subjected to torture...

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<sup>58</sup> See Sunday Vision July 2, 2006, witch child abuse to Britain p.13

<sup>59</sup> See UHRC, torture a persistent violation Vol.v1 no. 2, June 2003

and other cruel inhuman or degrading ...reiterated that if an investigation under CAT Article 8 or 9 established that an act of torture as defined in article 1 of CAT had been committed, criminal proceeding would be instituted against alleged offender (s) in accordance with the national law, hence attaching the definition of torture only to article 1 of (CAT) to earn a penalty left a lot to desire especially in Uganda. It was probably the root cause of the escalation of torture in both public and private spheres because the International convention treaties and principles defined torture explicitly as earlier on revealed, but the Domestic law did not give any definition of torture close to that of Article 1 of CAT. Nevertheless, the International human rights law principally governed the responsibility of state for the violations of human rights, be they committed by state officials or others, and did not explicitly provide for responsibility of non-state actors themselves for acts of torture. In the case (UHRC/264/99), Fred Tumuramyé versus Gerald Bwete et al, Commissioner Omara Aliro extended the definition of torture beyond the realm of state officials to private individuals. He observed that; ‘CAT Article 1, while defining torture he recognized that Nations legislation may have a wider definition than is contained in CAT Article 1’. ‘In my view, he said, the provision of the Uganda constitution (1995) Cited in article 24 and 44 recognises that torture, cruel, inhuman ...can be committed by any body<sup>60</sup>.’The act need not be with official sanctioning, instigation, complicity, or acquiescence’ he continued. ‘Individuals in their private capacities can legally commit acts of torture, cruel, inhuman...’ Analyzing that argument, his decision might not stand the challenges of the International law in the lack of explicit domestic enabling law criminalizing the act of torture including non-state actors as an offence punishable to the gravity enshrined in CAT Article 1.

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<sup>60</sup> See Rukooko A.B 2001. Compilation of Major International Human Rights Instrument, p.7

The researcher probed the knowledge of the people in Gulu District whether they understood the right to freedom from torture in relation to article 5 of the UDHR, and 2 (3a) of ICCPR which ensure that any person whose right or freedom as herein recognized was violated should have an effective remedy notwithstanding that the violation had been committed by person acting in Official capacity, and article 2 (3b) ensured that any person claiming such remedy should have his or her rights determined by competent judicial, administrative or legislative authority provided for by legal system of the state.<sup>61</sup> In Uganda, the education and information regarding the prohibition against torture, fundamental rights and freedoms were the responsibility of Uganda Human Rights Commission as put under article 52 (1: c, e and f) of the constitution of Uganda (1995). Similarly, article 10 of the convention against torture.<sup>60</sup> was to ensure that education and information regarding the prohibition against torture were fully included in the training of law enforcement personnel, civic or military, medical personnel, public officials and other persons who might be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.<sup>62</sup> Nevertheless evidence obtained during this research has shown the contrary to the discretion in UDHR article 5, ICCPR article 2 ( 3a and 3b ) CAT article 10 and the constitution of Uganda article 52 ( 1: c, e and f ) mentioned above. The trend of the evidence found exposed that the elite were aware of the concept of the rights to freedom from torture, whereas the common man and their local councilors at grass root were totally ignorant. In effect absent of training of the masses in itself was a human rights abuse because it was an obligation enshrined in article 10 of the convention to which Uganda is a signatory.

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<sup>61</sup> See CAT /C/5/Add 32,p . 17.

<sup>62</sup> See the Uganda Human Rights Commission; case No G/727/1998

High rate of ignorance of Rights and duties among the local populace was the main cause of violation of the CAT in Gulu District. The majority of the people interviewed in the villages held the misconception that Law enforcement personnel were the absolute authorities who could arrest, detain and torture. And that such punishment was expected. When asked whether it was necessary for security to beat a suspect before he or she was taken to court, an interviewee responded; it was normal because the suspect would be receiving what was due for his/her offence. A torture victim testified, 'I was arrested from my house at night by local police for being a tax defaulter and they tied me 'Kandoya' and beat me severely. I was kept in their cell for over a week. They released me and told me to remain at home and that if they saw me anywhere they would re-arrest me and punish me again. I paid (50,000/=) for my release.' 'I am happy because I am now out of the cell', he continued. The above testimony supported the fact that the knowledge about freedom from torture was lacking in the villages and that explained why the common man was at risk to suffer torture without reporting. Of all the torture victims interacted with very few of them reported their torture cases by themselves but by the educated members of the community like retired civil servants in their midst. It was appalling that many of the respondents the researcher interviewed complained of torture by local police whom the researcher subsequently interviewed and all of those who responded said they did not act by themselves, but on orders of superior officers, thus that justified their actions. And that sometimes they acted on emergency orders under the newly created Joint Command Council (J.C.C). That was a body which comprised of the police, prison, the Army and District Security Officer. Many of the victims contacted were victims of torture by that body.

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<sup>63</sup> See Art. 1 of the convention against torture, UNGA resolution 39/46 of 10 December 1984 entry into force 26

The common torture among the police as exhibited by complaint, (No. G /727/1998) Francis Jimmy Opiny and Joseph Owani versus Lira district administration presided over by Uganda Human Right Commissioner F.M Wangadya (Mrs.) the court considered; (1) whether Opiny's right to freedom of movement was violated (2) whether Opiny's right to protection against torture, cruel inhuman and degrading treatment or punishment was violated (3) whether Opiny was unlawfully deprived of Uganda shillings (200,000=). 4 whether Opiny was entitled to the remedies sought.<sup>63</sup>The above case was ruled in favor of Opiny because the local police breached article 212 of the Constitution and section 5(1) of the police statute 13 of 1994 which provided that subject to the constitution and to this statute the functions of the police force was; (a) to protect life property and other rights of individual citizen. (b) Prevent and detect crime in society to mention but a few.

It should have been Gulu District authorities to take the challenges to sensitize the common man about torture as part of the District Program, which hitherto, had not been the case. Yet the most principle objective of decentralization was to promote greater involvement of communities with focus on planning for local needs, problems and priorities. Nevertheless there was no evidence of effective implementation of CAT in Gulu District, and as a result it appeared not surprising the escalation of violation of the rights to freedom from torture in the District. Accordingly, torture was being meted by public official such as the Police or security forces or with their consent or acquiescence...<sup>64</sup> the calculated abuse of an individual's physical and psychological integrity, in a way designed to undermine their dignity, was horrible in any circumstance.

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<sup>63</sup> See Art. 1 of the convention against torture, UNGA resolution 39/46 of 10 December 1984 entry into force 26

<sup>64</sup> See bind Rogar (1983) Concise law Dictionary, Sweet and Maxwell, London, p, 198

But when the act was not perpetrated by or on behalf of a public official, then the crime was not torture yet the act was reprehensible. In effect, torture was typically condoned by the state officials who were responsible for upholding and enforcing the laws. The purpose of torture was not only to destroy the physical and emotional well-being of individuals, but the dignity and will of entire communities. It concerned all members of human family because it impugned the very meaning of human existence and hope for freedom from fear and thus a brighter future.

## **5.2.0 Roles of stakeholders in the implementation of the convention against torture**

### **5.2.1 Introduction**

In this section, discussion and analysis was centered on the roles played by the state and other stakeholders in the implementation of the CAT in Gulu District. Article 180 (1) of the Constitution of Uganda conferred autonomy on Local government. “A Local government shall be based on a council which shall be the highest political authority within its area of jurisdiction and which shall have legislative and executive powers to be exercised in accordance with this constitution.” (Mugaju, 1996) Discussion and analysis has examined local government compliance with the international standard of implementing the CAT and human rights guaranteed under judicial system in Uganda.

### **5.2.2 Roles of the State in the Implementation of CAT at Local Government Level**

Taking into consideration the mandate of the local government derived from the devolution of powers from central government which makes it a supreme body that could make by-laws and formulate policies to run the decentralized administration in accordance with the national laws. It is worth throwing in more light in a case where government appeared to have failed to implement the Convention. ‘A law is an obligatory

rule of conduct, the command of him or them that have coercive power' (Hobbes).<sup>65</sup>

'Rather it is not the existence of the police force that make a system of law strong and respected, but the strength of the law that makes it possible for the police force to be effectively organized. It is at this point that the imperative characters of the law are felt so strongly that obedience to it became so much a matter of habit within the society' (Bind Roger, 1983). Documentary evidence had shown that Uganda behaved to the contrary to the above philosophy. In effect, during Amin, Obote, and Okello and to some extent Museveni regimes, police and the Army were difficult to differentiate. They were used interchangeably as seen in the infamous "Black Mamba";<sup>66</sup> "a military urban hit squad". The law commission Act (1965) able the Ugandan Law Reform Commission to promote the systematic development, simplification and modernization of the law.<sup>67</sup> The UHRC wanted the following law repealed: succession Act, Habitual Criminal Detention Act, ...Emergency Power Act and the Penal Code Act, but the controversy arising from the systematic development, simplification and modernizing the law still existed even in international law including CAT for instance, that law prohibited torture by public official leaving the private sphere unattended to while the Penal Code Act on the other hand did not have punishment for torture at all instead; most respondents among the Police and Prison staff told the researcher that Assault was the offense that stood for torture. Nevertheless the entire International Convention, Treaties and Principles ratified by Uganda regarding torture did not have any effect on the conduct of law regarding Uganda.<sup>68</sup>

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<sup>65</sup> See the Daily Monitor.....Feb 2006, p, 07

<sup>66</sup> Ibid p, 198

<sup>67</sup> See committee report on torture, the Uganda case, 2005

<sup>68</sup> Ibid p, 10

### **5.2.3 The Role of Civil Society**

The research disclosed ignorance of the civil society which problem was answered by the enacting of the NGOs policy as civil society organizations. Gulu District registered several NGOs for different services; others were for humanitarian assistance while others were engaged in development services. Torture was an exceptional problem in Gulu District which needed assistance from civil society organization to fight against the perpetrators and enlighten the masses on their rights and freedoms and their obligation/duties to enjoy their full rights. It was towards the middle of 2005 when ACTV came in to boost the work on promotion and protection of Human Rights being carried by HURIFO and GUSCO.

Simply because ignorance loomed very high among the local populace, few people in Gulu knew where to refer their problem when they were tortured, and it was at that height that civil society organization sprang up to educate the people on their rights to freedom from torture. GUSCO and HURIFO had no specific programme for torture victims but had a hand in sensitization and forwarding cases of human rights violation and abuses including torture.

It was appalling, the people in Gulu District were being tortured, the government Institutions which should have protected them became party to torture, the people themselves were terrorized and lived in total lost of hope and the local NGOs were blended anti- government, a situation that left torture victims unprotected from the hazards of torture.

At the time of carrying this research, over 40% of the total population in Gulu District had formal interaction with the NGOs in the district doing/ offering different services.

Both International and local NGOs opposed the act of torture. The act of torture was coming to a close with the massive human rights promotion and protection campaign in Gulu district.

#### **5.2.4 The Rights to Freedom from Torture in Detention places**

The researcher found that the rights to freedom from torture were not being ensured in Police and prison detention places. Aware that Local Government Police and Prisons were the creation of Section 24 of Local government Act 1967 (old) and section 180 of local government Act of 1997 which states. “Local Government Police and Prisons existing at the enactment of this Act shall continue in existence until a new law governing them is enacted.” Most of the Police and prisons were established by successive Local government / District administrations under the 1967 Local government Act and the current District Local government just inherited them.<sup>69</sup> The District Local Government Police and Prison got very little or no funding from their the Local government and as a result, a lot of mal-administration cropped up. Staff recruitment was limited to primary seven and ordinary level drop outs whose salaries were cheaper. They were trained on the job by their officers in charge most of whom were retired professional prison and police officers. Since there was meager vote for the Prison and Police in the district Local government budget, the alternative was to fend for themselves by exploiting the prisoner’s free labour not only to produce food for themselves but also to sell the same labour for cash to meet other provisions a process which more often than not resulted into torture to coerce the inmates to do the task involved. Torture cropped in because such

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<sup>69</sup> See UHRC 8th. Report 2005, p, 148-159

situation shifted from rehabilitation and reform of prisoners under safe and secured custody to training prisoners into omnipotent tools of production for survival. This resulted into violation of human rights. Chief among them was torture and cruelty by Prison staff and Prefects. Evidence was ripe that inadequate food, lack of uniform, water bedding and medical care were part and parcel of the suffering. The Uganda Human Rights Commission had demanded immediate closure of five prisons most of them being local Administration Prisons (LAP), saying they were a threat to the live of inmates. They included Kiboga, Hoima, Bubukwanga, in Bundibukwanga, in Bundibugyo and Masafu in Masindi. Also to be closed was Amuria 45 km form Soroti. The 174-page document of the Commission showed that condition of inmates in those prisons was appalling. It cited torture, congestion, under-feeding, detention of juveniles in the same cell as adult,<sup>70</sup> the same was a replica of police and prison detention places in Gulu District. There were no by-laws and ordinance found in Gulu District to address the issue of torture. Gulu District still depended on the Penal Code Act (2000) which addressed Assault as a crime but not torture. Torture was not known in Gulu District and therefore it was difficult to expect any serious concern about it. Drawing from the recommendation of the committee on torture to government of Uganda on compliance with the ratified Convention against Torture, government of Uganda was yet to formulate a domestic law to make torture criminal offence. Similarly the local government though decentralized did not have the mandate to formulate law that might appear to contravene the Law of Uganda which hitherto treated the offence of torture as assault and vise versa, the law of Uganda; Penal Code CAP.120, Section 235, 236, 237, 258 and 248.

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<sup>70</sup> See Rodly. N. The treatment of prisoners under international, law, 2<sup>nd</sup> edition (Oxford, Clarendon press, 1999: 5-8).

### **5.2.5 International human rights standard on torture and state responsibility**

The right to freedom from torture is firmly established under international law and principles; the Universal Declaration of Human Rights, the Convention on Civil and Political Rights, and the Convention Against Torture and the four Geneva Conventions of 1949 which since then were only ratified by 188 states. The Geneva Conventions were rules established for the conduct of International armed conflicts, and especially for the treatment of persons who did not or who no longer, took part in hostilities. The Geneva Conventions prohibited torture... The UN Convention against Torture established the responsibility of the state for acts of torture inflicted 'with the consent or acquiescence of a public official', for instance, failure to provide protection against violent racist attacks, might amount to consent or acquiescence in torture. Under International human rights law, states also had an obligation to act with due diligence to prevent, investigate and punish abuses of human rights, including acts of private individuals. This basic principle of state responsibility is established in all the core human rights treaties. The international Covenant on Civil and Political rights, for instance obliges states to 'ensure the rights set out in the treaty, including the rights to freedom from torture, an obligation which the human rights committee extended to acts inflicted by people acting in a private capacity.' The European court of human rights has also affirmed that under the European Convention on human rights, state were required to take measures to ensure that individuals were not subjected to torture or inhuman or degrading treatment or punishment, including such ill treatment administered by private individuals. For instance, in 1988, the court found that United Kingdom had violated Article 3 of the Convention (prohibition of torture or ill treatment ) by failing to provide adequate protection to a nine year-old boy beaten with a cane by his stepfather.

Uganda is to observe the principle of Due diligence which is used to describe the threshold of effort which a state must undertake to fulfill its responsibility to protect the individuals from abuses of human rights. A state could not avoid responsibility for ill-treatment in domestic violence by arguing that the abuse took place in private sphere at the individual's home. Or that it was justified by cultural or social practices. Due diligence included, taking effective steps to prevent such practices; all human rights abuses, to investigate them when they occurred, to prosecute the perpetrators and bring them, to justice through fair proceeding and to provide adequate compensation and other forms of redress. It also meant ensuring that justice was imparted without discrimination of any kind. In nutshell acts of violence by private individuals constitute torture or ill-treatment when they were of the nature and severity envisaged by the concept of torture, International standards and when the state had failed to fulfill its obligations.

The international human rights standard on torture are ushered and maintained under international humanitarian law and the United Nations. While the International treaties governing armed conflict established under the International humanitarian law or the law of war, for instance the four Geneva Conventions of 1949, Article three (3)...‘the following acts are and shall remain prohibited at any time and in any place whatsoever... violence to life and person in particular humiliating and degrading treatment...’ As special rapporteur on torture Nigel Rodley put it: ‘the prohibition of torture or other ill-treatment could hardly be formulated in more absolute terms. In the word of the official commentary on the text by the International Committee of the Red Cross (ICRC), no possible loophole was left there could be no excuse no attenuating circumstances’<sup>71</sup>.

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<sup>71</sup> Ibid, 1999, p.58

### **5.2.6 The Fundamental Human Rights and other rights and Freedoms**

When there was violation on the CAT other human rights and freedoms are equally violated; for instance the rights to personal dignity, the right to liberty, the right to life... taking into account the principles that human rights are interrelated and interconnected, torture was the order of the day in many detention places, the 48 hours rule was not being followed, incommunicado detentions were in practice and Article 23 (6) of the Uganda Constitution (1995) which prohibited granting of bail to certain categories of offences for a set period of time. It was no surprise that the fundamental and other human rights and freedoms were violated; nevertheless, a person under torture had the right to life at stake and several other rights; the right to food, liberty, freedom of expression of the right to fair hearing to mention a few, simply because denial of those rights themselves constitute torture<sup>72</sup>. In a situation where a law like Article 23 (6) (constitution of Uganda 1995) and where detention was done before investigation was complete, a suspect was likely to take a long time in detention before he/she could be released on bail. Strictly speaking such acts or omission were in themselves torture because the severity of mental anguish such acts or omission caused to an individual differed with physiological and psychological make-up of that affected individual. Indeed violation of the rights to freedom from torture was gross violation of other rights. In an attempt to ensure adequate protection for all persons against torture the United Nations sought to develop applicable standards in the name of ICCPR, the Standard Minimum Rules for Treatment of Prisoners (SMRTP), the United Nations Declaration on the protection of all persons from being subjected to torture, the Code of Conduction for law enforcement,...CAT,

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<sup>72</sup> See the general Assembly resolutions 45/112, annex, 45United Nation GAOR Supp. (No49A) at 200, United Nations document a/45/49 (1990), principle 1

and the Basic Principles for the treatment of prisoners.<sup>73</sup> All the above applicable standards were found to be part of the mandates of the National Human Rights Institutions which should ensure its applicability. In Uganda, the UHRC is mandated to inspect, monitor and evaluate human rights standard. It was also found to prosecute human rights violation to which torture is part. However, the violation against UNCAT did not cover pain or suffering arising only from inherent or incidental to lawful sanctions by competent Courts, the UN Human Rights bodies had taken actions for the prevention of torture creating; the Committee against torture human rights Committee, the Commission on human rights, the Special rapporteur on torture and the Special rapporteur on violence against women. However, the phrase; ‘arising from, inherent in or incidental to lawful sanctions’, could be mistaken as whatever legitimate ruling could be executed without restriction, but on this note the special rapporteur on torture to the 53<sup>rd</sup> session of the commission on human rights (E/CN/1997/7, Para 3-11), in which the special rapporteur expressed the views that the administration of punishment such as stoning to death, flogging and amputation could not be deemed lawful even if the punishment had been authorized in a procedurally legitimate manner. And since it was endorsed by the United Nation Commission on Human Rights, Governments are reminded that Corporal punishment could amount to cruel in human or degrading treatment. The United Nations has explored all imaginable avenues to stop the act by committing National governments through ratification of Human Rights Instruments which obliged states to taking effective legislative, administrative, judicial or other measures to prevent acts of torture; limiting the use of incommunicado detentions, ensuring that education and information regarding

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<sup>73</sup> see E/CN.4/2003/68/Add.1, para. 1862

the prohibition of torture was included in the training of law enforcement personnel (Civil and military), ensuring that any statement made out of torture was not admissible in court...In Uganda the establishment of the Uganda Human Rights Commission was to implement the Human Rights Conventions and Treaties ratified including the Convention against torture which hitherto was being violated in Uganda.

### **5.3.0 Factors which affect achieving the rights to freedom from torture**

#### **5.3.1 Introduction**

In this section discussion and analysis is on the factors which affect achieving the rights to freedom from torture in Gulu District it discussed opinion from local leaders, documentary findings and views of people in detention and analyzed them with related literature drawn from the experience of human rights workers, the legal system in Uganda, and the roles played by the civil society in implementing the convention against torture. In probing which key factors affected achieving the rights to freedom from torture the researcher discovered that 89.25% of the respondents put the war in Northern Uganda as the major obstacle to achieving implementation of the Convention against torture in Gulu District. In war situation the police were rendered incompetent to handle political issues and offenses. In the case of David Penytoo, Alex Otim, Tonny Kitara, Aida Lagulu, George Obita et al, members of the young democrats (UYD) in Uganda. The state acted with heavy hands on the suspects which ended up killing one Peter Oloya. In this matter attention could be drawn to concerns expressed by the Human Rights Committee on arbitrary detention in private non-gazette places.<sup>74</sup>

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<sup>74</sup> See (ccpr/co/80/UGA, Para.17 and 18)

In Uganda particularly in Northern Uganda concern was expressed about widespread torture and ill-treatment of persons detained by the military as well as by other law enforcement officials in illegal detentions places. The opinion of the respondents centered on war in the North because the Military actions did not recognize the legitimacy of the Police roles in handling suspects and keeping law and order. In Gulu District many people were imprisoned without trial on charges of treason and in most cases they revealed that they were tortured in custody to their relatives and confidants. It is significant the war situation in Gulu District did not allow police force and local leaders to exercise checked and balance in conduct of the Military and other law enforcement officials. Every arrests and detention were done by the military and many detention places were in military barracks or detachments /post. It was there that torture was meted on suspects in incommunicado. It was found out that at that time no non-Military person was allowed in military installations and people suffered there till they were released then they revealed to their relatives and confidants their experiences in detention. Gulu District until 2006 had other no go areas where only the Military could go. Such were the places many respondents pointed accusing fingers to; for instance Awach, Cwero, Te-got Atto, Cet kana, Koch Goma, Paicho and Purongo. Torture escalated in the war situation because the military mistook every suspect as rebel collaborators even those for minor offenses, therefore were treated militarily which resulted in torture in most cases because at the time police were undermined, if they worked, then as underdogs of the Army. In the period of study prison condition were deplorable overcrowding, scarcity of food, poor sanitary condition and inadequate materials. While disciplinary measures included corporal punishment, solitary confinement, deprivation of food and in many cases there were no separation of detained juveniles, women and men. That arose because the military took control of every decision on the suspects they arrested.

### **5.3.2 Whether Uganda Legal system had the capacity to eliminate torture**

Uganda Legal system included the courts of law and the quasi Judicial Institutions; the Uganda Human Rights Commission Tribunal and the Military tribunal all which had sections prohibiting torture as enshrined in the constitution of Uganda (Art. 24 and 44) (1995). During this research there was no specific law found to explicitly treat torture as an offence as in Article 1 of the Convention against Torture. The documentary evidence disclosed prohibition of the act of Assaults of all kind but did not hint any provision against the act of Torture. To many respondents the researcher interacted with enforcement officers and the local leaders did not know what constituted torture. To them torture was Assault and vice versa. Nevertheless, the constitution provided for separation of powers between the Executives, Judiciary and Legislature. It is the fundamental principle form which other laws originated; case law, customary laws doctrine of equity. The laws of Uganda had no effect on torture, cruel in human... However Judicial measures held those Courts of judicature; the Supreme Court, Court of appeal, constitutional Court and the High Court to hear all cases of Assault (Torture). To that end the courts were not effective due to lack of the enabling laws to explicitly prosecute the offense of torture. Citing a case law, the precedence set by criminal appeal No. 16 1999 (Supreme Court) Kyamangwa versus Uganda, Corporal Punishment was found to breach Article 24 of the Constitution of Uganda and it was by its nature tantamount to torture. Other circumstances where judicial measures were found effective were in government prison. Evidence has shown that administrative instruction No. 8 of 1990 was effective when chief Warder No. 453 Obura Giant was found guilty of assaulting a prisoner and injuring him. He was dismissed with disgrace without any benefit. The Police Act, CAP. 303, section 44 and Police Code of Conduct both prohibited torturing suspects while the UPDF Act Cap. 307 legislated against torture within the Military but did not hint any

measure on the Civilian. The laws enumerated above had not been effective in Gulu District because the state meted torture on the suspects arrested within the period of study yet the laws were in place.

#### **5.4.0 Strategies to Eliminate torture in Gulu District**

##### **5.4.1 Introduction**

In Uganda the Constitution mandated the Uganda Human Rights Commission to, among other things; protect people against all human rights violations and abuses including torture, inhuman... This mandate was previously handled by the Inspector General of Government (IGG) from 1987 to 1995, however under Article 24 of the constitution of Uganda 1995, all law enforcement institutions, through their administrative mechanism were prohibited from engaging in torture and inhuman or degrading treatment or punishment. Education and information regarding prohibition of torture were included in the training of law enforcement officers, civil or military, medical personnel, public officials, and other persons involved in the custody, interrogation or treatment of any other individuals subjected to any form of arrest, detention or imprisonment. A major strategy lay with the mandates of the Uganda Human Rights Commission Article 51(1) of the Constitution of Uganda among which included the mandate...(c) to establish a continuing programme of research, education and information to enhance respect for human rights ... (f) to educate the public to defend the Constitution at all time against all forms of abuses and violations... (h) To monitor Government compliance with International Treaty and Convention obligations on human rights. Torture persisted in Gulu District despite all the legal and political obligations in place. The research findings brought to light torture in Police cells, ungazetted incommunicado detentions and in private individual family life. Gulu district needed strong local government with initiatives to actualize all the Human Rights instruments, National Legal framework and

local government Acts to pursue the implementation of the Convention against Torture. Evidence had shown no bylaws or ordinances enacted in the district during the period of study yet there were so much natural calamities and torture affecting people of Gulu District. The leaders did not act at all and the dilemma was people suffered severe act of torture. The Army, Police and other Law enforcement officers meted severe torture on suspects and other civilians. Nevertheless, the Police and Prisons had human rights curriculum as well as human rights training manuals which had been in use since the year 2000, which addressed explicitly the issues of torture. The Police in Gulu had worked hand in hand with the UHRC and ACTV, and local NGOs in training the police on basic human rights and torture inclusive. Another strategy was that the Police Inspectorate regularly checked on the compliance with the standards of observance of the rules against torture. The Police detention were opened to all government and NGOs agencies that wished to check its detention facilities and identify possible acts of torture for prompt interventions. The best means was that Police detention facilities were open to public for scrutiny of human rights violation.

#### **5.4.2 Uganda at International Level**

If the ratification of International Instruments meant enforcing it, then Uganda as a nation should be free from torture, inhuman or degrading treatment or punishment, record had shown very many International instruments ratified by government of Uganda UNCAT, CEDAW, ICCPR, ICESCR, UNCRC, ACRWC, and the GCS all which prohibit torture. But on the contrary, violation of the rights to freedom from torture surprisingly happened in gruesome nature in Gulu District. It was fortunate that the UN special rapporteur on torture gave several recommendations on the protection of people from torture in Uganda, but to our dismay Uganda could not enforce its

recommendations. It was like authorizing a thief to report to police when he/she had stolen money, state was the Chief Violator of Human Rights still it was the one expected to report on its own mistakes which in most cases the truth never came out but the said state painted itself innocent of the crime of torture.

### **5.4.3 Uganda through Domestic Laws attempted to eliminate torture.**

The Constitution of Uganda prohibits the act of torture Article 24 and 44 of the Constitution 1995 respectively prohibits torture and put it as non-derogable rights Section 21 (e) of the Anti-terrorism Act prohibits torture, illegal detention and causing harm or loss to property. If an officer indulged himself in such act and proven guilty on conviction the officer concerned was liable to a penalty or imprisonment not exceeding five years or fines not exceeding two hundred fifty currency points. Article 212 of the constitution empowers the police to protect life and property, Article 90 (3) empowered Parliament to investigate human rights abuses and violations. Nevertheless, irrespective of the entire legal framework put in place by the government of Uganda, torture was the highest complaints brought to Uganda Human Rights Commission, Gulu Regional Office<sup>75</sup>. Torture constituted eighty percent of all complaints registered in the period of study. There was public outcry in the district on torture inflicted by Local Administration Police and law enforcement officials on local population then. Government effort to eliminate torture could not succeed since enforcement of the law was lacking, nevertheless the very people who should have enforced the law where the very one's who violated it.

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<sup>75</sup> See UHRC decries the New Vision, July 4<sup>th</sup> 2006 P.4

Therefore Gulu district strategies to counter the act of torture was training of the Law enforcement officials on the basic human rights, and rigorous supervision of the law enforcement institutions to enforce the rules and regulations on the conduct of law enforcement officers. Another strategy was prompt payment to torture victims who won their cases through the UHRC tribunal. Many a time reparation for torture victims were awarded but government never paid<sup>76</sup>. In many occasions UHRC attacked government for neglecting torture victims. Those were people who should have been cared for by paying their reparation but were getting double pain of torture and psychological torment due to neglect to recognize them as lawful beneficiaries of justice. The penal code section 219, 223, 235 and 236 of the law of Uganda (2000), protect people from Assault and bodily harm. The Police Act Cap 303 prohibit torture while Section 24 of the Evidence Act Cap. 6 and evidence statement of Police obtained out of torture was not admissible in Uganda Court of law. Drawing from the domestic Law in place pertaining to different institutions on prohibition of Torture, cruel, inhuman or degrading treatment or punishment, there was no evidence that Uganda enabling law had explicit description of torture as in Article 1 of UNCAT and corresponding penalties commensurate to the weight of the offence of torture... as recognized by the International law. It was no surprise that enforcement officers in Gulu District had not been penalized for the act of torture on suspects and detainees in detention places. It was clear that torture in Uganda did not constitute a serious offence but was treated as Assault despite it being administered by people acting in official capacities. Torture flourished in Gulu District because no body was held responsible for the offense.

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<sup>76</sup> See UHRC to follow-up victims' compensation. The monitor 3<sup>rd</sup> 2006, P.8

Simply there was no effective law to prohibit torture. There was very little enforcement of the other provision of law if any, for instance Evidence Act, Police officers Rule No. 1143-1 to mention a few. People continued to suffer torture meted by police and enforcement officials during their arrests and subsequently in detention. The creation of the Uganda Human Rights Commission to a greater extent exposed the hazard of torture in Uganda generally and in particular Gulu District during the period of study. 60% of the cases reported to Uganda Human Commission Gulu Regional office from Gulu District alone on torture, cruel inhuman degrading treatment or punishment. The number was slightly more than half of all the other cases of human rights violations and abuses committed in the period of study in the district.

#### **5.4.4 Gulu District Local Government effort to eliminate torture**

Much as torture escalated and was at its climax in Gulu district, the local authorities did not formulate bylaws and ordinances to counteract the prevailing act of torture at all levels of administration; LCI, LCII, LCIII, or LCV. It was unfortunate the local leaders at grassroots meted torture on suspects in their Court. It was evident that ignorance of the basic human rights loomed so high among the local populace such that at Local Council Court, when a suspect was found with evidence of stolen goods, he/she would undergo torture as what was due. Torture escalated in the district and was meted on civilians by the Law enforcement personnel and even by the district local government leaders. The Uganda Human Rights Commission endeavored to sensitize Law enforcement officers, Police and LDUs who at first operated under district Local government but later on shifted to Uganda People Defence Force (UPDF). In 2004, in collaboration with Uganda Human Rights Commission district leaders embraced basic human rights massive education of the masses and Law enforcement personnel.

## **CHAPTER SIX**

### **6.0 Conclusions and Recommendations**

#### **6.1.0 Introduction**

In this chapter the researcher presented the conclusions of the main findings which accrued from the Interpretation, discussion and analysis of data and thereafter presented some recommendations.

#### **6.1.1 Conclusions of the main findings**

##### **a) Establishing the concept of the rights to freedom from torture**

The study revealed that torture is a topical issue in Uganda and it is the epicenter of most political and social debates on how to eradicate it. Torture was not in the vocabulary of the people in Gulu district. The people did not know what torture was, Torture was Assault and vice versa. Torture has not only been committed by people acting in official capacities or with acquiescence of public official, but also by people in private spheres, though to International description, private individuals could not do torture.

Torture has claimed a lot of lives, maimed several people, traumatized many victims and destroyed social relations between communities and Government Law enforcement institutions which eventually tarnished state image. The people required massive sensitization on CAT and human rights law.

The rights to freedom from torture, non-derogable rights in the Constitution of Uganda but perpetrators of torture continued to violate those rights and seek shelter under the law

when apprehended for the acts. Perpetrators of torture also manipulated social an elite forum to invoke some provisions of the law to protect them from being tried. The end result was that the bigger population remained at the mercy of the torturers. The onus was on the International community to put pressure on the state to behave in line with the Human Rights Instruments it ratified, the Convention against Torture and utilize the National human rights institution, the UHRC.

The study revealed that within the security institutions torture was taking another form, some said it was training of discipline others said it was normal exercise given by superiors to junior personnel for disobedience committed while others said it was a necessity in the forces. The dilemma was the severity of what they termed normal and a necessity which to International standard tantamount to torture.

#### **b) The Implementation of the Convention against torture**

Despite the strong Constitution and other legal framework in place in Uganda, the state did not remedied torture. Torture remained a point of public outcry though Torture was prohibited by the Constitution, Police Act, Evidence Act, UPDF Act and Prison Act, but still the act of torture was prevailing among the Security institutions and in the Local council's Courts, hence in no way Gulu district local government could be an exception.

The study revealed lack of supervision and commitment on the side of the Local government to commit perpetrators of torture to Court which was a major blow in the implementation of the Convention against torture, inhuman or degrading treatment or punishment. Lack of proper training in human rights law was another point of concern in the study.

Nevertheless the public life was at stake because the majority of people did not know their rights and mass education of local populace was not adequate in the period of study. The creation of the Uganda Human Rights Commission with the mandates to implement and oversee the promotion and protection of human rights was the best option to utilize in the fights against torture.

The study revealed state organs were the major violator of Human Rights and especially perpetrator of torture, inhuman or degrading treatment or punishment. That was seen in their line of work, in the event of keeping law and order and protecting citizens and their property, security personnel committed torture instead of combating it. Crude ways of interrogation culminated into torture of suspects and there was need to polish investigation mechanisms.

Torture thrived on the absence of explicit description of the act of torture in the law of Uganda as per Article 1 of the UNCAT and lack of enabling law that penalize the act of torture with heavy sentence recognized internationally. There was need to fill the lacuna in the law and relentlessly persevere the implementation of the Convention against Torture.

### **c) Factors which affect achieving the rights to freedom from torture**

Torture was not defined in the law of Uganda and therefore there was no way Uganda legal framework could deter torture as an offence. The period of study was a war situation, and there was no peace but anarchy. Most literature related to the study revealed that law enforcement was an essential component of the administration of justice and its effectiveness showed the level of democracy and respect of human rights. Law

enforcement was a legal practice envisaged by the law and therefore had to work in harmony with the law, though the incidence of torture like any other crimes was high, security institutions did not tirelessly work towards maintenance of the law and order with utmost vigilance based on professionalism.

However, the study revealed that some laws denied bail for certain offences like terrorism and treason, and the victims at some stage were incommunicado detentions, where they sustained both physical and psychological torture, yet the law on the other hand stressed the observance of the 48 hours rule and the rights to habeas corpus. Torture was used in detention places to extract evidence as 'the queen of proof,' the ideal, cheap and fast results or trial by ordeal which yielded fast but unreliable results. Law enforcement officers did not complete investigations before arrest, a factor which always ended in torture of suspects.

#### **d) Strategies to eliminate torture**

Taking into account; the findings, discussions, analysis and recommendations presented above, it was certain that torture, cruel, inhuman or degrading treatment or punishment has come to stay. In fact it has been there since time immemorial. It has been a persisting phenomenon that would continue plaguing Uganda as long as state will not take full responsibility to upholding the implementation of the convention against torture by incorporating in its entire state programme what the Constitution spelled out on fundamentals human rights and freedoms.

It was important that Uganda deviate from political corruption which indulges the state to employing state security to harass its citizens for political gains and address the Ants of

corruption eating up the discipline of law enforcement institutions turning them into sycophants who could easily be influenced and manipulated by authorities for money.

It was important that torture be eradicated by the concerted efforts of the unified citizens of Uganda. Decisive blow to eradicate torture must begin at grassroots and spread to government Institutions. Uganda Human Rights Commission to be the bench mark to spearhead the struggle.

The following law specifically addresses the prohibition of torture; Evidence Act, Cap.6, the Police Act, Cap. 303, the UPDF Act 307 and Anti terrorism Act (2000), sections 219, 223, 236 of the Penal code (2000) and Administrative Instructions No.7/1995, No.1/1999 and 5/1998 specifically outlawed torture of prisoners. Uganda to a greater extent created legal framework to deal with the offence of torture, violation and abuse of other rights and freedoms but the implementation of these legal frameworks like other international treaties was a nightmare, the public outcry testifies for itself. There was high need to advocate for the observance of rule of law.

The state was responsible for protecting its people not only against torture but other similar ill-treatment by its agents and also against similar practices by private individuals (non-state actors). The state might be accountable in a number of different ways; was responsible for abuses by private individuals or entities to whom it delegated responsibilities; shared responsibility for act of violence by private individuals when it supported or tolerated them; might also be held responsible if it failed in the other ways to provide effective protection against torture or ill-treatment.

## **6.1.2 Recommendations**

### **a) Introduction**

Accruing from the research findings discussions and analysis, the following recommendations were made to protect people from violation of the rights to freedom from torture and to enhance enjoyment of all other fundamental rights and freedoms enshrined in the Constitution of Uganda.

#### **To Gulu Local Government**

- There should be more massive sensitization of the masses at grassroots on human rights to create concrete awareness in promotion and protection of human rights in the district.
- The district should be in a position of enacting by-law and ordinances in the event where public peace was under threat.
- The Local Administration Police and Prison should be under strict supervision of all the authorities; be it Police and Prison officials, the Civil Society organizations and the Politicians to curb the act of torture in detention places.
- All detention places and prisons should be accessible to all; be it relatives of detainees, press Civil society organizations, lawyers and Uganda human rights Commission.

## **To the government of Uganda**

- The biggest problem in the fights against torture was that domestically Uganda did not have explicit description of torture as in the Convention against torture, therefore to succeed in obliterating torture the state should have description of torture in its domestic law and a corresponding penalty in the event where torture was committed.
- There should be promotion and protection of human rights subject in the curriculum for training of security forces in Uganda. Nevertheless there should be rigorous supervision of the activities of the security forces by superior officers and human rights institutions to ensure quality performance in the forces. And those who will fall victim for meting torture on suspects should face the law without mercy.
- In Uganda no one is above the law. Police and other law enforcement officials should safeguard the fundamental human rights and especially the rights to freedom from torture
- The Uganda Human Rights Commission should be empowered to fulfill its mandates as enshrined in the constitution, among which education and research are crucial to this study to disseminate basic human rights knowledge to all citizens.
- Police and other law enforcement officials should rely on pedagogic methods of investigation and professional handling of their suspects during arrest and those in

their custody. In that line the use of buttons and tying with ropes should be stopped in security Institutions.

- Protection against torture and ill-treatment should extend to educational institutions. Corporal punishment is against the law in Uganda as in the authority of *Kyamangwa versus Uganda* (1999). Corporal punishment thrives in schools in Uganda, therefore state should be held responsible for keeping quiet about it.

### **To Uganda human rights commission**

- Holding state responsible for abuses by non-state actors is of crucial importance in the struggle to defend the human rights of women, children, racial and sexual minorities against torture. State should stand responsible for the obligations it committed itself to during the ratification of the Convention against torture. State has a responsibility to; prevent, prosecute and ensure redress for those abuses and violation.
- Since torture is not only committed in police or prison cells or Army barracks or rebel encampments but is committed in all those places including juvenile detention centers, refugee camps, on the streets and in people homes. Eradication of torture should have to reflect on developing understanding of the variety of contexts in which torture is inflicted.
- Criminal justice should be strengthened beyond vulnerability to succumb to pressure of politics, economic or prejudice so that it act impartially and objectively to solve national issues.

### **To researchers**

- Further research should be done to appraisals on human rights-based remedies or claims that could be presented by victims of torture against the state.
  
- Torture is a crime and crime affects everyone in the society, therefore cooperation of the police and the community is very essential to eradication of torture. Partnership approach to eradicate torture should be key element in the work of researchers.

## References

Duner Bentil (Ed), (1998), An End to torture, Zed book limited, London.

Order Author H.O, (1999), Pearl of Blood, the Uganda commission of Inquiry into violation of

human rights, Uganda printing and Publishing

Corporation, Entebbe.

Spencer Maureen and Spencer John (2001), Nutshell Human Rights, Sweet and Maxwell

Rukooko A.B (2001), A completion of major Human Rights instrument, Makerere University,

Kampala

Crawshaw Ralp et al (1998), Human Rights and policing, Kulner Law international

Harris D.J (1998), Cases materials on international law, sweet and Maxwell

Mauser Mantin (Ed) (1990), Dictionary of synonyms, W R chamber Ltd.

Uganda (2000), Law of the Republic of Uganda, Uganda Printing and Publishing Corporation, Entebbe.

United Nations Human Rights Website, committee against torture CAT/c/CR/34/UGA, help [www.chr/tbs/doc](http://www.chr/tbs/doc) (1/24/2006)

Holms trom, (Ed) (2000), Conclusions and recommendations of the UN Committee against torture, Kulner Law International.

The Republic of Uganda (1999), the Penal code Act Cap. 106, basic legal materials project, Uganda printing and Publishing Corporation, Entebbe.

The New Vision, Tuesday, April 18, 2006, Uganda frees Al Queda suspect, the New Vision Uganda.

Uganda Human Rights Commission (2003), The 6<sup>th</sup> Annual Reports, Uganda Printing and Publishing Corporation, Entebbe.

Uganda Human Rights Commission (2004), The 7<sup>th</sup> Annual Report, Uganda Printing and Publishing Corporation, Entebbe.

Uganda (1995), The Constitution of the Republic of Uganda, Uganda Printing and Publishing Corporation, Entebbe.

The UN body of principles for the protection of all persons under any form of detention or imprisonment, principle 29. \

UN bodies of principles for the protection all persons under any form of detention or imprisonment adopted by General Assembly resolution 43/173 of 9<sup>th</sup> December 1988.

Philip Bustelo, Maratan and Heen James, (1998), European Union and Human Rights, Oxford, London.

Newsletter of the African centre for Treatment and rehabilitation of torture victims, volume 4, issue 4, June, 1998

First UN congress on the prevention of crime and the treatment of offenders, held at Geneva in 1955, and approved by the economic and social council by resolution 663 C(XXXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

The General Recommendations of the special rapporteur of torture E/CN.4/2003/68,Para.  
26

The Report of the committee against torture, (CAT/C/5 Add 32), 30 June 2004.

The New Vision, June 26/2006: Anti torture Activists statement, the New Vision Uganda.

The daily Monitor, Thursday 10 August 9 2006, Mwaguhya Charles 'A' torture funds, the Monitor Uganda

Malcave Sabaiti (Journal, 2000), Decentralization for good governance and development; Uganda

experience

World Reference on Human Rights, Vienna, 14-15 June 1993, UN Doc 4/Conf.  
157124 (Part1) at 20 (1993) resolution 61

Sunday Vision, July 2, 2006, Witch child abuse spread to Britain, the New Vision  
Uganda

Uganda Human Rights Commission, Torture a persistent violation Vol. VI No. 2 June  
2003, Uganda Printing and Publishing Corporation, Entebbe

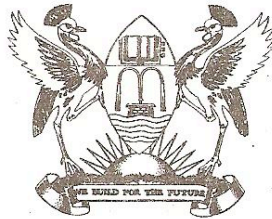
Article 1 of the Convention against torture, UNGA resolution 39/46 of 10 December  
1984 entry into force 26 June 1987.

Bind Roger, (1983), Concise Law Dictionary, Sweet and Maxwell London.

## Appendices

### Appendix 1 Letters of Introduction and permission

**MAKERERE**  
P. O. Box 7062 Kampala Uganda



**UNIVERSITY**  
• Cables: 'MAKUNIKA'

**DEPARTMENT OF PHILOSOPHY**

Your Ref.

Our Ref.

20<sup>th</sup> September, 2005

#### TO WHOM IT MAY CONCERN

**Mr. Okema Lazech Santo** is a student of Master of Arts in **(Human Rights)** in the Department of Philosophy Faculty of Arts, Makerere University.

He wishes to carry out research which will eventually enable him to write a dissertation on:  
**"Assessing the Implementation of the convention Against Torture in Decentralized Administration in Uganda: A Case Study of Gulu District, Northern Uganda"**.

Any assistance rendered to him to get the information he requires will be highly appreciated.

Yours sincerely,

for **Dr. E. Wamala**  
**Head**  
**Department of Philosophy**

Department of Philosophy  
MAKERERE UNIVERSITY  
P.O. Box 7062  
Kampala, Uganda

THE DEPARTMENT OF PHILOSOPHY,  
FACULTY OF ARTS,  
MAKERERE UNIVERSITY,  
P.O. BOX 7062, KAMPALA.

26<sup>th</sup> September 2005

THE CHAIRMAN,  
LOCAL COUNCIL V,  
GULU DISTRICT,  
P.O. BOX 31, GULU.

*Please assist the student during his research*

*[Signature]*  
VICE DISTRICT CHAIRMAN  
GULU DISTRICT COUNCIL  
26/09/05

Dear Sir,

**RE: REQUEST TO ALLOW ME CARRY OUT A RESEARCH IN YOUR DISTRICT.**

I am a student pursuing the degree of Master of Arts in Human Rights. I am a resident of your district in Forest ward, Laroo Division, Gulu Municipality. My target groups are: the local councillors one and three, sub-county chiefs, Law enforcement Officials and L.C.V executives.

The research is purely for academic purpose and all the professional and ethical considerations will be strictly followed to yield the intended results in the below topic. "ASSESSING THE IMPLEMENTATION OF THE CONVENTION AGAINST TORTURE IN DECENTRALISED ADMINISTRATION IN UGANDA: A CASE STUDY OF GULU DISTRICT, NORTHERN UGANDA".

I should be very grateful for your consideration.

Yours faithfully,

*[Signature]*

**OKEMA LAZECH SANTO.**

*Please, render the needed assistance during his quest for information in the Municipality*

*[Signature]*  
21/10/2005  
TOWN CLERK  
GULU MUNICIPAL COUNCIL

1/c

Surgical ward,

Allow him interview the  
patient from the prison  
Sept.

Amis

Am

Hospital Administration  
Gulu Regional Referral Hospital  
P.O. Box 160, Gulu

Am Am

SACAO's 1/c - Omoro  
- Nwona  
- Kibaki  
- Amwa

please  
attend  
to the  
bearer of  
this note

CHIEF ADMINISTRATIVE OFFICER  
GULU

404  
12/14/2005  
CAO

**Appendix 2 Data collection acknowledgement forms certified by Local leaders**

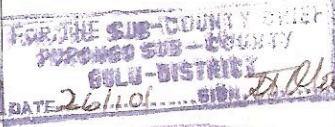

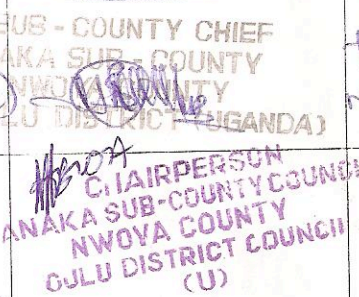


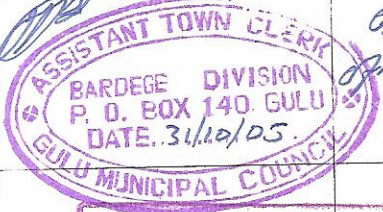
**RESEARCH DATA COLLECTION INVENTORY**

**“ASSESSING THE IMPLEMENTATION OF THE CONVENTION AGAINST TORTURE IN DECENTRALISED ADMINISTRATION IN UGANDA: A CASE STUDY OF GULU DISTRICT, NORTHERN UGANDA”.**

DATE	SUB-COUNTY	TARGET GROUP	TYPE OF EXERCISE	ACKNOWLEDGEMENT BY RESPONDENTS	REMARKS
28/9/05	ATTAK	LC III	ANSWERING QUESTIONNAIRES	VICE CHAIRMAN LOCAL COUNCIL ATTAK SUB-COUNTY	
29/9/05	Dabro	LC III	ANSWERING QUESTIONNAIRES	VICE CHAIRMAN LC III DABRO SUB-COUNTY DATE: 29/09/05	
29/9/05	Lamogi	LC III	ANSWERING QUESTIONNAIRES	Obiyasan V/C/Man	
30/9/05	Paicho	LC III	-do-	CHAIRPERSON LC III PAICHO SUB-COUNTY DATE: 1.11.2005 SIGN: [Signature]	

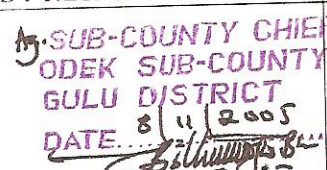
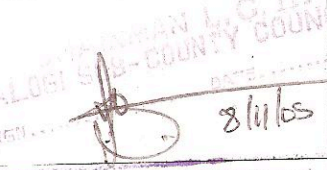

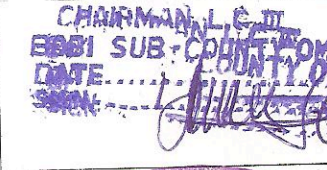

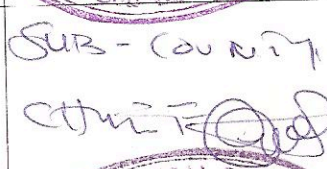
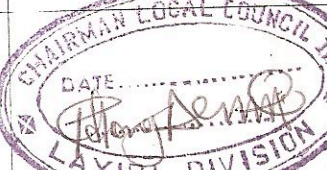

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DATE	SUB-COUNTY	TARGET GROUP	TYPE OF EXERCISE	ACKNOWLEDGEMENT BY RESPONDENTS	REMARKS
26/10/05	PURONGO	LOWER LOCAL GOVERNMENT	DATA COLLECTION FILLING QUESTIONNAIRE		Good
26/10/2005	LC III Purongo	Lower Local Government	Data Collection		Very Good
27	ANAKA	LOWER LOCAL GOVERNMENT	Data Collection on human rights (torture)	SUB-COUNTY CHIEF ANAKA SUB-COUNTY NWOYA COUNTY GULU DISTRICT (UGANDA) 	Satisfactory relevant
27/10/05	ANAKA	LOWER LOCAL GOVT	DATA COLLECTION ON HUMAN RIGHT TORTURE	CHAIRPERSON ANAKA SUB-COUNTY COUNCIL NWOYA COUNTY GULU DISTRICT COUNCIL (U)	Good
-do-	ALERO	-do-	-do-	SUB-COUNTY CHIEF ALERO SUB. COUNTY NWOYA COUNTY GULU DISTRICT BOX 31 27/10/05 	Good Exercise
-do-	Alero	Lower local Govt	-do-		Good Exercise
31/10/05	BARDEGE DIVISION COUNCIL	LOWER LOCAL GOVERNMENT	RESPONSE TO QUESTIONNAIRE	ASSISTANT TOWN CLERK BARDEGE DIVISION P. O. BOX 140 GULU DATE 31/10/05 	Good Response
4/11/05	ODEK SUB-COUNTY COUNCIL	LOWER LOCAL GOV.	DATA COLLECTION ON HUMAN RIGHTS	CHAIRMAN L. C. III ODEK SUB-COUNTY COUNCIL DATE 4/11/2005 SIGN [Signature]	Good

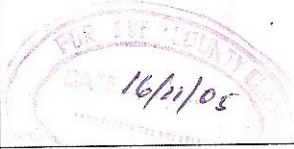

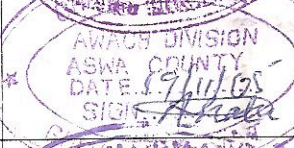

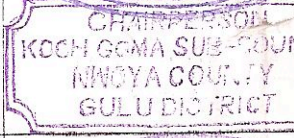
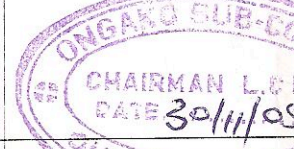
## RESEARCH DATA COLLECTION INVENTORY

“ASSESSING THE IMPLEMENTATION OF THE CONVENTION AGAINST TORTURE IN DECENTRALISED ADMINISTRATION IN UGANDA: A CASE STUDY OF GULU DISTRICT, NORTHERN UGANDA”.

DATE	SUB-COUNTY	TARGET GROUP	TYPE OF EXERCISE	ACKNOWLEDGEMENT BY RESPONDENTS	REMARKS
8/11/2005	Odek sub county council	LOWER LOCAL GOVERNMENT	DATA COLLECTION ON HUMAN RIGHTS	 SUB-COUNTY CHIEF ODEK SUB-COUNTY GULU DISTRICT DATE: 8/11/2005	Satisfactory exercise
8/11/05	LALOGI SIC council	LOWER LOCAL GOVERNMENT	DATA COLLECTION ON HUMAN RIGHTS	 SUB-COUNTY CHIEF LALOGI SUB-COUNTY COUNCIL	
9/11/05	LAKWANA S/COUNTY	-DO-	-DO-	 THE CHAIRPERSON LAKWANA SUB-COUNTY COUNCIL	
10/11/05	ROBI	-DO-	-DO-	 CHAIRMAN L.C. III EBBI SUB-COUNTY COUNCIL	
11/11/05	Koro	Local Council	-DO-	 CHAIRMAN L.C. III KORO SUB-COUNTY COUNCIL	
11/11/05	Koro	Lower local Government	DATA COLLECTION ON RIGHTS	 SUB-COUNTY COUNCIL	
14/11/05	LAYIBI Division	-DO-	-DO-	 CHAIRMAN LOCAL COUNCIL III LAYIBI DIVISION	Satisfactory
15/11/2005	BAR-DEGE Division	-DO-	-DO-	 CHAIRMAN L.C. III BARAGE DIVISION	Satisfactory

## RESEARCH DATA COLLECTION INVENTORY

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DATE	SUB-COUNTY	TARGET GROUP	TYPE OF EXERCISE	ACKNOWLEDGEMENT BY RESPONDENTS	REMARKS
16/11/05	PALARO	LLG	DATA COLLECTION		<i>Abigil</i>
16/11/05	PALARO	LLG	- do -		<i>Abigil</i>
19/11/05	AMUACH	LLG	DATA COLLECTION		<i>Abigil</i>
25/11/2005	BUNGATIRA	LLG	Do		<i>M. N. L.</i>
29/11/05	Koch Goma	LLG	Research		<i>Abigil</i>
30/11/05	ONGAKO	LLG	Received		<i>Abigil</i>



## Appendix 3 Questionnaires and Interview guides

### Interview guide for Inmates in detention

Sex..... Age

...

Alleged Crime.....Duration in Detention.....

.....

1. Do you know you have a right to be treated humanely?

.....

.....

.....

2. How did you reach the detention place were you arrested or you came by yourself?

(1) Arrested  (11) Came voluntarily

(a) If arrested, how did the authorities treat you?

(1) Harassed  (11) Peacefully

(b) If you reported, how did the authorities receive you in the cell?

(1) In harmony  (ii) with hostility

(c) Where you harassed by your fellow inmates in the cell?

(1) Yes  (11) No

3. Where you punished by the authorities? If yes, what kind of punishment?

(a) Verbal insult  (b) Canning  (c) Boxing blows

(d) Kicking  (e) Burning  (f) other specify

4. (a) How many times do you have meals per day?

5.

(a) Once  (b) Twice  (c) Three times  (d) Unpredictable

(b) Is the meal adequate?

(a) Yes (b) Inadequate

6. State briefly the state of your dormitory

(a) Size and space.....

(b) Beds and bedding.....

(c) Ventilation.....

(d) Urinary.....

7. Do you have medical care? Yes  No

8. What are the common sicknesses here? .....

- (a) Cough  (b) Diarrhea  (c) Malaria  (d) Common Cold

9. For how long have been in detention before appearing in Court?

- (1) Less than one day  (11) One day
- (iii) More than one week but less than one Month  (ii) One month
- (iv) More than one month but less than six months
- (v) one year and above

10. During investigation how wee you handled?

- (a) Friendly  (Coerced and harassed

11. The Common mode of punishment

.....  
.....  
.....

12. What is the offence alleged you have committed?

.....  
.....  
.....

**Interview guide for LC.1**

Title..... Age..... Sex .....

1. You are a leader in this area; do you know about Human Right?

.....  
.....

2. What do you think about torture

.....  
.....

3. Do you have workshop/ training in human right?

.....  
.....

4. Are your court guidelines made by the higher LCV or by the Local Council one executives

.....  
.....  
.....

5. How are your suspects treated in your court?

.....  
.....

6. Is it in order to beat a thief when arrested

.....  
.....

7. Briefly tell if torture is good in your area

.....  
.....  
.....

**Interview guide for law enforcement offices**

Title..... Age..... Sex.....  
..... Unit.....

1. How many years have you been in the services of the district as enforcement officer?

.....  
.....

2. Have you been arresting suspects? Yes  No  If yes

.....  
.....  
.....

3. What are the common methods of investigation do you employ to suspects?

.....  
.....

4 Do you sometimes attend to inmates in the cells?

Yes

No

5. Do you cane some of the stubborn inmates?

Yes

No

6. What about those who attempt to escape when you re-arrest them, what kind of punishment do you give them to deter future attempts?

.....  
.....

7. Did you learn Human Rights in your training? Yes  No

8. In your opinion should inmates be punished by Police or warders in the cells?

.....  
.....  
.....

9. Do you have medical examinations of your detainees on admission to your cells?

Yes

No

10. How do you attend their health needs?

.....

.....  
.....

11. Do you feed your detainees?    Yes       No  

If yes what are the meals

Breakfast only         Lunch only       Supper only  

Breakfast and Lunch         Breakfast, Lunch and Supper  

12. Do you have separate cells for female and juvenile detainees    Yes    No

13. In case an enforcement officer torture a detainee, what are the procedures in seeking redress

.....  
.....  
.....

14. What do you suggest for the welfare of detainees

.....

**Questionnaires for district counselors and chief administrative officers, Gulu**

Name ..... (Optional)

Sex ..... Age ..... Marital Status.....

Level of education.....title.....area.....

1) As a leader, do you know about the united nations convention against torture

(UNCAT)?.....

.....

2) What do you know about the rights to freedom from torture?

.....

.....

.....

3) Power of administration devolved to decentralized district in Uganda at the inception of decentralization policy in 1997. Since then, has your district enhanced a by-law in line with implementation of the convention against torture?

.....

.....

.....

4) What has your district done in response to Article 24 of constitution of the Republic of Uganda which is in line with resolution 39146 (Annex 39 un GAOR SUPP. (NOST) at 197, UN Doc A 36151 (1984) to declare torture un lawful act?

.....

.....

.....

5) Do you pay official visits to police and prison cells?

Yes

No

6) If yes, what are the major problems of the

Inmates...

.....  
.....  
.....

As a torture manifest itself in Public and Private Spheres, there is need for redress and reparation to torture victims, what are the mechanism in place to enforce redress and reparation.

7) There are local police and Local Prison directly under your jurisdictions, comment on their training whether it adequate or not.....

.....

8) Are your police cells and prison cells accessible to lawyers, doctors and relatives of suspects in remand and in mates jailed?  Yes  No.

If yes are they allowed free interactions with the inmate (s)  Yes

No

9) Comment on the condition of district local police and prison cells?

.....  
.....  
.....

a) (Police).....

.....  
.....  
.....

b) (Prison).....

.....  
.....  
.....

10) Is there lawful sanction of torture in your district?    Yes        No   

11) If yes, how is it done?

.....  
.....  
.....

12) In respect of standard minimum rules (Beijing). Juvenile should have special treatment when they are in custody. Do you have separate detention places for Juvenile suspects? Comment on its conditions...

.....  
.....  
.....

