

# THE POLICE, THE PEOPLE, THE POLITICS: POLICE ACCOUNTABILITY IN UGANDA



COMMONWEALTH HUMAN RIGHTS INITIATIVE

2006

# Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organisation, mandated to ensure the *practical* realisation of human rights in the countries of the Commonwealth. In 1987, several Commonwealth professional associations founded CHRI. They believed that while the Commonwealth provided member countries a shared set of values and legal principles from which to work and provided a forum within which to promote human rights, there was little focus on the issues of human rights within the Commonwealth.

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## THE PROJECT

In 2001, the Ford Foundation invited the Commonwealth Human Rights Initiative to build on its experiences of working on policing in India to do similar work in East Africa; the debate on improving policing was not then as open as it is now and it was hoped that a research study would provide a catalyst for discussion.

CHRI was charged with undertaking a comparative study of the police in East Africa, specifically targeting two main issues. The first is the extent of illegitimate political control of the police in Kenya, Uganda and Tanzania and the impact of such control on the quality of police leadership and performance. Linked to this is an analysis of the mechanisms by which the police are kept accountable for their actions – both internally (through mechanisms such as internal disciplinary procedures) and externally, through the role of the parliament, executive, judiciary and community. The second part of the project is to undertake an analytical study of policing budgets in the region, which explores the impact of levels of funding on police performance and particularly impact on crime management and safety of citizens.

This report on policing in Uganda is part of the larger comparative study and examines the Uganda Police, looking particularly at illegitimate political control, the impact of that control on policing, and the reform answers that will provide a more democratic and more accountable police service to the Ugandan people. The report does not look at the police response to the insurgency in the north of Uganda – the army is the major actor on that stage, and this report is a study of civil policing. A separate report on policing budgets in Uganda has also been produced.

## ABBREVIATIONS

CAT	- Convention Against Torture
CID	- Criminal Investigations Department
CMI	- Chieftaincy of Military Intelligence
DP	- Democratic Party
ESO	- External Security Organ
FHRI	- Foundation for Human Rights Initiative
GCM	- General Court Martial
GSU	- General Service Unit
I/C	- In Charge
ISO	- Internal Security Organisation
JATTF	- Joint Anti-Terrorism Task Force
KAP	- Kalangala Action Plan
KY	- Kabaka Yekka
LAP	- Local Administrative Police
LDU	- Local Defence Unit
NASA	- National Security Agency
NCO	- Non-Commissioned Officer
NRA	- National Resistance Army
NSA	- National Security Agency
PSC	- Police Service Commission
PSU	- Public Safety Unit
RDC	- Resident District Commissioner
SRB	- State Research Bureau
UHRC	- Uganda Human Rights Commission
UPC	- Uganda People's Congress
UPDF	- Uganda People's Defence Forces
UPF	- Uganda Police Force
ULS	- Uganda Law Society
VCCU	- Violent Crime Crack Unit

### Ranks in the Uganda Police Force:

IGP	- Inspector General of Police
DIG	- Deputy Inspector General of Police
SACP	- Senior Assistant Commissioner of Police
ACP	- Assistant Commissioner of Police
ASP	- Assistant Superintendent of Police
SSP	- Senior Superintendent of Police
SP	- Superintendent of Police
SASP	- Senior Assistant Superintendent of Police
ASP	- Assistant Superintendent of Police
C/ASP	- Cadet Assistant Superintendent of Police
D	- Detective

### Inspectorate

IP	- Inspector of Police
AIP	- Assistant Inspector of Police

### Non Commissioned Officers

HCM	- Head Constable Major
HC	- Head Constable
S/Sgt	- Station Sergeant
CPL	- Corporal
PC	- Police Constable
PPC	- Probation Police Constable
SC	- Special Constable



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## INTRODUCTION

“In a democratic society, the police serve to protect, rather than impede, freedoms. The very purpose of the police is to provide a safe, orderly environment in which these freedoms can be exercised.”

- *United Nations International Police Task Force*

Democratic, accountable policing is one of the hallmarks of democracy. In a healthy democracy, a police service exists to protect and support the rights of its community, not to repress or curtail freedom and ensure power for the governing regime. Holding the police to account for their plans, actions and decisions provides the necessary balance to the exercise of professional discretion by police officers. Accountability also provides a means by which the relationship between the police and the state can be kept under scrutiny; a way of providing insulation against internal and external interference with the proper function of the police.

Uganda does not have a democratic, accountable police service. Instead, it has a heavily militarised, colonial-style regime police force that is firmly under the control of the ruling government. The interests of the Government are placed far ahead of the protection of Uganda’s people. The police are responsible for widespread human rights violations, and they have not been held to account. The time is ripe for reform, to separate the police from the military, to establish mechanisms of accountability and to remove the shadow of illegitimate political interference from the work of police officers.

Reform must begin with a strong legislative framework based around the principles of accountability, setting out appropriate standards of behaviour and mechanisms for redress. Beyond the blunt instrument of legislation, police must be supported and held responsible by a web of accountability mechanisms. Police must be accountable to their communities and their government. Accountability mechanisms can be ad hoc (like commissions of inquiry), provide more sustained oversight (like committees of parliament) or be permanent structures (such as police service commissions and performance evaluation boards). Their value lies both in the ability to immediately check acute misfeasance and provide redress, as well as to examine year on year trends and bring in steady, though gradual, improvements to chronic ailments in policing.

Mechanisms of accountability work best if each are strong and independent enough to monitor each other, yet designed to work in tandem. The weakness of even one mechanism creates knock on effects that compromise the whole structure. For example, civil society groups on their own frequently gather evidence and information to prove criminal or unethical behaviour, but without responsive independent prosecutors and internal disciplinary structures, the information and concerns will be seen as remaining outside the state institutions. The entire system – executive, legislature and judiciary, plus the sub-set of the criminal justice system itself – must work effectively as an organic whole.

This report looks at the concepts of democratic and accountable policing in the Ugandan context. It looks at the development of the Uganda Police Force, examines the issues that are facing the police, and considers the legislative and political frameworks within which the police operate. Finally, it looks at the kinds of reforms that need to take place in Uganda, and provides a road map of accountability mechanisms and suggested laws that will deliver Uganda’s people the democratic and accountable police service they need and deserve.



# CHAPTER 1

## HISTORY OF THE POLICE IN UGANDA

Uganda's experience as a British colony began in 1888, when it was placed under the control of the British East Africa Company, and was confirmed in 1894, when it was named as a British Protectorate. From this time, until independence in 1962, the British imposed order in Uganda using a colonial-style regime police force. Independent Uganda inherited this police force, which still survives today.

### 1. A colonial past

The Uganda Police Force began with the formation of an armed constabulary of 1,400 men in 1899. This para-military force was intended to protect and promote the political and economic interests of the British by suppressing resistance and opposition to colonial policies as well as to quell tribal, ethnic and other clashes. In 1906, the Protectorate Police replaced the constabulary, and an Inspector General was appointed to command the police.<sup>1</sup> By 1912, the police had 15 police stations, and included a Criminal Investigations Division.<sup>2</sup> Although nominally a civilian force, the police frequently carried out military duties.<sup>3</sup>

World War I changed the policing landscape. Border tension with German colonies made the need for increased police strength apparent. In 1914, a police battalion made up of 26 British officers and 750 local men was put together and sent to protect the Uganda-Tanganyika border. Tanganyika – modern day Tanzania – was a German colony at the time. The police acted as a para-military force, patrolling borders, suppressing cattle raids and putting down boundary skirmishes. The formation of this battalion – senior positions filled with British officers and junior ranks made up of locals – is typical of the way the colonial government structured the police. As well as reinforcing colonial mastery, this structure has led to an entrenched mistrust between senior and junior ranks that persists today.

The police shifted to a more internal focus following the end of World War I, but took up military duties again after the outbreak of World War II. For example, in 1939 the police arrested German citizens in Uganda, provided security at key military installations and operated camps for detained foreigners. Members of the police also served in British army units in East Africa and other international operations.<sup>4</sup>

The end of World War II saw an expansion of the Ugandan police. In July 1954, the Legislative Council expanded the police force, establishing new posts and police stations throughout the country. Special Force Units were also introduced. These units, each made up of 50 police officers, were given crowd control duties and conducted border patrols.<sup>5</sup>

Throughout this period, the police were a tool of the British Government. Colonial – or regime – policing means that the police are essentially defenders of the government rather than of the people. Under such a system, the police are organised to answer to the regime in power. They are accountable to the political executive and their own hierarchy, but not the people. The system is highly militaristic and authoritarian in design, and its charter of functions is narrow and limited, with major emphasis on the maintenance of law and order. Even recruitment and training were “geared towards ensuring an aggressive and oppressive police force”.<sup>6</sup>





## 2. Political instability following independence

“All our past leaders have been removed from office by force. So, we have a history of the use of force and none [of change] by the use of democratic means”.<sup>7</sup>

- *Kizza Besigye, Opposition Leader*

Uganda achieved independence in 1962. Although transition to independence was relatively peaceful, the country was plunged into an era of divisive politics within four years, with coups and counter coups marking prolonged periods of instability or dictatorship. Governments that had come to power by overthrowing earlier regimes with the support of a small core group and the backing of the army needed to keep the army happy in order to remain in power. The police showcased the presence of a civilian authority, while it was actually being used to curb dissent among the Ugandan people. More than ever, loyalty to the regime was vital and was achieved through privileging police members whose self interest coincided with the interests of the regime in power.

Uganda's first democratic elections took place in 1962. The elections were contested by three main political parties. The first, Uganda People's Congress (UPC), was a coalition of smaller parties led by Apollo Milton Obote. The second was the Democratic Party, and the third was a small group called Kabaka Yekka, which was formed to advance the interests of the descendants of the leaders of the Bugandan Kingdom, who had enjoyed sovereignty over parts of Uganda before British colonial rule. Obote formed a coalition with the Bugandans and defeated the Democratic Party. Obote became Prime Minister and appointed the King of Buganda, Mutesa, to the largely ceremonial position of President. The relationship between Obote and Mutesa quickly soured and the police were used to suppress any opposition to Obote's rule by the Bugandan people. As cracks appeared in the coalition between the UPC and the Bugandans, divisions were also developing within the ranks of the UPC. These divisions threatened Obote's power, and he responded by having five of his cabinet ministers arrested and held without trial, suspending the Constitution and assuming all executive powers. On 3 March 1966, Obote dismissed the President and appointed himself to the post. Shortly after, a new “Revolutionary” Constitution was adopted by Parliament. Obote was surrounded by troops during the parliamentary sitting and other members were not given the opportunity to read or debate the new Constitution. Another new constitution, this time the “Republican” Constitution, was imposed by Obote in September 1967, creating a Ugandan republic, with an executive president, who was the head of state and government. Obote took on this role.

The deterioration in law and order alongside the country's shift towards militarisation resulted in the marginalisation of the police force. During this time, appointments and promotions within the police depended on the candidate's political stand. Those loyal to the Government were appointed and elevated with little regard for merit. Junior officers who were favoured by the regime would report directly to the presidency, bypassing the established channels of command in the force. The overall morale in the police force was low. As discipline began to erode, corruption was the inevitable result.

As the police were marginalised, the army became a politically strong institution. In 1964, the army mutinied. The Government increased salaries, defence allocations were raised substantially and Obote moved the army headquarters from Jinja to Kampala. Fearing internal opposition,

Obote established a secret police force, the General Service Unit (GSU), to operate as an intelligence agency aimed at suppressing opposition to his Government.<sup>8</sup> A relative of Obote, Akena Adoko, headed the GSU. The GSU acted as a special force unit of paramilitary police, padding the numbers of both the military and the police, but working to specifically target potential political dissent. GSU personnel were heavily recruited from Obote's own region and ethnic group. The police Special Force Unit – a relic used in colonial times to suppress dissent – was strengthened and used to reinforce the GSU. The GSU began interfering with the work of other police departments, such as the Criminal Investigation Division. To further consolidate his power, Obote also set up a Military Police Force in July 1967, under the command of his army chief, Idi Amin.

In 1971, while Obote was overseas attending the Commonwealth Heads of Government Meeting, Amin staged a military coup and installed himself as President of Uganda. He tried to consolidate his power by putting his own men in different positions in the army. Standards were neglected and nepotism and favoritism became the order of the day. An army that was not known for its discipline soon degenerated into “quasi-independent occupation garrisons, headed by violence-prone warlords who lived off the land by brutalizing the local population”.<sup>9</sup>

During the 1970s, the police continued to be overshadowed by the military, bar a few special agencies used by Amin to root out political dissent. These special agencies included the Military Police, the Public Safety Unit (PSU) and the State Research Bureau (SRB). The PSU replaced the Special Force Unit, while the SRB replaced the GSU as a military intelligence unit under Amin's control. All three agencies had reputations as violent, brutal machines of the state.

State terrorism was evidenced in a series of spectacular incidents. For example, the High Court Judge, Benedicto Kiwanuka, former head of government and leader of the banned Democratic Party was seized directly from his courtroom. Like many other victims, he was forced to remove his shoes and then bundled into the trunk of a car, never to be seen alive again. The SRB and the PSU were ordered by President Amin to redouble their efforts to uncover subversives and other imagined enemies of the state. General fear and insecurity became a way of life for the populace, as thousands of people disappeared. In an ominous twist, people sometimes learned by listening to the radio that they were about to disappear.<sup>10</sup>

It has been estimated that Amin's regime was responsible for the deaths of some 300,000 citizens.<sup>11</sup> Fear drove people into exile, while Amin ordered the expulsion of the entire Asian community from the country. The economy collapsed. Amin's reign fell when the Tanzanian army, assisted by a people's army known as the Ugandan National Liberation Army, invaded Uganda. Kampala fell on 10 April 1979 and Amin went into exile. Obote returned to power.

The second Obote Government started where the first Obote Government had left off. Immediately after Obote returned to power, the National Security Agency (NSA) was established. Backed by the Special Force United, the NSA took over the work of criminal investigations. They actively investigated anyone suspected of political dissidence.

Obote's new Government made attempts to reform the police force. Reforms included a sweep of senior officers, in an effort to remove dead wood, and the recruitment of university graduates at the level of Assistant Superintendent. However, the lack of training and effective



command skills possessed by the graduates meant the reforms had little impact. It was clear that police reform was not a Government priority, as illegal detention and extra-judicial killings at the hands of the police, the military and the various auxiliary bodies continued. The death toll between 1981 and 1985 has been estimated to be as high as 500,000 individuals.<sup>12</sup>

In July 1985, an army brigade stormed Kampala and installed a military government, with Tito Okello as head. Obote fled the country. Six months later, Tito was overthrown by the National Resistance Army, led by Yoweri Museveni. The National Resistance Army had been established by Museveni in February 1981, vowing to overthrow the Obote Government. While other attempts at opposition failed, Museveni's guerrilla war experience allowed him to continue to evade government forces until he was able to seize power. Museveni's new government rejected a return to multi-party politics, and instead introduced a "no party" system, known as the Movement.

Museveni came to power inheriting a corrupt, undermanned, ill equipped, poorly housed and underpaid police force. The size of the force at this time is not known; a recent inquiry into the police put the figure at 3,000 personnel.<sup>13</sup> Massive recruitment was undertaken by the new Government, but without adequate training, funding and infrastructure, the police were not able to develop into an effective law enforcement body.<sup>14</sup> In addition, Museveni continued to favour the army over the police, and the police continued to be undermined.

The UPC and Democratic Party were both banned in 1986, although they continued to operate on the fringes of political society, despite police action to curb dissent. The Movement system survived until a national referendum in 2005 ushered in multi-party politics ahead of the 2006 elections.

Uganda's post-independence political climate supported a militaristic culture, with its various governments relying more on the army than the police to deal with crime control. This was not a climate in which the seeds of a professionally efficient and democratic police service could take root and grow. Neither the Government, invariably headed by an army man relying on the army's continued support to stay in power, nor the public had confidence in the police to deal with emergencies. No sincere and concerted effort was made by any regime to build up the professional capability of the police.

## CHAPTER 2

# POLICE PHILOSOPHY AND LEGAL FRAMEWORK

Uganda's Constitution and police laws define the police in narrow terms. Neither reflect a policing philosophy based on democratic principles.

### 1. Constitution

The Constitution pictures a police that is “nationalistic, patriotic, professional, disciplined, competent and productive”.<sup>15</sup> It mandates the police to protect life and property, preserve law and order, prevent and detect crime and cooperate with civilian authority, other security organs and with the population generally.<sup>16</sup>

The Constitution does not mention the need for the police to be responsive, representative or accountable; nor does it mandate them to function as a service to protect and promote the rule of law. It does not stress the need for the police to be service oriented or to act impartially and function according to the requirements of law and democratic aspirations of the people. The relevance of human rights to policing is not stressed, even though the Constitution includes a bill of rights. The Constitution also fails to place any responsibility on the government to provide an impartial and honest police service to the community.

### 2. Police legislation

The *Police Act* goes a little beyond the restricted charter provided by the Constitution. The Act was substantially amended in late 2005, although the amending Bill had been before Parliament since 2000. The Act mandates the police to:

- protect the life, property, and other rights of the individual;
- maintain security within Uganda;
- enforce the laws of Uganda;
- ensure public safety and order;
- prevent and detect crime in society;
- perform the services of a military force when empowered to do so by the Police Authority; and
- perform any other functions assigned to it under the Act.<sup>17</sup>

The *Police Act* retains the outdated colonial model of policing that emphasises the need for the police to prevent and control crime and maintain security. Service oriented functions and respect and support for the rights and freedoms of Uganda's people are absent. This is in stark contrast to international practice, which requires provisions that impose a statutory obligation on the government to establish and maintain a police service that is efficient, effective and operates democratically, with respect for the rule of law. This type of legislation helps governments determine policing objectives, set policy and create mechanisms of accountability.



## CHAPTER 3

# THE PUBLIC EXPERIENCE OF UGANDA'S POLICE TODAY

Uganda's police force is marked by patterns of misconduct and illegal behaviour. Illegal arrests and detentions, torture and brutality, corruption and partiality are all part of the daily work of a police officer. Military overlap of police jurisdiction undermines the police and brutalises them in the eyes of the public. The use of auxiliary forces not subject to accountability mechanisms further undermines and brutalises the community's experience of policing. Some of the most critical problems include torture, brutality and ill-treatment, corruption, partial policing and not following procedures such as the rules for arrest and detention.

### 1. Illegal arrest and detention

The right of each Ugandan to liberty and security of the person is enshrined in the Constitution.<sup>18</sup> The Constitution provides that, once a person is arrested, they must be kept in an authorised place, informed of the reason for their arrest and their right to a lawyer and be taken to court as soon as possible, but not later than 48 hours from the time of arrest.<sup>19</sup>

The Police Act and the *Criminal Procedure Code* also lay down procedures and time limits for arrest. While the Constitution and the Police Act require the police to bring a person before court within 48 hours, the Code reduces this to 24 hours.<sup>20</sup> In addition, the Police Act allows the arrested person to apply to a Magistrate for release within 24 hours. The Magistrate must then order their release, unless they are charged.<sup>21</sup> This gives the arrested person the right to challenge their detention even before the constitutional deadline of 48 hours is over.

There is considerable evidence that the police do not comply with these laws. The police arrest people without adequate cause, keep them in prison or 'safe houses', and torture them. In its annual reports, the Uganda Human Rights Commission (UHRC) has consistently raised concerns that people are illegally arrested and detained in unauthorised places. In 1998, the UHRC visited 20 police stations and established that 10 of those stations had suspects who had been detained for several months without charge.<sup>22</sup> UHRC has described the practice of detaining suspects at police stations for longer periods than allowed as "very prevalent in all police stations" around Kampala.<sup>23</sup> In its 2000-01 report, the UHRC revealed that some suspects had been detained for more than 1 year without charge; in its 12 visits to police stations, UHRC found up to 210 people illegally detained. In 2002, the UHRC reported that in each of the 23 police stations and 3 police posts inspected in central, western and eastern Uganda, suspects were found detained beyond 48 hours without being produced in court.<sup>24</sup> A review of criminal trial procedures as part of JLOS (a law and justice sector reform programme discussed more fully in Chapter 6) also reported the common practice of illegally detaining suspects on "holding charges".<sup>25</sup> Holding charges are used on the basis that an investigation into an alleged crime takes time and the suspect must be detained throughout, which leads to lengthy detention periods.

The frequent joint operations that take place between the police and the army further muddy the legal waters relating to detention. The army is not subject to the policing laws, and the chains of command are often unclear. If non-police agencies arrest suspects, they are required to promptly hand them over to police for detention. However, in 2004, Human Rights Watch found that, "Ugandan security and military agencies routinely take suspects to unacknowledged

and non gazetted... places of detention including safe houses and army barracks [as these provide them] with opportunity for unseen torture and interrogation of suspects.”<sup>26</sup>

It is extremely difficult to make a case of illegal arrest or detention against a police officer as they protect their own. From the beginning, the police make deliberate attempts to hide the identity of the detaining officer, the department they belong to and the location where suspects are kept. Even if an application is filed in court demanding that a detainee be brought before the court, the police can reply that they are filing charges of treason or terrorism, which triggers a 360 day detention extension.<sup>27</sup> The police also excuse themselves with pleas of a shortage of trained investigators, inadequate funding and, more rarely, the need to protect a suspect from mob fury. However, UHRC’s investigations show that prolonged periods of illegal detention are more likely due to police corruption or holding charges while an investigation is completed.<sup>28</sup>

## 2. Torture and excessive use of force

International law, domestic legislation and police policies prohibit torture in all circumstances. However, shocking incidents of torture, brutality and excessive use of force by the police are still reported.


### 2.1. Torture is illegal

Torture is absolutely forbidden by Ugandan law. Article 24 of the Constitution prohibits any form of torture, cruel, inhuman and degrading treatment or punishment. The *Anti-Terrorism Act 2002* provides that “any authorized officer who engages in torture, inhuman and degrading treatment, illegal detention or intentionally causes harm or loss to property, commits an offence and is liable, on conviction, to imprisonment not exceeding five years or a fine ... or both”.<sup>29</sup> National statutes that govern the police, as well as the criminal law, prohibit acts of torture including assault, grievous bodily harm and attempted murder.

Internationally, Uganda has ratified the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. However, it has not yet ratified the Optional Protocol to the CAT that allows the UN committee related to torture to visit a country for an inspection.

Uganda made its initial report to the UN Committee on Torture in May 2005, seven years overdue. The report assured the Committee that standing orders of the police prohibited torture and the Government was regularly issuing administrative circulars against torture.<sup>30</sup> The Committee criticised Uganda for the lack of available information on allegations of torture, cases investigated and prosecuted and violence in detention centres. The Committee was also critical of the implementation of CAT in Uganda, and stated that there were many disparities between Uganda’s international obligations and domestic action. For example, domestic legislation that imposed a fine in one case and a loss of a work promotion in another on perpetrators of torture was considered to be insufficiently severe. The Committee also raised the issue of unauthorised detention centres and the interrogation methods in place in such centres.<sup>31</sup>

Human Rights Watch and the Uganda-based Foundation of Human Rights Initiative (FHRI) submitted a shadow report on Uganda’s compliance with the CAT to the Committee at the same time as the official submission.<sup>32</sup> The shadow report raised concerns of torture against



political opponents, alleged rebels and criminal suspects, the lack of investigation and prosecutions related to torture, unauthorised detention centres and legal provisions that allow a year of pre-trial detention for terrorism or treason suspects. Human Rights Watch and FHRI briefed the Committee prior to the official meeting, and a number of the concerns highlighted were raised with the Ugandan delegation.<sup>33</sup>

## 2.2. Torture happens

The Ugandan Human Rights Commission Annual Reports document rising levels of torture. The 2003 Report outlines that the number of complaints received by the Commission increased from 30 in 1997 to 446 in 2003. 264 of these cases were made out against the police. The Commission reports that the highest number of complaints that allege acts of torture are received against the police. The increase in reports of torture outstripped the increase in reports generally, and torture made up 22% of the Commission's caseload – the highest percentage recorded since the establishment of the Commission in 1996. In 2004, the Commission registered 629 complaints of torture.<sup>34</sup>

The Commission links the use of torture to illegal detention and the involvement of security forces in police work. Since 2001, the incidence of torture committed by security agencies created by the Government – such as the Joint Anti-Terrorism Task Force (JATF), Operation Wembley and its successor the Violent Crime Crack Unit (VCCU) – has increased. The number of reports of torture go up whenever the police conduct a joint operation with the army or other security agency.

The Government denies that torture takes place. In the face of allegations, it refers to legal safeguards that prohibit torture. This denial – often on the international stage – allows torture to continue, while creating “an enabling climate in which such human rights abuses persist and increase while perpetrators of torture, rather than be held accountable, act with impunity”.<sup>35</sup> Civil society organisations believe that police torture persists in Uganda because no officer is investigated if allegations are made or punished if torture is uncovered.<sup>36</sup>

## 3. Corruption

“It would appear there is correlation between corruption and absence of human rights.”<sup>37</sup>

- *Government White Paper on the Report of the Judicial Commission of Inquiry into Corruption in the Uganda Police Force*

The police are charged with being frontline fighters against corruption. If the police themselves are corrupt, public confidence in the police is undermined, and an atmosphere of fear and insecurity is created. Failure to check corruption leads to abuse of authority, encourages impunity, creates an environment in which crime flourishes and respect for the rule of law – a key principle of democratic policing – is eroded.

In 1998, a Government survey of citizen perceptions of corruption in public services indicated that Ugandans rated the police as the most corrupt government institution by a wide margin. Of those who had come into direct contact with the police, 63% said they had paid a bribe to a police officer during the interaction. Of the 18,412 households surveyed, 60% rated the police as one of the three most corrupt institutions in government.<sup>38</sup> A second survey was



undertaken and released in 2003. The police force was singled out as the most corrupt government institution – over 43% of participants rated it extremely or largely corrupt.<sup>39</sup> People’s experience of police corruption included police threatening to make arrests on false charges unless a bribe was paid. In 2005, a National Service Delivery Survey was conducted by the Uganda Bureau of Statistics. The survey interviewed people in each of the 56 districts of Uganda to assess the availability of services, the utilisation of those services, and user satisfaction levels. The police were ranked as the most corrupt among all service providers.

#### Examples of the public experience of police corruption<sup>40</sup>

“I was stopped one day and the police demanded Shs.1000 from me or I would be charged with having firearms in my house.”

“They threatened to accuse me of being a rebel if I did not cough up Shs.5000. But all I had was Shs.2000 and they accepted that.”

“The bribery of police is interfering with police work. There is an increase in criminality because the police are always bribed to release criminals. Moreover the police themselves have become criminals. They constantly harass people and confiscate their goods.”

“[Senior traffic police are] sending junior colleagues to the roads to collect them money every day. So the bottom traffic man has to work by his bosses command.”

Police corruption extends beyond traffic police demanding a ‘road tax’ or an arresting officer offering freedom at a price. Allegations that senior CID officers personally intervened to suppress investigations of people accused of murder or other serious crimes – or to reduce the charges against those found guilty – were aired during an inquiry into policing. This inquiry – the Sebutinde Commission – is discussed more fully later.<sup>41</sup>

## 4. Partiality

The police are constantly accused of partisan behaviour. Evidence is found in the treatment of pro-reform demonstrators, opposition members and advocates for democracy. Neutrality is one of the most basic principles of democratic policing. In a democratic system, the police have to be politically neutral and are not required to serve the partisan interests of the party in power. It is their job to protect the interests of all, including opponents of the party in power.

Police partiality can only be considered in the context of Uganda’s political landscape. Although memories of a ‘one party’ system of government are still fresh, where political opponents were banned and political opposition was little more than a hope, a version of multi-party politics has been in place since July 2005. Since then, presidential and parliamentary candidates have been allowed to hold campaign rallies – although they must follow an agreed campaign programme drawn up in consultation with the Electoral Commission.

Article 29 of the Constitution gives every Ugandan the right to assemble, to demonstrate peacefully and to form or join any political organisation. However, the Police Act empowers police officers to disperse processions and assemblies deemed unlawful<sup>42</sup> – where an unlawful assembly is defined as an assembly or procession of three or more persons that neglects or refuses to obey a police order for immediate dispersal.<sup>43</sup> The Act also makes it illegal to assemble or organise a procession likely to cause a breach of peace, or in disobedience of police regulation or direction during the assembly or procession.<sup>44</sup>



The police use their powers under the Police Act to suppress valid, peaceful political dissent and protect the interests of their political masters. For example, on 12 January 2002, police broke up an opposition rally in Kampala by firing on demonstrators. A journalist was killed, several demonstrators were injured, and several UPC activists were detained – along with two journalists.<sup>45</sup> The police do not just disperse rallies – sometimes they refuse to provide permission for the rallies in the first place. In 2003, a violent gang broke up a seminar organised by the Uganda Young Democrats, the youth wing of the Democratic Party. The organisers accused police of failing to take action to protect the seminar attendees when they were informed of the incident. The police responded that they had not given permission for the group to meet.<sup>46</sup> In Jinja, a town outside Kampala, an opposition Parliamentary Advocacy Forum demonstration was intercepted by a mob chanting pro-government slogans. The group called the police for assistance but the District Police Commander reportedly declined, saying that he had been instructed from ‘above’ not to provide security to the group.<sup>47</sup> On 28 June 2005, the police used tear gas and water cannons to disperse dozens of demonstrators in Kampala, who had taken to the streets to protest against a plan to amend the Constitution to remove presidential term limits.

Elections provide numerous examples of police partisanship. A Parliamentary Select Committee, set up to inquire into the violence that characterised presidential, parliamentary and local elections in 2001 and 2002, unearthed cases where suspected opposition politicians were detained in illegal locations and opposition supporters were subjected to violence and torture by the police. The report was never debated in Parliament – its contents were considered “too sensitive”.<sup>48</sup>

Political opponents are frequently threatened, arrested, detained and tortured. According to Human Rights Watch, accusations are levelled against political opponents and then used as an excuse to arrest and detain them.<sup>49</sup> Following his return from exile in preparation for the elections, opposition leader and presidential candidate Kizza Besigye was arrested in November 2005 on charges of treason, concealment of treason and rape. Supporters have maintained that the arrest was politically motivated to discredit him and disrupt his campaigning. The Court was scathing of the police involvement in the prosecution case as it dismissed all charges related to the rape accusations.

## CHAPTER 4

# THE MILITARISATION OF THE POLICE

The police and army are separate bodies with separate mandates, cultures and hierarchies. In Uganda, the lines have been blurred. Successive army appointees have held the most senior police post, while joint operations, auxiliary forces and army involvement in police work have militarised the police. This has led to the police being undermined, violent and brutal policing taking place without the benefit of police accountability measures, the erosion of police jurisdiction and guilt by association. It has also furthered the culture of impunity within the police by allowing actions done under the guise of special joint operations to go unchallenged, where they would not be permissible under the civilian policing regime.

### 1. An army head on a police body

Army involvement in the police starts at the top – with appointments of army men to senior police posts. Major General Katumba Wamala was appointed as Inspector General of the Police in April 2001. The President is the head of the army, and as a result the army is under his direct control. Wamala's appointment followed the scathing indictment of the police and its senior hierarchy by the Sebutinde Commission. Considering the context in which the appointment was made, it went virtually unquestioned. Following an army reshuffle, Wamala was replaced by another army man, Major General Kaihura in October 2005. Beyond the concerns of continued militarisation of the police, the argument that only an outsider can solve the problems faced by the police has serious implications for the morale and independent functioning of the police.

### 2. Joint operations

The police are clearly mandated with detecting and preventing crime in Uganda (see Article 212(2) of the Constitution and section 5(1)(e) of the Police Act). However, Article 212(d)(iv) of the Constitution also requires the police “to co-operate with the civilian authority and other security organs established under this Constitution and with the population generally.” This clause allows the Government to deploy the army or other special units on law and order duties, blurring the line between the police, the military and security agencies.

A basic requirement of democratic policing is that the military and the police remain separate as they go about their work. In Uganda, during joint operations, the line between the military and the police is not clear, leaving the police marginalised and compromised. A police force subject to military involvement in policing loses its authority to deal with matters that fall within its jurisdiction. This marginalisation has occurred because the army has always received a high level of support and patronage from the Government. The Government has consistently neglected the police force and promoted the army.<sup>50</sup> Museveni has openly expressed his contempt for the police. For instance, at a public function, he stated that the “Police is rotten”.<sup>51</sup> He also remarked that the police hated him, and would rather vote for a cow than him.<sup>52</sup> Statements like these coming from the highest office in the land weaken police morale and reinforce the negative image that the public have of their police force.

The army often justifies its interference in police work on the basis that suspects possess military hardware. Under the *National Resistance Army Act*, the army is empowered to detain or arrest



a civilian who is in possession of military equipment. This same law was used to give soldiers arrest powers as part of their JATF duties, or during Operation Wembley, and to run court martial trials. For example, on 23 August 2002, the Government used the Act to run an army tribunal to try 450 suspects arrested as part of Operation Wembley. Charges included terrorism, aggravated robbery, murder, illegal possession of firearms and desertion. Detainees challenged the legality of the tribunal, but the Director of Public Prosecutions ruled that the Act legitimised the process.<sup>53</sup>

The involvement of the army in police work and use of police powers by the military caused concern to the Sebutinde Commission during its inquiry into policing (see Chapter 6 for further discussion of this Commission). Many police officers testified before the Commission that the army and other security agencies unduly interfered with investigations. The police felt intimidated and threatened and generally withdrew from investigations when the military became involved. The army and other security agencies arrested suspects without consulting the police and then dumped them in police cells. The police were afraid to release such detainees, for fear of the army or security agency reaction. This meant that detainees were held in custody for long periods without being charged.<sup>54</sup>

The army and police have different functions and the training they receive is geared toward these different mandates and roles. The two have different command structures, dissimilar codes of conduct and are subject to distinct obligations and procedures. For example, unlike the police, the military are not subject to the rules relating to arrest, detention and other constraints of working within the criminal justice system. The military are also not subject to the same external complaint mechanisms and are not readily liable to civil action, leaving them unaccountable to the public even when they are involved in civilian policing matters. One result of launching combined operations was that the lines of responsibility and eventual accountability for wrongdoing were blurred. Police, army and other security forces all operated in the same jurisdiction, under different leaderships, and without clearly drawn mandates. When violations and abuses occurred, none of the agencies were held responsible.

A number of joint operations are outlined below.

### 2.1. Joint Anti-Terrorist Task Force

The Joint Anti-Terrorist Task Force (JATF) was created by the *Anti-Terrorism Act 2002*. The main focus of the JATF is the eradication of the Lord's Resistance Army, a rebel group that operates in northern Uganda. JATF is formed from a mixture of army, police and auxiliary force members. The Chieftancy of Military Intelligence (CMI), an army intelligence unit, leads JATF. Along with the CMI, JATF has drawn international criticism following claims of torture and illegal detention. For example, in August 2003, Human Rights Watch reported that JATF officers executed four men suspected of links with a rebel group. Human Rights Watch also reported that a further ten men had been detained in a secret location without charge.<sup>55</sup>

The Director of CMI explained the involvement of the army in JATF by saying that terrorism presented a new challenge to the country which existing laws, institutions and procedures could not address.<sup>56</sup> He argued that JATF's mandate was beyond the capability of the police.

## 2.2. Operation Wembley

In June 2002, the Government launched Operation Wembley to deal with an upsurge in violent crime in Kampala and other major towns in Uganda. The joint operations involved the police, a government intelligence group, the Internal Security Organisation (ISO) and the CMI.<sup>57</sup> Squads included volunteers, retired army officers and soldiers. The operation was commanded by the Deputy Director of the ISO, and police collaboration was directed by the Chief of Police – an army man himself.

The Government justified the operation as a way to reduce the high levels of insecurity experienced in major towns. The Inspector General of Police felt that extraordinary means were required to restore public confidence in the Government's ability to protect the public – and also to provide security to allow foreign investment to flourish. Opposition voices insisted the operation in 'tough policing' was a cover for eliminating dissent.<sup>58</sup>

Operation Wembley lasted almost 15 months. The crime rate decreased significantly. At first the public welcomed the operation and called for the programme to be extended into rural areas. However, the methods used by the Wembley participants were violent, arbitrary, contrary to the rule of law and exercised with impunity. The Uganda Human Rights Commission condemned the operation on several counts, including torture, illegal arrests and illegal detention. Its major concern was a shoot-to-kill policy that deprived suspects of their right to life, besides violating their right to a fair trial.<sup>59</sup> Those arrested alive were subjected to torture, ill treatment and long periods of pre-trial detention. They were not allowed to see their family, lawyers, or doctors.<sup>60</sup> Many suspects were held in military barracks or undisclosed locations that were not authorised by the law.<sup>61</sup> Arrests made before thorough investigations had been carried out led to overcrowding in detention centres and commanders conceded that they had run out of facilities to house suspects.<sup>62</sup> Public support quickly turned to outcry, and the operation was called off in August 2002.

## 2.3. Violent Crime Crack Unit


"Our guns are not flowers for decoration."

"We are licensed to kill by the President and the Republic of Uganda."<sup>63</sup>

- *Violent Crime Crack Unit operatives*

The Violent Crime Crack Unit (VCCU) was established in place of Operation Wembley in 2003. It had the same functions as Operation Wembley, but different leaders and members. The VCCU is chaired by the Inspector General of Police and is commanded by a police officer, David Magara.

According to the UHRC, many of the human rights violations that took place under Operation Wembley have continued under the VCCU. In 2003, the Commission registered 48 complaints against the VCCU, compared to 44 complaints registered against Operation Wembley in 2002.<sup>64</sup> The Commission raised concerns that the VCCU's arrest and detention methods had not conformed with Constitutional requirements. Suspects are arrested, but not told the reasons for their arrest or detention; they are held in unauthorised detention areas for long periods of time (up to a year without charges<sup>65</sup>) and torture is routine. Torture is used "not only to extract information or confessions but also deliberately as an expression of power to humiliate and break the spirit of those arrested".<sup>66</sup>



Amnesty International has condemned the squad, calling for an impartial judicial inquiry into its activities to ensure full accountability for alleged human rights violations committed by its agents.<sup>67</sup>

### 3. Auxiliary forces

Policing in Uganda is a complex pattern of overlapping policing agencies.<sup>68</sup> It is not merely the regular police, army and special paramilitary or intelligence units set up by different rulers from time to time that are deployed on police or security related work, but also auxiliary forces. The two prominent auxiliary forces are the Local Administrative Police and the Local Defense Forces.

#### 3.1. Local Administrative Police

The Local Administrative Police (LAP) was established by the *Local Government Act* 1967 to assist local administration to manage law and order at the district, county and sub-county levels.<sup>69</sup> Members are recruited from the community, which means that they speak the same language as the community and understand the local customs and needs of the people. It is a form of community policing, and was designed to bring policing closer to the people. It was intended that the LAP would understand the issues faced at a local community level, and respond to those issues quickly and effectively. The main function of the LAP is to offer advice to the local government, assist local authorities in maintaining law and order and assist local government in enforcing some by-laws.

In the past, the role of the LAP has been confused. They have not been adequately trained to perform any kind of police role, but, they end up doing police work. For example, the LAP has handled cases that carry death sentences; these cases should be reserved for police attention.<sup>70</sup> The LAP is also under-resourced and lacks accountability. According to the original section 67 of the *Police Act*, amended only in 2005, the LAP reported to the local government, except in matters of training and standardisation, which were handled by the police. Accountability was low, as was transparency.<sup>71</sup> Changes to the LAP were ushered in by the *Police Act (Amendment) Bill* 2000, which was passed in late 2005. Under the changes, the LAP was brought under the full command and control of the Inspector General of Police, and prescribes that LAP members be trained in the same way as the police. The amendment allows the Inspector General to delegate powers to them.

#### 3.2. Local Defense Units

Local Defence Units (LDUs) are groups that are put together to augment the work of police. LDUs are made up of local residents, who are recruited by the office of the Resident District Commissioner (RDC) from local communities where unlawful activity has occurred or is likely to occur. In practice, LDUs are used to assist the army in areas experiencing civil unrest. Their position is not clear, as they do not have any legal basis for their maintenance or activities. Their training is militaristic and they are not under the command of the police, although they carry out police functions. LDU activities impact on the police's reputation, as people do not differentiate between the activities of a LDU and the police. The uncertain position LDUs occupy, with no legal basis and oscillating between police and army work, provides plenty of room for unmonitored conduct and political interference.

### 3.3. Special Police Constables

Members of LDUs have been recruited into the police as Special Police Constables, under section 64 of the Police Act. There are around 4,860 Special Police Constables in Uganda. They are appointed in circumstances where there are not enough police to deal with a particular situation, such as an unlawful assembly, a riot or other disturbances. They are appointed by the officer in charge of an area, with the approval of the Inspector General. They perform duties under the command of the local officer in charge.

### 3.4. The impact of auxiliary forces on policing

The use of auxiliary forces for policing purposes in Uganda provides some benefits to the work of regular police. The existence of a force on the ground with knowledge of the area can be invaluable for police work. A decentralised force may be more effective because it is representative of – and responsive to – the community it serves.<sup>72</sup> Furthermore, the relative cost of recruiting and maintaining an auxiliary force is less in comparison to that of the police.

Despite these advantages, the use of such forces to perform on law and order duties is a cause for concern. The training offered to members of auxiliary forces is short and human rights training is virtually non-existent.<sup>73</sup> There is also growing concern that the military skills acquired by members during training are used for committing crimes. Criminal activity, such as car-jacking and armed robbery, has been associated with former LDU members and other security agencies. Accountability is a major issue for these forces. Their mandate can be unclear. Unlike the police, they are not an organised institution governed by a code of conduct, regulated by law or with fixed lines of command and control. In such organisations, it is difficult to mark the contours of accountability – and their involvement in joint operations further complicates the matter. Community confusion regarding the role of the LDU mean the police are often associated with LDU misconduct.





## CHAPTER 5 THE GOVERNMENT AND THE POLICE

### 1. All the President's men

Uganda's President is head of the executive arm of government. It is a position of tremendous authority – he is the appointing authority of chairpersons and deputy chairpersons of all institutions and heads of departments established by the Constitution. Other than the President's cabinet, this includes about 21 bodies, including the UHRC, Electoral Commission, Attorney General's office, Auditor General's office and the Office of Public Prosecutions. In some cases, Parliament's approval is required, but in reality, this is a rubber stamp. The President may also be required to seek the approval of other bodies. For example, the senior hierarchy of the judiciary are appointed by the President on the advice of the Judicial Service Commission. However, the chair, deputy chair and all members of the Judicial Service Commission are appointed by the President. In many cases, the President also has the power to remove people from office.

The President appoints the two most senior ranks of the police - the Inspector General and Deputy Inspector General of Police. The appointment is made in consultation with Parliament. The President can also remove his appointees from office – there is no fixed tenure. Police department heads are also appointed by the President, with the advice of the Police Authority. The Police Authority is set up by statute, and the President appoints the chairperson and all the members of the Authority. As a result, their advice is not likely to be independent; instead it is a reflection of what the President wants to hear. In any case, neither the advice, nor the basis on which it is made, is in the public domain.

The Inspector General of Police is subject to the laws of Uganda, which is as it should be. However, the Constitution allows the President to give directions to the Inspector General on matters of policy. The Constitution does not give the President the same power over other department heads. This creates two issues. First, there is no clear definition of what constitutes policy. Second, the Constitution does not state that the President's directions must be made within a legal framework. There is a similar provision in the Police Act that allows the Minister to give binding policy directions to the Inspector General.<sup>74</sup>

### 2. Policing and election duty

#### 2.1. 2001 elections

Maintaining peace and enforcing law and order during elections should fall within the jurisdiction of the police. Contrary to this, in the Ugandan elections of 2001, the military were deployed to maintain law and order. The Government claimed that the police did not have enough strength to provide security across all 17,000 polling stations, but even where police were used, they were only involved on the periphery of the security arrangements.

In February 2002, Parliament set up a Select Committee to investigate election violence. It found that the army, intelligence agencies and Local District Units had all interfered in the polls, and had also usurped police jurisdiction and power. The Committee also rejected the argument that the army was called in to reinforce the police and to ensure a peaceful poll. It produced a report stating that the involvement of vigilante groups and the military in the election was largely



responsible for the violence that occurred. Illegals committed by military and other forces included unlawful arrests, brutality, threatening voters with guns, forcing voters to vote for a particular candidate and keeping people away from polling stations on voting day.<sup>75</sup> The report went on to recommend that these groups should stay out of the next polls.

The Ugandan army is a partisan body. Its political masters used the army's involvement in the election to ensure they were re-elected. The Government's various security agencies also acted to support the ruling regime. A key principle of democratic policing is that the police do not favour any political party. Democratic policing requires that "police simultaneously stand outside of politics but protect democratic political life".<sup>76</sup> During elections in Uganda, the police are unable to extricate themselves from the political bias and partisanship of the agencies they are required to partner with to maintain law and order. While the examples of partisanship above relate to the involvement of the army rather than the police, when there are joint operations, the police are involved and implicated in the army's activities.

## 2.2. 2006 elections


The 2006 elections were overshadowed by claims of electoral fraud and the high profile arrest and detention of opposition leader Kizza Besigye. The police played a role in both.

In direct contravention of the recommendations of the Select Committee, the police, army and auxiliary forces were all heavily involved in the 2006 elections. The police were tainted by involvement in partisan army operations and took a particularly active role in suppressing demonstrations and political protests.

The main threat to Museveni's continued political dominance during the 2006 elections was Kizza Besigye, once a close friend of Museveni, who had been involved with Museveni's National Resistance Army in the 1980s. After engaging in active opposition in the 2001 elections, Besigye was detained by the police Criminal Investigation Department in March 2001 in connection with allegations of treason. In June 2001, he was detained for four hours at a police roadblock, before locals came to his rescue. In September that year, he left the country for exile in South Africa. Besigye returned to Uganda in November 2005, in preparation for the 2006 elections. He was quickly arrested by police and charged – along with 22 others – with treason offences. He was also charged with rape. The charges carry a possible death sentence, which means that bail is not normally granted until after the suspect has been detained for six months. This would have removed Besigye from Uganda's political stage until after the completion of the elections.

On 16 November 2005, the High Court heard the bail application of 14 of the 22 suspects. As the presiding Judge was ruling that the Constitution guarantees bail, a heavily armed group of men in black t-shirts stormed the Court, threatening to re-arrest the accused if they were granted bail. The next day, the Daily Monitor newspaper carried pictures of a number of the armed men, known as the 'black mambas', wearing police uniforms. To avoid re-arrest, the suspects were returned to prison before release. The court siege was widely condemned, locally and internationally. The Principal Judge of the High Court, James Ogoola, described the incident as a "naked rape defilement and desecration of our temple of justice".<sup>77</sup> The siege was also condemned by the Chief Justice, the Inspector General of Government, the Uganda Human Rights Commission and the Uganda Law Society. The Uganda Law Society went on to file a petition in the Constitutional Court questioning the legality of the Black Mamba raid





of the Court, and raising a number of questions about the constitutionality of the body put together to hear the charges of treason that had been levelled at Besigye and his counterparts.<sup>78</sup> The Constitutional Court held that the invasion of the Court was illegal and unconstitutional.

Besigye was acquitted of the rape charges. As noted above, the Court was critical of the police involvement in the investigation and the framing of charges that led to Besigye's arrest. It was clear to the Court that Besigye's arrest had been politically motivated. The treason trial has been dogged by protest. Two judges have withdrawn from the trial on the basis of military and executive interference. When a February 2006 application to exercise bail rights was successful, the army, police and other security groups surrounded the High Court. Kampala's Regional Police Commander, Benson Oyo Nyeko, told the defendants' lawyers not to resist their clients' further remand, the defendants were led back to waiting prison transport, and were whisked back to detention under military escort. The army tribunal hearing the treason charges disregarded High Court rulings regarding its unconstitutionality and continued to try the case. Museveni ordered the suspension of the trial in early March 2006.

### 3. Lack of resources

The Government keeps the police starved of funds. As a result, the police are under-staffed and under-resourced.

The force has about 14,000 members. This is inadequate to effectively handle existing problems and emerging challenges, a fact which is implicitly conceded by the Government when it sends in the army to do police work. The police to population ratio is 1:1,800, well above the recommended UN standard of 1:450. The Police Department has been recruiting around 500 new officers each year, just enough to replace the officers who leave. In 2003, recruitment was increased to 865 officers, with an intention to further increase this to 1,000 officers annually, but the international standard is far off.<sup>79</sup> The lack of staff means that each police officer is overworked. At the end of December 2003, the total number of CID detectives was 2,319, while the total incidence of crime was 97,181 cases. This means that each detective had a 42 case workload.<sup>80</sup>

The police are also short of other resources. It lacks equipment, its mobility is poor and its communication systems are outdated. The police share of the Justice, Law and Order Sector's Medium Term Framework budget dropped from 57.98% in the 1999-2000 financial year to 47.05% in 2003-2004. This is a drop of 8.5% over a five year period. The police share of the Sector's development budget declined from 14.12% in 1999-2000 to 6.14% in 2003-2004. This compares poorly with the overall growth of the development budget, which rose from 32.8% to 44% in the same period. In addition, funds that are earmarked for policing are distributed among other auxiliary forces. For example, LDUs accounted for 18.49% of the police budget in the 2003-2004 financial year.

The Police Force has been forced to look beyond its allocation of government funds to operate and has been receiving donor assistance. The JLOS reform project, which is discussed more fully in the next chapter, is a donor driven programme. The United States of America has provided US\$1.3 million to help modernise the police over three years and in January 2005 an agreement was reached between the US and Ugandan Governments that promises the police an additional US\$540,000 each year for training and technical assistance. While this funding is welcome, it is not a substitute for prioritising adequate police resources in domestic budgets.

## CHAPTER 6

### REFORM INITIATIVES

The Government has recognised that policing in Uganda is problematic. Three different reform initiatives are discussed below. The first is a government-sponsored independent Commission of Inquiry into policing, known as the Sebutinde Commission. The second is a justice sector, donor funded programme of efficiency and administrative reforms, known as JLOS. The third is an internal community policing programme, aimed at bridging the gap between the police and the community.

#### 1. The Sebutinde Commission


In May 1999, the Government set up a Judicial Commission of Inquiry into Corruption in the Uganda Police Force. Chaired by Justice Sebutinde, the Commission was mandated with investigating corruption and mismanagement within the police. It became known as the Sebutinde Commission. Its charter was to look at “corruption in the police, including its attendant implications such as mismanagement, discrimination, arbitrariness, incompetence, apathy, impunity, inefficiency, abuse of office, miscarriage of justice, misappropriation and misuse of public resources”.<sup>81</sup>

The Commission sat until May 2000 and found enormous evidence of widespread corruption, indiscipline and mismanagement at different levels of the Police Force. The Commission found:

- there was widespread evidence of corruption at all levels of the police, including the institutionalisation of bribing, false accounting and insider trading;
- that investigating officers induced complainants to drop charges and illegally released suspects from lawful custody;<sup>82</sup>
- that police grossly mismanaged cases and extorted money from complainants to do their duties – for a payment, whole case files could be ‘disappeared’;<sup>83</sup>
- the Government accepted that police work involved the taking of bribes;<sup>84</sup>
- that placement in desirable posts depended largely on an officer’s ability to solicit bribes from the public and their willingness to provide a flow of the illegal proceeds to senior officers;<sup>85</sup>
- that there was brazen indiscipline among police officers of all ranks and “a culture of impunity whereby officers get away with flagrant violations of human rights under their superiors’ noses”;<sup>86</sup> and
- the CID was “slowly turning into a ‘Mafia-type’ organisation where the focus is no longer on detection and investigation of crime” but on “conniving with criminals, equipping them to commit crime, and offering them protection against prosecution”.<sup>87</sup>

The Sebutinde Commission attributed the problems of the police to a failure of leadership and administration. The Commission wrote:

“The greatest source of corruption in the police force is not poor salaries or poor working conditions, although these too have played some part; the greatest source appears to be lack of discipline and committed leadership overseeing implementation of established norms. Absence of clear guidelines on accountability, transparency and respect for ethical standards, clearly are the root causes of corruption in the Uganda Police Force.”<sup>88</sup>



The initial Government response to the Commission was heartening. The Deputy Prime Minister stated that, “it is my strong conviction that with the implementation of the recommendations, Government will produce a Police Force with a human face, a Police Force that is customer friendly, and a Police Force that is proactive”.<sup>89</sup> The longer-term view is less rosy. While the Government did act on some recommendations, it was selective in its approach. A list of some of the Commission recommendations that were accepted is provided below:

- The Commission recommended that four of the five most senior officers, and fifteen of the eighteen Assistant Commissioners, be removed.<sup>90</sup> It further recommended that officers allegedly involved in corrupt practices be prosecuted. The officers were removed, and prosecutions launched. A number of officers praised by the Commission were given expanded responsibilities and promoted.
- The Commission recommended the creation of three new senior posts – a Senior Assistant Commissioner (Training), a Senior Assistant Commissioner (Finance) and a Senior Assistant Commissioner (Legal and Human Rights). These posts were established.
- The Commission recommended an improvement in the representation of women in decision making ranks of the police. The Government has promoted a number of women into the senior ranks.
- The Commission made numerous recommendations regarding financial management, recruitment, training and the terms and conditions of service. These recommendations have been largely accepted. Examples of the financial recommendations relate to planning, output-oriented budgeting, auditing, budget decentralisation and the independence of the Tender Board.

It is also important to recognise that the Government did not accept a number of the Commission’s recommendations. The rejected recommendations were crucial to transforming the police from a regime force to a democratic service. None of the following recommendations have been implemented:

- The Commission recommended that guidelines be fixed in legislation for appointment to the two most senior posts. Suggested criteria included integrity, merit, proven discipline, leadership, administrative skills and experience gathered in various capacities in the police force. The Commission also recommended that the posts be awarded on the basis of fixed contracts to be renewed considering “results oriented performance”. The Government response was not clear. First, it noted the recommendations, but stated that a mechanism for appointment was already in place. Then, it went on to say that the Ministry of Internal Affairs, with the Ministry of Public Service and the Police Authority, would develop appointment guidelines. Later, it stated that it would follow the existing structure of the police and would revisit it if the situation required.
- The Commission ruled that the Police Authority and Police Council’s composition prevented them from discharging their responsibilities in a fair and impartial manner. It recommended that the powers of appointment, promotion and discipline be vested in an independent and impartial body, such as a Police Service Commission (PSC). The Commission envisaged that the PSC would have seven members, including five prominent citizens and a retired police officer. The PSC would advise on the appointment of senior officers, recruit, appoint and promote more junior ranks, determine and review service and conditions, and hear and determine appeals against the decisions of the Police Council.<sup>91</sup> The Government noted the recommendations, but rejected them on the basis that the existing Police Authority was an adequate mechanism.
- The Commission found that auxiliary security agencies interfere in routine police work. It suggested that the “UPDF [Uganda People’s Defence Force – the army] and other


Security Agencies should restrict themselves to their functions and procedures as set out in law” and that instances of intrusion and interference should be brought by the Minister of Internal Affairs to the “attention of the Advisory Council for respective heads of security agencies to discipline their officers”.<sup>92</sup> The Government has not paid heed to these recommendations. Intrusion by auxiliary forces into police work has become more frequent since the publication of the Commission’s report, as seen during the Wembley days.

- The Commission highlighted the impunity that is shown by senior officers, referring to a number of issues related to the making and handling of complaints against the police.
- The Commission noted the “serious laxity in enforcing the Disciplinary Code of Conduct amongst the top management of the UPF”.<sup>93</sup> Instead of promoting discipline, the Code of Conduct was often “negatively applied to victimize innocent officers”.<sup>94</sup>
- The Commission raised concerns regarding the complaints handling process, which deters people from filing complaints. The law requires a complainant to make a written complaint to the most senior officer in charge of the station where the officer who is subject to the complaint is posted.<sup>95</sup> This is intimidating to a complainant. Another complaints avenue is the Police Complaints/Human Rights Desk, which is mandated to receive and investigate complaints of police misconduct. The Commission found it understaffed, and, in the absence of regional branches, its reach is limited. Its accessibility is further restricted by the fact that it is staffed wholly by police officers. The Commission recommended an increase in civic oversight of policing. It drew up reforms for the Police Complaints/Human Rights Desk, to locate it outside police headquarters and staff it with civilians (although the PSC would take over investigative work and disciplinary functions if it was set up).
- The Commission found that personnel transfers were made frequently and arbitrarily. This jeopardises the quality and speed of police work, and is also detrimental to police officers and their families. Furthermore, it allows for political influence over individual officers. It recommended that officers serve at a station for at least three years before being transferred. This recommendation was not accepted.

## 2. Justice/Law and Order Sector reform programme

In 1999, the Government adopted a Justice/Law and Order Sector (JLOS) reform agenda to improve the administration of justice through co-ordinated planning and budgeting of all justice and law and order institutions. Justice sector policy was aligned with government policy on poverty eradication. A JLOS Strategic Investment Plan was finalised and launched in November 2001. The JLOS Programme is supported by international donor agencies. The Ministry of Justice and Constitutional Affairs was designated the lead institution. Other bodies involved in the Programme are the Ministry of Internal Affairs, the judiciary, the police, the Director of Public Prosecutions, the prison system, the Judicial Service Commission, the Uganda Law Reform Commission, the Ministry of Local Government and the Ministry of Gender. The JLOS Programme was charged with seeking service delivery reform in criminal and commercial justice within three to five years. The strategic objectives of the Programme focused on improved access to justice, improved efficiency and effectiveness and improved quality of justice.

JLOS impacts the police. Under the programme, the Police Force prepared its own Medium Term Strategic Plan. It included four phases – policy reform, strengthening of institutional capacity, achievement of JLOS objectives and monitoring and evaluation. The Plan has been implemented, and has benefited the police. It has introduced a recruitment programme, involved the police in judicial case flow management, trained police officers and improved the quality of equipment available for police use.



Unfortunately, these changes are not enough. JLOS is supposed to be more than a funding mechanism; it is meant to be seen as a “process through which change is generated”.<sup>96</sup> It is also meant to foster a human rights culture across the JLOS institutions and to promote the rule of law.<sup>97</sup> JLOS has not reduced the pattern of police human rights abuses. The Mid-Term Evaluation of the Programme, which was completed in October 2004, observed that

“the essence of JLOS is rule of law, yet the patterns of alleged torture include alleged complicity by police and prison officials who have custody of torture victims before/after, while no prosecutions have even been initiated... From the perspective of the public, and the poor in particular, there must be one set of JLOS minimum standards to which all agents of the state adhere when they exercise police functions. These must not be less than the minimum treaty standards Uganda is a party to.”<sup>98</sup>

### 3. Community policing

Community policing programmes can prove to be a valuable accountability tool. However, Uganda’s community policing experiment has failed as an accountability mechanism due to a lack of trust, the poor image of the police, flawed design and a lack of understanding and training.

The *Community Policing and Crime Prevention Training Manual* prepared by the Community Affairs Department of the police loosely defines community policing as “a system of policing whereby the people act together with the police to prevent crime and disorder in communities”.<sup>99</sup> It requires the police and the community to find joint solutions to problems through a process of mutual consultation and participation. Community policing was first introduced in two police divisions – Old Kampala and Katwe – in 1989, but did not last. It was revived in 1993 as a national programme with the assistance of the British Government, mainly to bridge the distance between the police and the public and to mobilise community resources in the fight against crime. This background means that the focus of the programme has been crime prevention. Mechanisms have included Crime Prevention Panels, a neighbourhood watch scheme, property marking schemes and public sensitisation activities. Crime Prevention Panels and the neighbourhood watch scheme have been in place since January 2000. The Panels are groups of local people who work with police and the community to prevent and reduce crime. The neighbourhood watch scheme involves neighbours coming together to monitor and protect their immediate surroundings. Under the property marking scheme, the police mark property using professional marking kits, making it easier to trace stolen property and harder to dispose of it. Public sensitisation activities include training crime prevention volunteers, involving the media in prevention strategies, education and dissemination of information.

The programme provides for the appointment of Community Liaison Officers to liaise with the public. These Liaison Officers are serving police officers, and in many cases are officers in charge of police posts, who undergo one month of community policing training. They are deployed in communities where they can speak the local languages, and they work under the supervision of district police commanders. There is a Liaison Officer in each police district.

In 2003, the Commissioner of Police for Community Affairs, Asan Kasingye, completed an evaluation of the community policing programme.<sup>100</sup> He found that although the programme is

in place, there has been little impact on the ground. A major stumbling block has been the public's suspicion of the police, which prevents cooperation. Commissioner Kasingye also identified a number of other factors that have contributed to the failure of the programme. They include poor conceptualisation, design and management of the programme, absence of understanding among the police, a lack of training across all ranks, poor recruitment, the low rank of the Liaison Officers and a lack of effective government support.





## CHAPTER 7

# A CONCEPTUAL FRAMEWORK FOR DEMOCRATIC POLICING

“The role of the police is to help achieve that social and international order. They must, for example, uphold the laws that safeguard the lives of citizens. There should be no conflict between human rights and policing. Policing means protecting human rights” .<sup>101</sup>

- *Independent Commission on Policing for Northern Ireland*

The British colonial legacy of regime policing lives on in many countries of the Commonwealth. This means that the police are still accountable to the ruling powers alone, above and beyond their responsibility to their community. Today, membership of the Commonwealth is premised on the basis of democracy – and a democracy needs a democratic, accountable police force. This chapter looks at the conceptual framework that surrounds the ideas of democratic policing.

Colonial or regime policing means the police are protectors of government, rather than citizens. It often exhibits a focus on the maintenance of law and order, without any reference to the protection of human rights. Under colonial policing, the police:

- answer predominantly to the regime in power and not to the people;
- are responsible for controlling populations, not protecting the community;
- tend to secure the interests of one dominant group; and
- are required to stay outside the community.

Democratic policing is the alternative. It is rooted in the idea of accountability. A democratic police organisation is one that:

- is accountable to the law, and is not a law unto itself;
- is accountable to democratic structures and the community;
- is transparent in its activities;
- gives top operational priority to protecting the safety and rights of individuals and private groups;
- protects human rights;
- provides professional services; and
- is representative of the community it serves.

### 1. Policing and human rights

“... the police force of a democracy is concerned strictly with the preservation of safe communities and the application of criminal law equally to all people, without fear or favour.”

- *United Nations International Police Task Force*

The police are the gatekeepers of the criminal justice system. They are the first, and often only, contact that members of the community will have with the justice system. The police, as a primary agency responsible for protecting civil liberties, are responsible for turning the promise of human rights into reality. Failure to protect the human rights of a community is a failure of the police. Where police are active in committing human rights violations against their community, policing has failed on more than one level.




Respect for human rights is central to how the police do their work. Unlike any other branch of government, the police are given wide powers, including the authority to use force against citizens. This power to infringe on citizens' freedoms carries with it a heavy burden of accountability. Good systems of governance require that the police account for the way they carry out their duties, especially for the way they use force. This ensures that the police will consider carefully the methods that they use to protect peace and order, and that incidents of police misconduct or abuse of powers will be dealt with harshly.

## 2. Hallmarks of democratic policing

A democratic police force:

- **is accountable to the law, and not a law unto itself.** Democratic police institutions demonstrate a strong respect for the law, including constitutional and human rights law. The police, like all government employees, must act within the law of the country and within international laws and standards, including human rights obligations laid down in international law. Police officials who break the law must face the consequences, both internally, through the discipline systems of police organisations, and externally, in the criminal justice system.
- **is accountable to democratic government structures.** The police are an agency of government and must account to the government. In a democratic system, the police account to elected representatives of the people – for example, parliaments, legislatures or local councils – for their performance and use of resources. Democratic police institutions also account 'horizontally' to other agencies of government, such as to Treasury or Finance Departments, for their financial performance, and sometimes to Public Service Commissions or Departments of Administration, for their adherence to civil service codes and administrative policy.
- **is transparent in its activities.** Accountability is facilitated by transparency. In a democratic system, most police activity should be open to scrutiny and regularly reported to outside bodies. This transparency applies to information about the behaviour of individual police officers, as well as the operation of the police organisation as a whole.
- **gives top operational priority to protecting the safety and rights of individuals and private groups.** The police must primarily serve the people. The police should be responsive to the needs of individual members of the community, especially to people who are vulnerable.
- **protects human rights, especially those which are required for political activity characteristic of a democracy.** Democratic policing implies policing that is supportive and respectful of human rights, and prioritises the protection of life and dignity of the individual. This requires the police to make a special effort to protect the freedoms that are characteristic of a democracy – freedom of speech, freedom of association, assembly and movement, freedom from arbitrary arrest, detention and exile, and impartiality in the administration of law. A democratic approach can place the police in a difficult position, if, for example, they are required to enforce repressive laws, and simultaneously to protect human rights. These situations call for the skilful exercise of professional police discretion, which should always lean towards the prioritisation of human rights.
- **adheres to high standards of professional conduct.** Police are professionals whose behaviour must be governed by a strong professional code of ethics and conduct in which they can take pride, judge themselves and each other and against which they can be held accountable.



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- **is representative of the communities it serves.** Police organisations that reflect the populations they serve are able to better meet the needs of those populations. They are also more likely to enjoy the confidence of the community and to earn the trust of vulnerable and marginal groups who most need their protection.

#### Regulating the use of force: a key issue for democratic policing

Police are authorised by law to use force. However, in many dictatorships, one party states, and even in some democracies, police powers are misused as instruments of the ruling regime to maintain control over the population at large. In accountable police systems the use of force is regulated and must be exercised within the context of larger legal frameworks such as international law and state obligations, domestic law relating to policing, individuals' rights and to the operation of the criminal justice system. Policing is also constrained by professional regulations and codes of conduct and rules as well as the law of the land as it applies to every citizen.

### 3. Benefits of democratic policing

Implementing a more democratic approach to policing provides positive benefits for the community, for police officers, and for the police organisation. One benefit is a stronger sense of safety in the community. Another benefit is that crimes are more likely to be prevented and solved; as the public begins to see the police as allies in keeping the peace rather than instruments of oppression, they are more willing to share information that can help to prevent and solve crime.

Additionally, showing commitment to democratic policing can be a way of building the case for more resources to fund improved policing – people are more willing to support the use of limited government funds when they believe public money will benefit them. Finally, improved accountability will generate greater respect for the police and police officers. People's views of the police will change as the police become part of the community rather than sitting outside it. This is vital to the morale and professional pride of police staff and their effectiveness.

### 4. Dimensions of police accountability

There are commonly four types of accountability or control over police organisations:

- **State control:** The three branches of government – legislative, judicial and executive – provide the basic architecture for police accountability in a democracy. In a thriving and active democracy, the police are likely to be regularly held to account in all three halls of state, by Members of Parliament in passing legislation, the criminal and civil justice system and by government departments such as Auditors-General, service commissions and treasuries.
- **Independent external control:** The complex nature of policing and the closeness of police organisations to governments require that some additional controls are put in place. At least one independent civilian oversight body is desirable in any democracy, although many countries enjoy the services of a number of such bodies. Institutions such as Human Rights Commissions, Ombudsmen and public complaints agencies can play a valuable role in overseeing the police and limiting police abuse of power.

- **Internal control:** Within the police organisation, disciplinary systems need to be developed linked to a public complaints systems, as well as training, mentoring and supervision and systems for recording performance or crime data.
- **Social control** or 'social accountability': In a democracy, the police are publicly held accountable by the media and community groups (such as victims of crime, business organisations, local neighbourhood groups or civil society). In this way, the role of holding the police accountable is not merely left to the democratic institutions that represent the people, but ordinary men and women themselves play an active part in the system of accountability.

There is no hard and fast rule about the form good police accountability should take. This will depend very much on the circumstances of each country and the nature of the existing relationship between the police and the community. However, mechanisms within the police service will always be essential - "all well functioning accountability systems are grounded, first and foremost, on internal police mechanisms, processes, and procedures".<sup>102</sup> External scrutiny is also crucial. The basics for this are external oversight by:

- democratically elected representatives in national parliaments if police are structured at the national level, in state legislatures if police are organised at the state level, and in local councils if policing is organised at the local level;
- an independent judiciary;
- the executive, through direct or indirect policy control over the police, financial control, and horizontal oversight by other government agencies such as Auditors-General, Service Commissions and Treasuries; and
- at least one independent statutory institution, such as an Ombudsmen or a Human Rights Commission, or, ideally, a dedicated body that deals with public complaints about the police.

## 5. Transparency: an essential precursor to accountability

"The police service should take steps to improve its transparency. The presumption should be that everything should be available for public scrutiny unless it is in the public interest – not the police interest – to hold it back."  
 - *Independent Commission on Policing for Northern Ireland*<sup>103</sup>

Accountability requires transparency. People cannot hold police accountable if they do not have information with which to assess police conduct and which they can use to prove misconduct or malpractice. Nor can the police properly perform their policing functions or protect themselves and their colleagues from improper influence and discrimination or resist wrongful orders if they do not have access to information.

One of the most effective ways of ensuring transparency is to operationalise the right to information. Maximum information disclosure supports police accountability. As long as law enforcement information that is genuinely sensitive is protected, there are few security reasons why the police cannot allow the public access to their records. The police should at least make available basic information such as departmental rules, policies and procedures, data about the occurrence of crime, details of incidents involving the use of force, internal discipline outcomes and the particulars of budgetary allocations and procurements.



A national *Right to Information Act* was passed by the Ugandan Parliament in April 2005 and came into force one year later. While the Act is relatively comprehensive, there are some key sections that should be reconsidered. In particular, the scope of the law should be recast to make clear that it covers all arms of government (including the executive and the judiciary) and all bodies controlled by the government (including auxiliary forces). Also, the long, detailed list of exemptions should be revisited to prevent the automatic exemption of a wide range of information that the public should be able to access because there will be no practical harm caused by its disclosure. Beyond the detail of the law, the right to information will only become effective in Uganda if it is implemented properly – time will be the judge of this process. Both supply and demand will need to be addressed. Government bodies, including the police force will need to put in place systems to ensure access is cheap, simple and quick, while the public, civil society and media must all use the law actively, by making applications for information and using the records they get to promote better governance and service delivery.

## CHAPTER 8

# INTERNAL ACCOUNTABILITY

Internal accountability or self-regulatory mechanisms promote professionalism and responsibility. They are also cheaper and, if implemented properly, can be a faster way of addressing misconduct or poor performance than external mechanisms. External mechanisms are also an integral part of the accountability structure and are discussed in Chapter 9. Internal systems can be developed to monitor performance, maintain discipline, investigate public complaints against the police, investigate allegations of abuse of power and outright corrupt and criminal behaviour and manage any resultant disciplinary procedures. They have aspects of both carrot and stick. Incentives within the police involve regular and quicker promotions, recognition and honours, while disincentives can include dismissal, reduction in rank, reprimand, fines, stoppage and withholding or deferment of extra duty.

### 1. Code of Conduct


The Police Act sets out a Disciplinary Code of Conduct.<sup>104</sup> The Code imposes certain obligations on police officers, such as prohibiting them from using their office for undue gain, not taking away a person's rights without reasonable cause, treating all people equally and humanely and not compromising their job because of a relationship or other illegitimate influence.<sup>105</sup> It also sets out a number of penal offences, such as behaving in a cruel manner, corruption and the unlawful exercise of authority.<sup>106</sup>

### 2. Police Courts

For disciplinary matters, police are divided into two categories – those that are an Assistant Commissioner of Police or a more senior rank, and those that are more junior than an Assistant Commissioner of Police. Disciplinary powers for senior officers vest in a Police Authority. Disciplinary powers for junior officers come under the control of a Police Council. Both exercise their powers through the Police Disciplinary Courts.<sup>107</sup> The police court hierarchy also includes Regional Police Courts and the Police Council Appeals Court. Each of these bodies is outlined below.

Police Disciplinary Courts can be established at a police unit to deal with officers who default against the Code. The Court's powers extend to hearing, determining and sentencing disciplinary matters under the Police Act. It is made up of a Chairperson, who is a senior officer (this means that they are an Assistant Commissioner of Police or a more senior rank), two officers who are above the rank of the officer being tried and an independent prosecutor.<sup>108</sup> The Court can impose any penalty – other than dismissal. In a case where it feels dismissal is warranted, it can recommend dismissal to the Police Authority (senior officers) or Police Council (junior officers).<sup>109</sup>

Regional Police Courts are established at regional headquarters. They can hear discipline cases for the first time and they can also hear appeals from decisions made by Disciplinary Courts. A Regional Court is made up of a Chairperson (again, a senior officer), two to four officers of the Corporal rank or more senior and an independent prosecutor. Where the Regional Court does not have jurisdiction under the Police Act to award a particular penalty or dismiss a senior officer, it can submit the case to the Police Council Appeals Court or the Police Authority.<sup>110</sup>



The Police Council Appeals Court is composed of a Chairperson, who is a senior officer, two more senior officers, two police officers, and two members who are appointed by the Chair.<sup>111</sup> Appeals can be made on the grounds that a finding was erroneous, a sentence was illegal, a punishment was too severe, there was a mistake at law, or there had been a miscarriage of justice.<sup>112</sup>

The Police Council is an all police body, with the Inspector General as its Chair and a membership made up of the Deputy Inspector General, Directors of CID and Special Branch, the Commander of the Mobile Police Patrol Unit, Regional Police Commanders, senior officers in charge of various units, an Assistant Superintendent, an Inspector and three non-commissioned members. The Police Council is required to deal with recruiting, appointing and promoting police officers up to the rank of Inspector, exercising disciplinary control, formulating terms and conditions of service and ensuring efficient administration. The Police Council can be likened to a group of officers making collective decisions to improve the standard of functioning in the police. The failure of the Police Force's recruitment strategies and rampant indiscipline makes it clear that the Police Council has not been successful. The Police Council's role was subsumed into an independent and impartial body in the Sebutinde Commission recommendations, but this recommendation has not been implemented.

The Police Authority sits at the top of the disciplinary hierarchy. One of its functions is to hear and determine appeals from decisions of the Police Council.<sup>113</sup> The Police Authority is given wide power – it can even dismiss a senior police officer, subject to the written approval of the President.<sup>114</sup> The Authority is made up of a Chairperson, who is the Minister for Internal Affairs, and a membership made up of the Attorney General, the Inspector General, the Deputy Inspector General, a senior officer (who is in charge of administration at police headquarters), and three other members who are appointed by the President. Other functions given to the Authority include advising the President on the appointment of the Inspector General and Deputy Inspector General, recommending appointments and promotion of senior officers and determining the terms and conditions of police service. In its current shape, the Police Authority can neither discharge its functions fairly, nor act as an accountability mechanism. Of the eight people that make up the Authority, five are directly appointed by the President and two are indirectly appointed by the President. The President has far too much sway among this group for them to operate effectively. In addition, when the Authority sits as an appellate body, its members sit in judgment of their own decisions made in lower courts. This is not a mechanism for accountability and means that the Authority has no hope of effectively curbing the indiscipline and corruption in the police.<sup>115</sup>

### 3. Police complaints systems

The Police Act sets up a public complaints system that allows any member of the public to file a written complaint regarding bribery, corruption, oppression, intimidation, neglect, non-performance of duty or other police misconduct. The complaint is addressed to the most senior officer in the district or the Inspector General. That officer is required to conduct an investigation into the matter, and keep the complainant informed of the outcome of the case. As an accountability mechanism, the complaints system raises a number of issues. The complaint must be written, which may disadvantage the very groups that are most likely to suffer at the hands of police. The investigation is internal, which means that police investigate their own, and is not transparent. It is easy for complaints to disappear into the police bureaucracy, never to return.

## 4. Human Rights and Complaints Desk

In February 1998, the Inspector General of Police set up a Human Rights and Complaints Desk to receive and conduct investigations into all complaints of police misconduct. The Assistant Commissioner of Police heads the Desk and is assisted by four lawyers and a legal assistant. The Desk handles three kinds of complaints – human rights violations, corrupt practices and unprofessional conduct. Complaints are received from members of the public, police officers and police management. They may be written or verbal. After registration, the complaint is investigated by the assisting lawyers, and a report of findings and recommendations is provided to the police administration. The complainant is informed of any action. In 1998 alone, the Desk received 250 complaints. In 1999, the number of complaints increased to 650 cases – most related to mismanagement of investigations by police. In 2001, the Desk received 317 complaints, which included allegations of use of excessive force, torture, assault, rape and murder. Of the 317 complaints received, 250 were resolved and 67 were pending investigation.<sup>116</sup> At the end of 2002, 405 complaints were received of which 303 were investigated. The outcome of investigations is not known. Some complaints were received from external bodies. For example, 87 complaints were from the Human Rights Commission, the President's office, civil society and ministries. Of these 51 were investigated. The outcome of the investigations again is not documented and it is not clear how the others were disposed off. During 2004, the Desk received 300 allegations of police abuse and reported that approximately 140 complaints had been resolved by year's end.<sup>117</sup>

In the absence of details about the nature of complaints, the officers against whom complaints were made, who conducted the investigation and what the results were, it is difficult to assess the effectiveness of the Desk. The Sebutinde Commission commented that the public lacked confidence in the Desk as it was located in the police headquarters and manned by police officers. The Desk does not have branches outside Kampala and is not easily accessible to the regions. The Commission heard evidence that the disciplinary code was enforced in some instances to victimise officers. The Commission suggested that the Desk should be manned by non-police officers, located outside headquarters and decentralised for easy accessibility.<sup>118</sup> The Government rejected the recommendations and decided that at the district level, the District Police Commanders should handle complaints.<sup>119</sup> This distances the public further and erodes confidence by letting the entire complaint process remain police-centric. According to the Commission, the public prefer to refer their complaints to an independent body as they do not have faith in the impartiality and efficiency of internal machinery. In any case, the Desk has been working under many constraints. Undertaking investigations into public complaints of police misconduct and human rights abuses is resource intensive – resources the Desk does not have, in terms of both staffing and infrastructure. It also lacks the all important cooperation from police officers.

## 5. Internal accountability measures have failed

On paper, an elaborate network of internal accountability mechanisms exist. However, the police continue to act with impunity, with violent and brutal consequences, while failing to fulfil their duties properly. Clearly, there are problems with the current discipline systems in place – namely, lack of transparency, a refusal to recognise vicarious responsibility, self rule, protectionist police culture and a lack of public trust.



Lack of transparency is a major issue as the police appear to consider discipline an exclusively internal matter. Although the broad framework for disciplinary systems is set out in police legislation, the details of how these systems work in practice are rarely made public. Furthermore, the police organisation does not inform the public when it takes action to tackle misconduct. Lack of transparency creates an accountability deficit even when effective action is taken against police personnel accused of misconduct. In addition, the Disciplinary Code of Conduct that provides the legal basis for disciplining police employees does not recognise the principle of vicarious liability, where senior officers are held responsible for acts of junior officers. In many cases, junior officers are involved in misconduct at the behest of more senior officers or because there is a confidence that senior officers will turn a blind eye.

The police in Uganda are policed by themselves. The disciplinary courts are staffed by police officers, the prosecutor is a police officer and the proceedings are conducted in accordance with rules of procedure prescribed by Police Standing Orders. The Disciplinary Code prescribes penalties, but these are general in nature and are not pegged to offences described in the Code. The discretion given to police courts to choose the penalties leaves room for allowing impunity. This is particularly risky in a situation where the judge and jury are all police officers and decide cases of the accused - who are also police officers. Finally, a lack of public trust mean these tools are not used and reform is not prioritised.



## CHAPTER 9

### EXTERNAL ACCOUNTABILITY

Well implemented internal accountability mechanisms can hold the police organisations to account. But on their own they are not enough. Even the best-managed systems do not command the full confidence of the public. The global trend has therefore been to balance the internal accountability mechanisms with some system of external oversight, preferably civilian. These external institutions complement and reinforce internal mechanisms, creating a web of accountability.


There are a number of external mechanisms that can be used, including the courts, parliament and specific accountability bodies. Existing independent general accountability mechanisms can also be utilised, although in Uganda these are grossly under-resourced – the Government only allocates 1.1% of its annual budget to accountability institutions. Uganda’s development partners have noted that “this amount is clearly inadequate to the tasks of the anti-corruption agencies and might be interpreted as a lack of political support for the effective enforcement of anti-corruption measures in Uganda”.<sup>120</sup> International laws and agreements and civil society are other tools that can be used as external oversight mechanisms.

#### 1. Judiciary

The courts constitute one of the most important external mechanisms to ensure police accountability. Ideally, they ensure that acts of the executive and laws of the parliament comply with – and promote – international human rights standards. While the executive and legislature make the law, the judiciary sets the standards for how it is applied. Courts have an oversight role over the police when reviewing police investigations, hearing police prosecutions, or dealing with police misconduct cases.

Police are not immune from criminal liability if they commit illegal acts. If a complaint of police misconduct is taken to court, the court can hear the case, find the officer guilty, and put an appropriate sentence in place. The problem is getting police misconduct in front of the courts; the public are reluctant to make complaints. The majority of victims of police misconduct and brutality are the poor, illiterate and marginalised of society, who find the process technical, costly and long. This means that the courts are rarely used as a direct oversight mechanism.

In any case, the major issue that prevents the Ugandan judiciary from acting as an effective oversight mechanism is judicial independence. While the Constitution provides for an independent judiciary, the President has extensive powers that influence the exercise of judicial will. The President appoints the judges of the Supreme Court, the Court of Appeal and the High Court on the advice of the Judicial Service Commission. The President appoints the Judicial Service Commission (with the approval of Parliament). In addition to this direct line of influence, there is considerable evidence that the President browbeats the judiciary if a decision does not go his way. To quote a newspaper commentator, “President Yoweri Museveni last night rejected the constitutional court ruling that nullified the 2000 Referendum, saying the government will not accept the contents of the ruling: ‘The government will not allow any authority including the courts to usurp people’s power in anyway. We shall not accept this. It will not happen. This is absurd and unacceptable’”.<sup>121</sup> Museveni persistently accuses the judiciary of being unpatriotic, partisan, biased against him, corrupt and incompetent. Uganda’s judges have warned that these attacks will erode judicial independence.



Corruption in the judiciary also prevents it from acting as an effective accountability mechanism. In the 1998 National Integrity Survey (discussed more fully in Chapter 3), the judiciary was ranked as the second most corrupt institution. Of the 18,412 households surveyed, 50% reported that they had paid bribes to a court. Chief Justice Benjamin Odoki admitted to judicial corruption, during a 2002 East African Magistrates and Judges Association conference in Uganda. In the 2003 National Integrity Survey, results indicated that the incidence of judicial bribery had fallen from 50% to 29%, which is a substantial improvement.<sup>122</sup> Corruption prevents the independent and impartial exercise of the law. It also allows police to pay their way out of accountability.

## 2. Local Councils

One major early initiative of the Museveni Government was to establish local government structures to create popular participation in decision making at a community level. Elected Local Councils were set up in villages, parishes, sub-counties and districts throughout the country.<sup>123</sup> Local Council duties include involving the local community in law and order, law enforcement through Local Administrative Police (see Chapter 4 for further discussion), collecting information on crime, providing services to victims of crime and administration of justice through Local Council Courts. Local Councils are often the first line of protection against crime, and the first port of call for victims of crime.<sup>124</sup> This position at the forefront of the criminal justice system gives Local Councils the space to act as a police accountability mechanism. Victims of police brutality can report misconduct to the Local Councils, and Local Council Courts can bring police before them as defendants.

Police oversight by the Local Council system is problematic, however. Council members are untrained and unskilled in policing and the law. Often members do not understand basic legal concepts. No training, and in particular no human rights training, is undertaken. There is evidence of widespread corruption among Councils and Local Courts frequently act outside their mandate, hearing cases over which they have no jurisdiction, and handing down sentences that are beyond their power.<sup>125</sup>

## 3. Uganda Human Rights Commission

The Uganda Human Rights Commission was enshrined in the 1995 Constitution<sup>126</sup> and created by the *Uganda Human Rights Act 1997*. The Commission has a wide charter of functions that includes investigating violations of human rights, visiting places of detention, research, education, awarding compensation to victims and monitoring government compliance with international human rights obligations.<sup>127</sup>

The Commission is made up of a Chairperson and at least three other members – each appointed by the President with the approval of Parliament. It is an independent body, but relies on government funding that is increased and decreased at the whim of the President. The Commission has significant judicial powers. It can issue summons, question witnesses, require the disclosure of information and charge people with contempt of its orders. Where there has been a violation of human rights, the Commission can order the release of a detained person, order payment of compensation or any other legal remedy.<sup>128</sup>

The Commission has tried to do justice to its charter. Its activities have included inquiring into complaints of human rights violations, conducting surprise visits to police stations and detention

centres, paying compensation in cases of torture and other violations, sensitising police on issues of human rights and educating the public. Its success has been particularly noticeable in highlighting arbitrary arrests, contravention of the 48 hour detention rule, detaining arrested persons in unauthorised places and torture of citizens by police and security forces. It has succeeded in exercising a level of oversight over the police and security forces where none existed before. However, the Commission is hampered by limited resources. It is a young organisation and is operating in a hostile environment. The Police Force has operated with impunity for years and is not prepared to encounter any opposition to misconduct or illegal practices. The police are required to cooperate with the Commission by law, but do not.

The Commission has vast potential as a police oversight mechanism. It needs to be given the space to operate, the power to enforce its legislative rights and the funding to properly discharge its mandate. However, there are concerning signs from the Government that it will continue to prevent the effective operation of the Commission – or stop it operating at all. A Government proposal, provided to a Constitution Review Commission in 2003, recommended the abolition of the Commission, and the subsuming of its functions into the Inspector General of Government. The Government felt that “there are at present too many Commissions under the Constitution involving a lot of costs to Government and performing functions which can more economically be performed by other Institutions under the Constitution”.<sup>129</sup>

#### 4. Inspector General of Government

The Inspector General of Government post was set up in 1986 and entrusted with the responsibility of protecting and promoting human rights and eliminating corruption and abuse of office. Later, the Constitution established the Human Rights Commission and the focus of the Inspectorate shifted to combating corruption and abuse of office. It is also the nation’s Ombudsman, where a person aggrieved by a decision of a public official can make a complaint.

The Inspectorate consists of the Inspector General and two Deputy Inspectors General – although only one of the Deputy positions is currently filled. All members are appointed by the President, with the approval of the Parliament. They can be removed from their offices by the President, but only after a recommendation to this effect is made by a tribunal constituted by the Parliament. The recommendation can only be made on the basis that they are unable to perform their functions due to physical or mental infirmity, misconduct or incompetence.

The Inspectorate’s effectiveness as an accountability mechanism for police is limited. Its charter covers all government departments, including the police, but it is not an organisation that works exclusively to control corruption and abuse of office by police officers. It deals with whatever complaints it receives, and there is no system of monitoring police misconduct or dealing with police illegality systematically. In its latest report to Parliament, which covered July to December 2003, the Inspectorate gave details of seven cases where it had arrested public officials; only one of these was a police officer (a detective constable from CID). The Inspectorate’s record of successful investigations is limited. During the reporting period, it prosecuted 37 cases. 32 of these cases were carried over from a previous period, only 5 were concluded, and only 1 conviction was secured.<sup>130</sup> The Inspectorate claims that it faces a number of challenges. These include an inability to attract quality staff, a lack of cooperation from partners, court delays, a lack of cooperation from witnesses, intimidation of witnesses, and difficulties getting recommendations implemented.<sup>131</sup>



## 5. Parliament

International best practice supports an independent role for Parliament in keeping the police under scrutiny. Parliament has the power to question police wrongdoing, to correct systemic faults by passing new laws, to seek accounts of police performance, and to keep policing under constant review. Members of Parliament have many routine opportunities for police oversight through question time, annual departmental reviews (particularly at budget allocation time), and by examining policing issues through the parliamentary committee system. Times of constitutional review, or moments when public interest in policing is deeply engaged may also provide legislators with opportunities to radically reform police systems.

A limited survey of proceedings between 1999 and 2004 shows that Parliamentarians used the stage to raise concerns relating to the police and internal security matters. This is heartening, particularly given that during this period the Parliament was operating under the “one-party” Movement system of politics that has since been abandoned. Members raised police issues in plenary sessions and at the committee stage.

### 5.1 Question time

Parliament raised a number of concerns during Operation Wembley. Members questioned the legality of shoot-to-kill orders and the contempt that was shown towards due process and natural justice when dealing with suspects and detainees. Several members told stories about their constituents – how they were arbitrarily arrested,<sup>132</sup> detained indefinitely in unauthorised locations,<sup>133</sup> tortured or even killed. For example, MP Theodore Sekikubo highlighted the arrest of three of his constituents, Hussein Kasibante, Nkurunziza and Oyet Vincent. The men were arrested and detained in military barracks, but no charges were laid. While questions like this highlighted individual incidents, no legislation or coherent policy directions to reform the police or deal with the problems of Operation Wembley came out of the debate. However, parliamentary debate may have had some effect on the replacement of Operation Wembley with the Violent Crime Crack Unit.

Parliament also debated the legality, regulation and financing of auxiliary forces. Members discussed the limited training of security groups, and the human rights violations that resulted from their operations.<sup>134</sup> Funding concerns were also raised.<sup>135</sup> For example, when the Local Administrative Police were shifted from under local councils to the Ministry of the Interior, the Parliament raised concerns that the Ministry had not budgeted for the new addition to its portfolio. The debate forced some Government concessions relating to the legal basis of Local Defense Units and the need for clarity regarding the Local Administrative Police’s mandate.<sup>136</sup>

The third police-related issue raised by Members during this period centred around the dispersal of political rallies. The Members grappled with the problems of a Constitution that guarantees the freedom to assemble and demonstrate, and a police that required people to request permission to hold rallies and that dealt with opposition meetings in a heavy-handed manner. The debate led to a Government promise to investigate the matter within a certain time,<sup>137</sup> but no change has been made to the law. Although Members have condemned the excessive use of force by police to disperse rallies, Parliament failed to meaningfully hold police accountable for misconduct.<sup>138</sup> The Government benefits from the police actions; Parliament cannot force it to keep empty promises.

## 5.2 Parliamentary Committees

The Ugandan Parliament has tried to exercise oversight over police work through the Committee system. The work of the Sessional Committee on Defense and Internal Affairs, the Committee on Legal and Parliamentary Affairs and the Select Committee on Election Violence are all relevant in this regard.

The Committee on Defence and Internal Affairs drafts defence and internal affairs bills, undertakes investigations and provides analysis of government policy and budgetary estimates for police. In its 2001-2002 report to Parliament, for example, it revealed the inadequacies of the police to meet challenges of terrorism and sophisticated crime. It also asked the Government to produce a status report on the implementation of the judicial commission of inquiry into the police force, initiate legislation to regulate auxiliary forces and upgrade police training standards.

In its 2002 report, the Committee on Legal and Parliamentary Affairs analysed the performance of the Uganda Human Rights Commission between 1998 and 2001. It highlighted the problems of police misconduct and military interference in policing as part of its study. The report revealed gross violations of human rights by state agencies, including arbitrary arrests, unauthorised detention and torture.<sup>139</sup> The Committee recommended changes to laws that are inconsistent with the Constitution, the formulation of laws creating automatic bail after a certain period of detention and the recruitment of more judges and state lawyers to handle the backlog of cases that has built up. In response, the Government recruited nine State Attorneys and an equal number of administrative officials.<sup>140</sup>

After the violent voting period of 2001, the Parliament appointed a Select Committee to investigate the elections. In its report, which is referred to more fully in Chapter 6, the Committee criticised the army, intelligence agencies and Local Defense Units for meddling in the polls and encroaching on police jurisdiction. It discounted the argument that the army was called in to help an overstretched police conduct a peaceful poll. The Committee called on the army to keep out of politics, while recommending an expansion of the police before the next election and amendments of the Police Act and electoral laws.<sup>141</sup> These recommendations were adopted by the Government, although tight timelines and a shift to multi-party democracy meant that legislation was passed in a high pressure situation, and may not have been accorded appropriate scrutiny.

Parliamentary oversight on policing in Uganda is promising, but still far below its full potential. Lack of a combined opposition in Parliament is to some extent responsible for this, as is the difficulty associated with running a democratic House under an extremely powerful President. However, the Parliament itself sometimes delays its examination of important issues and thereby loses the opportunity to force the government to introduce systemic reforms. For instance, it took the Parliament a full year to debate the report on election violence. In one case, it took the Minister of Internal Security a whole year to respond to a question of a Member.<sup>142</sup>

## 6. International mechanisms

Uganda is part of the international community of nations through its membership of the United Nations, the Commonwealth and the African Union. International agreements that govern policing should be reflected in Ugandan law and practice so that they can become a stronger part of the police accountability framework.





## 6.1. United Nations Standards

Key United Nations documents related to policing are captured in Annex 1.

In Uganda, incorporation of international norms into domestic law is not automatic – it requires specific legislation to be enacted. Uganda’s record of transforming international responsibilities into domestic law is patchy. For example, Uganda acceded to the Convention Against Torture in 1987 but, almost 20 years on, domestic law does not reflect its obligations. In 2005, when Uganda made its initial report to the Committee Against Torture, the government claimed that a process was underway to incorporate the Convention into domestic law. The Committee responded by noting that Uganda’s law did not even deal with basic concepts related to the prevention of torture, such as a legal definition of torture, or specific criminal provisions to deal with torture.<sup>143</sup>

In May 2004, Uganda made its initial report to the UN Human Rights Committee.<sup>144</sup> The Human Rights Committee monitors implementation of the International Covenant of Civil and Political Rights. The Committee responded to Uganda’s report with a request for reports on three major areas of concern, including arbitrary detention, by May 2005. The Uganda Human Rights Commission has said that there has been no sign of a Government response to the request for the report.<sup>145</sup>

The Government has also fallen behind on its reporting obligations under a number of international treaties. For example, in its 2004 Annual Report, the Uganda Human Rights Commission found five reports overdue under the International Covenant on Economic and Cultural Rights and a report under the Convention of the Elimination of All Forms Discrimination Against Women five years overdue.<sup>146</sup> It also highlighted that required reporting under the African Charter of Human and Peoples’ Rights has not been timely, and that overdue reports were combined into one report in 2004.<sup>147</sup>

## 6.2. Regional Mechanisms

A number of regional mechanisms exist to promote and protect human rights that impact on policing. They include the African Union (AU), the African Commission on Human and Peoples’ Rights and the African Court on Human and Peoples’ Rights.

### 6.2.1. The African Union

The Organisation of African Unity (OAU) was established in 1963 as a forum for the promotion of independent democratic ideals of African countries in the process of emerging from colonial rule. The OAU became the African Union (AU) in 2002. The African Charter on Human and Peoples’ Rights (referred to as the ‘Banjul Charter’) was adopted by OAU members in 1981 and came into force in 1986. The Charter grants the same civil and political rights protections, directly relevant to policing, as other international instruments such as the Universal Declaration of Human Rights and the ICCPR. For example, the Charter prohibits torture or degrading treatment, detention without trial and arbitrary arrest, while also recognising the right to a fair trial, an impartial judiciary and to have effective recourse to justice.

Although Uganda is a signatory to the Banjul Charter, it has not been made accountable for abuses in contravention of international and regional human rights treaties. Unfortunately, the

promotion and protection of human rights within AU member states has not been a major priority for the organisation, as it has focused on political and economic independence, non-discrimination and the eradication of colonialism at the expense of 'individual' rights.

A push to strengthen the mechanisms of the African Union is currently underway as part of the New Partnership for Africa's Development (NEPAD) programme.

### 6.2.2. The African Commission on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights was born out of the Banjul Charter in 1987 to promote and protect Charter rights in Africa. The Commission's mandate is to investigate and make recommendations to states to carry out investigations and implement measures to prevent the reoccurrence of abuse. The Commission is inadequately funded to achieve its mandate.<sup>148</sup>

Nevertheless, the Commission has some potential to be an accountability mechanism for the enforcement of human rights on behalf of a broad range of victims of police brutality. An example of the way the Commission can be used is Human Rights Watch's submission to the 38<sup>th</sup> session of the Commission in November 2005 urging members to call on the Ugandan government to release Besigye, the jailed opposition leader, ahead of elections, and to ensure the advent of free and impartial voting. During its session, the Commission adopted a resolution on the human rights situation in Uganda.

### 6.2.3. The African Court on Human and Peoples' Rights

The African Court on Human and Peoples' Rights was established under the African Charter on Human and Peoples' Rights but is yet to be fully functioning. The first judges were appointed in January 2006, but it is now expected that the Court will merge with the African Court of Justice. Under the Charter, the Court can hear cases brought by signatory states, the Commission, and African intergovernmental organisations. Individuals and NGOs may, at the discretion of the Court, file a petition with the Court against a state, on condition that they have exhausted other avenues of relief. However, the Court will only hear the case with the relevant State's consent.

When deciding cases, the Court has the ability to draw on the African Charter on Human and Peoples' Rights "and any other relevant human rights instruments ratified by the states concerned".<sup>149</sup> Thus, complainants can rely on the UN provisions in relation to policing, which allows a broader jurisprudence than the African Charter alone affords. The Court can order appropriate remedies for human rights violations, including the payment of compensation or reparation.<sup>150</sup> States recognising the Court are under an obligation to comply with its judgments.<sup>151</sup> The AU Council of Ministers is charged with monitoring the execution of the Court's judgments on behalf of the AU Assembly.<sup>152</sup> The Pan African Parliament, the Assembly and other institutions are supposed to take responsibility for enforcement – pressuring a non-compliant country into honouring a Court judgment.<sup>153</sup>

The Court has not yet looked at any human rights violations by the police.





## 7. Civil Society

A critical requirement for democratic transformation is the development of a vibrant civil society. Civil society has played an important role in strengthening democracy all over the world by raising civic awareness, promoting debate on important issues, monitoring the performance of government institutions, exposing misconduct, demanding public participation, transparency and accountability and championing reforms.

There are many civil society organisations in Uganda that are working directly or indirectly on human rights issues. Amongst these are the Uganda Human Rights Activists, the Uganda Law Society, the Uganda Association of Women Lawyers, the Foundation for Human Rights Initiative, the Uganda Gender Resource Centre, Action for Development, the Human Rights Law Network and the Human Rights and Peace Centre.

The activities of civil society organisations relating to the police are broadly of two types: (1) those concerned with violations of human rights committed by police officers; and (2) those concerned with systemic reforms in the working of the police organisation. The work of organisations like the Foundation for Human Rights Initiative in monitoring the performance of the police and documenting human rights violations committed by police and security forces has been significant. So far, though there has been little work by any organisation aimed at systemic reforms in the police organisation, although it is heartening to see increasing interest in this area.

Lack of expertise often makes it difficult for civil society groups to advocate successfully for concrete alternative plans for restructuring the police or to recommend programmes for action within the existing framework. One problem faced by organisations advocating for police reform is the lack of information in the public sphere about the police, and the government's plans for the police. The police are generally very suspicious of outsiders working on police reforms, and are reluctant to share information, particular with civil society. The recently enacted *Right to Information Act 2005* may have some impact, but it is too early to tell.

Organisations can also face suspicion from the government, which feels that the groups are ever critical, but unable to suggest alternatives. Even the public are sometimes resistant, often supporting harsh methods of dealing with crime such as Operation Wembley, even as civil society are denouncing the same. Finally, civil society is also limited by government attempts to control their activities through registration processes. For example, the Uganda National NGO Forum was refused registration, preventing it from working in Uganda.

Civil society in Uganda is, to some extent, an untapped oversight mechanism and reform advocate. There are encouraging signs that a number of organisations are taking up police reform as a central policy platform, and that other organisations are continuing to build on existing good work related to police in their own area, for example, human rights abuses. As the sector grows and strengthens, there will be more scope for it to increase its oversight role.

## 8. Media

The media can play a valuable watchdog role: exposing wrongdoing, providing information, making comment and raising public awareness. The media is also an essential part of any police reform effort. The Ugandan media has been considered one of the most independent in Africa.<sup>154</sup> Extensive and sustained media coverage of police abuses can be the catalyst to encourage the government to reform the police, to create oversight mechanisms or to prosecute errant officers.



The police and its activities, because of the visual drama and human interest stories associated with them, sell papers and find plenty of space in print and television.

The media is at risk, however. The Government has made it clear that it may not continue to tolerate the current level of freedom enjoyed by the Ugandan press. On 17 November 2005, armed police officers entered and searched The Monitor newspaper premises, demanding the source of posters calling for contribution to an opposition leader's human rights fund. At the same time, across the country, the paper's distribution vans were stopped and searched.<sup>155</sup> On 23 November 2005, the Minister of Internal Affairs announced a ban on demonstrations, rallies and assemblies related to Besigye's treason trial, and on the following day, talk shows and media debates regarding the case were banned. As he announced the ban, the Minister of State for Information, Dr Buturo, stated that the Broadcasting Council would cancel the licences of any media that ignored the ban, saying, "that is something I am very eager to do... Revocation of the licence is something I am very eager to do".<sup>156</sup> Hours after the ban was announced an activist, Muwamba Kivumbi, arrived at Radio Simba to talk about the case and was arrested on arrival.<sup>157</sup>

The Government also use the courts to quiet critical voices in the media. In August 2005, Monitor Political Editor and KFM talk show host, Andrew Mwenda, was charged with 13 charges of sedition and "promoting sectarianism" – charges that carry a five year jail term.<sup>158</sup> It is concerning to note that an army officer, Colonel Noble Mayombo, who headed the Chieftancy of Military Intelligence for many years, and who is a Permanent Secretary in the Ministry of Defence, was recently appointed as Chair of the New Vision newspaper's board. This has been interpreted as another attempt by the Government to tighten control over the media.<sup>159</sup>



## CHAPTER 10 AN AGENDA FOR CHANGE

### 1. Major findings

The major findings of this report are set out below.

1. Uganda inherited a colonial police force that practiced regime policing. This philosophy continues to define the police today.
2. The police abuse their power. As a result, the police do not have the trust and confidence of the public. Public complaints indicate the police are brutal, lawless, corrupt, partisan, politicised and incompetent.
3. The Government does not have faith in the police and has not allowed the police to develop into an efficient and effective service. This has led to the marginalisation and militarisation of the police. This is visible in a number of ways, in particular:
  - the army has been used to do police work;
  - auxiliary forces have been created and supported to do police work; and
  - the police structure has been based on military hierarchy, nepotism and favouritism.

The militarisation of police accompanied an increase in human rights violations. These violations have not been dealt with.

4. Joint operations between the police and the army have compromised the role and integrity of the police.
5. Existing internal and external accountability mechanisms are weak and ineffective. The public does not trust that the police will handle their complaints fairly and provide redress and justice.
6. Police related laws that conflict with the Constitution are being used by the government to suppress opposition and retain power. These laws include the *Police Act*, the *Habitual Criminals (Preventive Detention) Act*, the *Criminal Procedure Code*, the *Emergency Powers Act*, and the *Trial on Indictments Decree*.<sup>160</sup>

### 2. Need for Reform

The quality of policing in Uganda is not what it should be. From its birth under the British Protectorate in 1899 to its partisan electioneering in 2006, the character of the police has changed little, even as Uganda has undergone massive political change. Today, as during the colonial era, the police are subordinate to the regime in power. The police are violent, brutal and act with impunity. The Government has used illegitimate influence to militarise the police, shoring up its own power, and ensuring that the police are an extension of its partisan politics.

The alternative is a democratic, accountable police service. Regime policing must give way to democratic policing; the Ugandan people must be protected by a police at their service, rather than continue to suffer at the hands of a police that serves the ruling government. The police

must be separated from the military, and from the shadow cast by government security forces. Mechanisms must be put in place to account for police misconduct. At that point, the police can begin to rebuild the community's trust. It is a difficult, but not insurmountable task, and the benefits for Uganda's people would be immeasurable.

### 3. Basic principles of reform

A democratic police reform programme must:

- Mandate the police to function as a professional, service-oriented organisation that protects and promotes the rule of law;
- Establish institutional and other arrangements to insulate the police from illegitimate political control;
- Recognise the government's responsibility to put in place an efficient and effective police;
- Strengthen the independence of the head of the police force;
- Set up mechanisms to ensure that the best in the service are selected to lead the service;
- Outline objectives and performance standards, and put mechanisms in place to monitor performance;
- Create credible and effective internal and external complaint handling mechanisms and procedures;
- Domesticate accepted international rights and standards relevant to policing; and
- Ensure the police are a transparent agency.

### 4. Action Areas

There are six major areas that need urgent attention and reform in Uganda.


#### 4.1 The police need to be insulated from illegitimate political interference

Management-level independence in the police needs to be ensured by fixing tenure for the most senior positions, such as Inspector General and Deputy Inspector General. These positions cannot be Presidential appointees; nor can the incumbents be removed at the whim of the President.

The need to insulate the police from the illegitimate influence of its political masters is clear. International best practice recommends boards that act as a buffer between the police and the government, and mechanisms to ensure independence of management within the police. In the Ugandan context, the Sebutinde Commission has already recommended the creation of a Police Service Commission which could be the buffer against illegitimate political control. The Police Service Commission would handle all recruitment, promotion and discipline within the police. It would advise the President on the appointment of senior officers on the basis of transparent, impartial criteria.

#### 4.2 Democracy must be protected

The activities that are essential to the free exercise of democracy must be protected. A democratic police is a politically neutral police. Government and opposition are treated alike, and the rights of all are respected. The police provide the protection and opportunity for people to exercise their basic human rights to express themselves, assemble and choose their politics.



It should not be tolerated that Uganda's police is a partisan force that protects government interests when handling opposition meetings and demonstrations. The police should no longer arrest or detain Ugandan men and women on political grounds. Opposition supporters should not be arrested, illegally detained and tortured. Policing during elections cannot be about supporting the government. It should focus on maintaining law and order and giving space for the exercise of a democratic vote.

#### **4.3 Police must be separated from the army**

The use of the army to do police work has stopped the Uganda police from becoming an effective police service. The army must be removed from police work. The Government must take adequate steps to build the professional capacity of the police. The police must be resourced and trained to work independently. The law must reflect the clear distinction between police and military operations. Joint operations must be stopped.

#### **4.4 Police must be made accountable**

The police operate with impunity. Violations of human rights go unchecked, while corruption and partisanship flourish. Internal accountability mechanisms are weak and ineffective; external oversight is partisan and flawed.

The police must be held accountable for their performance and their behaviour. This requires an overhaul of internal accountability mechanisms and two new external accountability institutions – one to monitor performance, and the other to exercise oversight over conduct.

Internal accountability mechanisms must be reinvigorated and recapacitated. They must be adequately resourced and supported, while being given space and independence. Transparency would help relieve public mistrust.

The Ugandan Human Rights Commission has a role in police oversight. However, the Commission is under-resourced, and policing is just a small part of a wide charter. An independent, police focused oversight agency is a more appropriate form of oversight. An Independent Police Complaints Directorate would fill the gap – it would investigate police misconduct, provide redress and justice to victims and ensure that disciplinary charges made against individual officers are enforced.

Performance monitoring can be completed by an independent Police Performance Evaluation Board. The Board would have responsibility for carrying out individual and department-wide performance monitoring. Its reports would assist in monitoring the performance of the police force, identifying areas of strength and weakness and ensuring that standards are maintained.

#### **4.5 Police law must be updated**

Uganda's police legislation reflects the regime policing model. It must be recast to reflect democratic, accountable policing practices.

An updated police law should incorporate the following:

- references to international and domestic rights and standards that are relevant to policing;

- the state's obligation to maintain a police service that is efficient, effective and focused on protecting people's rights, operating in conformity with democratic principles and protecting the rule of law;
- best practice institutions that insulate the police from illegitimate political control and make them accountable to multiple independent oversight mechanisms;
- removal of inconsistencies between the law and the Constitution, while safeguarding the exercise of democratic processes; and
- transparent and merit-based procedures based on objective criteria that can be used for non-discriminatory recruitment, selection, appointment, promotion and dismissal of police officers.

#### 4.6 Police living and working conditions must be improved

Police are members of the Ugandan community. They are entitled to the same rights as their fellow Ugandans. Police work is arduous and risky. Police officers can only perform in their jobs if they are supported by the terms and conditions of their service. They are entitled to decent pay, housing, medical treatment and retirement benefits. Hours of work must be reasonable. Benefits should reflect the risks of the job; this means the Government must provide police and their families with targeted social security schemes.





## ANNEX 1: UNITED NATIONS AND OTHER GLOBAL INSTRUMENTS ON POLICING

### Universal Declaration of Human Rights (UDHR)

The 1948 UDHR is a fundamental source for legislative and judicial practice across the world, and a basis for all other international treaties and conventions discussed below. The UDHR defines the duty of governments to protect people's human rights, and lays down principles or standards for all nations to follow.

### Standard Minimum Rules for the Treatment of Prisoners

Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1955, and approved by the Economic and Social Council in 1957, these rules set out principles and good practice in the treatment of prisoners and the management of institutions. The Rules were among the first international instruments for the protection of the rights of those accused of committing a criminal offence.

### International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

Adopted in 1965, ICERD reaffirms that all human beings are born free and equal in dignity, and should be entitled to equal protection of the law against any discrimination. Signatory states take responsibility for prohibiting and eliminating racial discrimination in all its forms. The UN Committee on the Elimination of Racial Discrimination was established under this Convention to monitor how states have fulfilled their undertakings. The Committee also accepts complaints from one state about racial discrimination by another state.

### International Covenant on Civil and Political Rights (ICCPR)

The 1966 ICCPR widened the range of rights established by the UDHR and established the UN Human Rights Committee to monitor implementation.

### Optional Protocol to the International Covenant on Civil and Political Rights

Also adopted in 1966, this optional protocol sets up systems for the Human Rights Committee to receive and consider communications from individuals who claim to be victims of human rights violations by any signatory states.

### Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Adopted in 1979, CEDAW defines discrimination against women and provides the basis for the realisation of equality between women and men. States which ratify CEDAW are legally bound to put its provisions into practice. It establishes the Committee on the Elimination of Discrimination Against Women, which can receive and consider communications or complaints about gender discrimination from individuals or groups.

### UN Code of Conduct for Law Enforcement Officials

Adopted in 1979, the Code sets out basic standards for policing agencies across the world. It requires police officials in signatory states to recognise the rights set out in the UDHR and other international conventions.

### Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Adopted in 1984, the CAT prohibits the use of torture or any other inhuman or degrading treatment in attempting to obtain information from a suspect. It is one of the most important

declarations to be observed by police officials in the exercise of their duty. The CAT establishes the Committee Against Torture, which can consider individual complaints and complaints about torture from one state about another.

### **UN Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)**

Adopted in 1985, the Rules are intended to be universally applicable across different legal systems, setting minimum standards to be observed in the handling of juvenile offenders. These rules require that law enforcement agencies respect the legal status of juveniles, promote their well-being, and avoid any harm to young suspects or offenders.

### **Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power**

Adopted in 1985, this declaration defines victims and their rights, and aims to ensure that police, justice, health, social services and other personnel dealing with victims are able to provide proper and prompt aid.

### **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**

Adopted in 1988, the Body of Principles reaffirms that no one in any sort of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, or to any form of violence or threats.

### **Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions**

Recommended by the Economic and Social Council in 1989, this document defines principles concerning the arbitrary deprivation of life, and sets up measures to be taken by governments to prevent, investigate and take legal proceedings in relation to extra-legal, arbitrary and summary executions. The Principles should be taken into account and respected by governments within the framework of their national legislation and practices.

### **Convention on the Rights of the Child (CRC)**

Adopted in 1989, the CRC recognises the rights of children, including child suspects, and requires that every child alleged to have infringed the penal law should be treated in a manner consistent with the promotion of the child’s sense of dignity and worth. A Committee on the Rights of the Child was established, but it does not accept individual cases.

### **Basic Principles on the Use of Force and Firearms by Law Enforcement Officials**

Adopted in 1990, during the 8th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, these principles set up a series of human rights standards regarding the use of force and firearms by law enforcement officials. They function as the global standards for police agencies worldwide, although they are not enforceable in law.

### **UN Standard Minimum Rules for Non-Custodial Measures (“The Tokyo Rules”)**

Adopted in 1990, the Tokyo Rules are basic principles set out by the United Nations in order to promote the use of non-custodial measures in punishment, as well as minimum safeguards for persons subject to alternatives to imprisonment.





### **UN Rules for the Protection of Juveniles Deprived of their Liberty**

Adopted in 1990, these rules are intended to establish minimum standards for the protection of juveniles deprived of their liberty in all forms, consistent with human rights and fundamental freedoms, and with a view to counteracting the detrimental effects of all types of detention and to fostering integration in society.

### **Declaration on the Protection of All Persons from Enforced Disappearance**

Adopted in 1992, this body of principles arose from deep concern in the United Nations that in many countries there were persistent reports of enforced disappearance caused by officials of different levels of the government, often police officials.

### **Declaration on the Elimination of Violence against Women**

Adopted in 1993, this declaration requires governments to develop policies that will eliminate violence against women, and sets standards for governments and law enforcement agencies to combat such violence, particularly sexual violence.

### **Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights (“Paris Principles”)**

Set of internationally recognised standards created to guide states in the setting up of effective human rights commissions. The Paris Principles were endorsed by the United Nations General Assembly in December 1993.

### **Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

Adopted in 1998, this declaration sets down principles to ensure that states support the efforts of human rights defenders and ensure that they are free to conduct their legitimate activities without fear of reprisals.

### **UN Convention against Corruption (CAC)**

Adopted in 2003 but not yet in force, the CAC calls for international cooperation to prevent and control corruption, and to promote integrity, accountability and proper management of public affairs and property.



## ANNEX 2: UNITED NATIONS BASIC PRINCIPLES ON THE USE OF FORCE AND FIREARMS BY LAW ENFORCEMENT OFFICIALS<sup>161</sup>

### For POLICE OFFICERS, the UN BASIC PRINCIPLES are:

- To apply non-violent means as far as possible before resorting to the use of force and firearms;
- To only use force and firearms in proportion to the seriousness of the offence and the legitimate objective to be achieved;
- To minimise damage and injury and to respect and preserve human life;
- To provide prompt assistance and medical aid to any injured person whenever unavoidable use of force was applied, and to notify the person's relatives or close friends as soon as possible;
- To promptly report to a superior officer any incident involving injury or death caused by the use of force and firearms;
- Not to use firearms except in situations which involve self-defence or defence of others against imminent threat of death or serious injury, to prevent the perpetration of a serious crime involving threat to life, to arrest a person presenting such a danger and resisting the police authority, to prevent that person's escape, and only when less extreme means are insufficient.

### For GOVERNMENTS, the UN BASIC PRINCIPLES are:

- To ensure that arbitrary or abusive use of force and firearms by police officers is punished as a criminal offence, under all circumstances;
- To regularly review the rules and regulations on the use of force and firearms;
- To make sure the rules specify circumstances under which police officers are allowed to carry firearms, prescribe the types of firearms permitted and provide for a system of reporting whenever police officers use firearms;
- To equip police with weapons and ammunition which allow for a differentiated use of force and firearms, such as non-lethal incapacitating weapons;
- To equip police with self-defensive equipment in order to decrease the need to use weapons of any kind;
- To ensure that police officers are properly selected, regularly go through professional training and have appropriate proficiency standards in the use of force;
- To ensure that human rights and police ethics are given special attention in the training of police officers, especially in the investigative process;
- To ensure that effective reporting and review processes are put in place whenever police officers use firearms in the performance of their duties and whenever any injury or death is caused by the use of force and firearms;
- To ensure that independent administrative or prosecutorial authorities exist to exercise jurisdiction in the circumstances in which force is used;
- To ensure that superior officers are held responsible if they know, or should have known, that those under their command are resorting or have resorted to unlawful use of force and firearms, and they did not do anything to prevent, suppress or report such a case;
- To ensure that no criminal or disciplinary sanction is imposed on a police officer who refuses to carry out an order to use force and firearms in compliance with the UN Code of Conduct and the UN Basic Principles.



## BIBLIOGRAPHY

### Books, Journal Articles and Reports

(2003) *Statement of Uganda's Development Partners on Governance and Anti Corruption*, Consultative Group Meeting, Kampala, April 2003, <http://www.u4.no/document/showdoc.cfm?id=51> - as on 16 May 2004

Bahemuka (2003) *Uganda Police Force shaping up for a better future*, <http://users.peacelink.it/anb-bia/nr457/e07.html> as on 30 March 2006

Baker (2004) "Post-conflict policing: lessons from Uganda 18 years on", *The Journal of Humanitarian Assistance*, <http://www.jha.ac/articles/a138.htm> as on 30 March 2006

Bruce & Neild (2004) *The police that we want: A handbook for oversight of police in South Africa*, Center for Study of Violence and Reconciliation, Johannesburg, and Open Society Justice Initiative, New York

Bureau of Democracy, Human Rights and Labor (2003) *Country Reports on Human Rights Practices – 2002*, <http://www.nationbynation.com/Uganda/Human.html> as on 30 March 2006

Committee of Legal and Parliamentary Affairs (2002) *Report on the Human Rights Commission Annual Reports, Uganda*

Committee Against Torture (2005) *34th Session (Geneva, 2 to 21 May 2005)*, <http://www.ishr.ch/About%20UN/Reports%20and%20Analysis/CAT/CAT-34thSession.pdf> as on 30 March 2006

Edroma (2002) "Viewing Operation Wembley through the human rights perspective", *Your Rights*, (The Uganda Human Rights Commission Monthly Magazine), No. 7, Volume V, December 2002

Global Facilitation Network for Security Sector Reform (undated), *Compendium of Good Practices on Security Sector Reform*, [http://www.gfn-ssr.org/good\\_practice.cfm?id=27&p=13](http://www.gfn-ssr.org/good_practice.cfm?id=27&p=13) as on 20 March 2006

Government of the Republic of Uganda (1993) *The Report of the Uganda Constitutional Review Commission*, Uganda

Government of Uganda (2000) *White Paper on The Report of The Judicial Commission of Inquiry Into Corruption in the Uganda Police Force*, Uganda

Human Rights Watch (2003) *World Report 2003 Uganda* <http://www.hrw.org/wr2k3/africa13.html> as on 30 March 2006

Human Rights Watch (2003) *Uganda: Security Force Executions Reported*, <http://hrw.org/english/docs/2003/10/03/uganda6428.htm> as on 30 March 2006

Human Rights Watch (2004) *State of Pain: Torture in Uganda*, <http://hrw.org/reports/2004/uganda0404/> as on 30 March 2006

Human Rights Watch (2005) *State action against torture*, [http://hrw.org/background/africa/uganda0505/3.htm#\\_Toc104017189](http://hrw.org/background/africa/uganda0505/3.htm#_Toc104017189), as on 30 March 2006

Independent Commission on Policing for Northern Ireland (1999) *A New Beginning: Policing in Northern Ireland -The Report of the Independent Commission on Policing for Northern Ireland*, Northern Ireland

International Human Rights Network (2004) *Mid-term evaluation of implementation of the Justice, Law and Order Sector Strategic Investment Plan (2001/2 – 2005/6)*, Draft 2

JLOS (2001) *Final Report on Review of the Criminal Trial Procedures in the Criminal Justice System*, Uganda

Judicial Commission of Inquiry into Corruption in the Uganda Police Force (2000), *Report of the Judicial Commission of Inquiry into Corruption in the Uganda Police Force*, Uganda

Kasingye (undated) *Implementing Community Policing: Uganda's Experience*, [www.ugandapolice.go.ug/IMPLEMENTING%20COMMUNITY%20POLICING.pdf](http://www.ugandapolice.go.ug/IMPLEMENTING%20COMMUNITY%20POLICING.pdf) as on 30 March 2006

Kioko (2005), "The African Union and the Implementation of the Decisions of the African Court on Human and Peoples' Rights", *Interights Bulletin*, Volume 15, Number 1 pp. 7-8

Inspector General of Government (1998) *Final Report: First National Integrity Survey*, Uganda

Inspector General of Government (2003) *10<sup>th</sup> Report to Parliament*, Uganda

Inspector General of Government (2003) *Final Report: Second National Integrity Survey*, Uganda

Ministry of Justice and Constitutional Affairs (2004) *Ministerial Policy Statement Financial Year 2003/2004*, Uganda

Mukasa and Owor (2001) *Final Report on Review of the Criminal Trial Procedures in the Criminal Justice System*, Justice, Law & Order Sector, Uganda

Nsereko (1993) "The Police, Human Rights and the Constitution: an African Perspective" *Human Rights Quarterly*, No. 3 Volume 15

Parliamentary Select Committee on Election Violence (2002) *Report of the Parliamentary Select Committee on Election Violence*, Uganda

Sekaggya (2003) *Comments on the Cabinet proposals for the abolition of Uganda Human Rights Commission*

Sheikh (2005) "West loses patience with Uganda", *Africa Reports*, No 35, 24 May 2005

Tripp (2004) *The changing face of authorisation in Africa: The case of Uganda*

Tumwesigye (2004) *Tackling the Problem of Corruption in the Judiciary*, Seventh Biennial Conference of International Women Judges, 11 May 2004, Entebbe, Uganda

Ugandan Human Rights Commission (1998) *Annual Report 1998*, Uganda

Ugandan Human Rights Commission (2001) *Annual Report 2000-2001*, Uganda

Uganda Human Rights Commission (2003) *Annual Report 2003*, Uganda

Uganda Police Force (2003) *Annual Crime Report 2003*, <http://www.ugandapolice.go.ug/crime.htm> as on 30 March 2006



Uganda Police Force (2005) *Community Policing and Crime Prevention Training Manual for Police Trainers and Community Liaison Officers*, Community Affairs Department, Uganda

Winslow (undated) *A comparative criminology tour of the world: Uganda*, <http://www-rohan.sdsu.edu/faculty/rwinslow/africa/uganda.html> as on 30 March 2006

### Websites

AllRefer.com (1990) *Uganda Country Study & Guide*, <http://reference.allrefer.com/country-guide-study/uganda/uganda158.html> as on 31 March 2006

Central Intelligence Agency (2006) *The World Factbook: Uganda*, <http://www.cia.gov/cia/publications/factbook/geos/ug.html> as on 30 March 2006

Mongabay.com (undated) *Country Studies: Uganda*, [http://www.mongabay.com/reference/country\\_studies/uganda/HISTORY.html](http://www.mongabay.com/reference/country_studies/uganda/HISTORY.html) as on 30 March 2006

Photius.com (1990) *Uganda – National Security Index*, [http://www.photius.com/countries/uganda/national\\_security/uganda\\_national\\_security\\_idi\\_amin\\_and\\_militar~2507.html](http://www.photius.com/countries/uganda/national_security/uganda_national_security_idi_amin_and_militar~2507.html) as on 31 March 2006

### Press releases and newspaper articles

\_\_\_ (2002) “Focus on Operation Wembley”, *Security and Human Rights*, No. 7, Volume V, December 2002

\_\_\_ (2004) “Police to recruit 1000 Constables”, *New Vision*, 26 October 2004

\_\_\_ (2005) *Torture perpetrators not prosecuted in Uganda*, [www.afrol.com](http://www.afrol.com), as on 17 May 2005

AllAfrica.com (2004) <http://allafrica.com/stories/200406280415.html> as at 30 March 2006

Amanyire & Mulumba (2002) “Police would vote a cow not me, says Musevini”, *The Monitor*, 2 September 2002

Bogere (2005) “Government Bans Talk on Colonel’s Court Case”, *The Monitor*, 24 November 2005

Eremu (2003) “Probe VCCU – Amnesty”, *New Vision*, 30 June 2003, <http://www.newvision.co.ug/detail.php?mainNewsCategoryId=8&newsCategoryId=219&newsId=143612> as on 30 March 2006

Izama (2005) “Police raid Monitor over FDC advert”, *The Monitor*, 19 November 2005

Kimuli (2002) “Winnie slams anti-crime drive”, *The New Vision*, August 8 2002

Mukombozi (2005) “Brigadier Mayombo now heads New Vision”, *The Monitor*, 26 November 2005

Mulondo (2005) “Judge withdraws from Besigye case”, *The Monitor*, 19 November 2005

Muhwezi (2003) “Police Force rotten, says Musevini”, *New Vision*, 2 September 2003

Njuguna (2002) “Robberies: Kayanja runs out detention room for suspects”, *Nation*, 26 August 2002

Reporters sans Frontieres Press Release (2006) *Government continues to tighten its grip on the press with elections less than 50 days away*, Paris, 24 January 2006

United Nations Press Release (2005) *Committee Against Torture begins consideration of initial report of Uganda*, 11 May 2005

### **Communiques, Declarations, Resolutions and Treaties**

United Nations (1948) *Universal Declaration of Human Rights*

United Nations (1959) *Convention on the Rights of the Child*

United Nations (1979) *Code of Conduct for Law Enforcement Officials*

United Nations (1985) *Standard Minimum Rules for the Administration of Juvenile Justice*

United Nations (1988) *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*

United Nations (1990) *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*

United Nations (1990) *Rules for the Protection of Juveniles Deprived of their Liberty*

United Nations (1990) *Standard Minimum Rules for Non-custodial Measures*

United Nations (1993) *Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights*

African Union (1998) *African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights*

United Nations (2003) *Convention Against Corruption*

### **Constitutions and Laws**

*Anti-Terrorism Act 2002 (Uganda)*

*Constitution of the Republic of Uganda 1995*

*Human Rights Act 1997 (Uganda)*

*Local Government Act 1997 (Uganda)*

*Police Act 2005 (Uganda)*

*Police Act (Amendment) Bill 2000 (Uganda)*

*Resistance Council and Committee Act 1987 (Uganda)*

*Right to Information Act 2005 (Uganda)*

## ENDNOTES

- <sup>1</sup> AllRefer.com (1990) *Uganda Country Study & Guide*, <http://reference.allrefer.com/country-guide-study/uganda/uganda158.html> as on 31 March 2006
- <sup>2</sup> Above, n 1
- <sup>3</sup> Above, n 1
- <sup>4</sup> Above, n 1
- <sup>5</sup> Above, n 1
- <sup>6</sup> Government of the Republic of Uganda (1993) *The Report of the Uganda Constitutional Review Commission*, Uganda, p. 385
- <sup>7</sup> Sheikh (2005), "West loses patience with Uganda", *Africa Reports*, No 35, 24 May 2005
- <sup>8</sup> Judicial Commission of Inquiry into Corruption in the Uganda Police Force (2000) *Report of the Judicial Commission of Inquiry into Corruption in the Uganda Police Force*, Uganda, pp.10-11
- <sup>9</sup> Photius.com (1990) *Uganda – National Security Index*, [http://www.photius.com/countries/uganda/national\\_security/uganda\\_national\\_security\\_idi\\_amin\\_and\\_militar~2507.html](http://www.photius.com/countries/uganda/national_security/uganda_national_security_idi_amin_and_militar~2507.html) as on 31 March 2006
- <sup>10</sup> Mongabay.com (undated) *Country Studies: Uganda*, [http://www.mongabay.com/reference/country\\_studies/uganda/HISTORY.html](http://www.mongabay.com/reference/country_studies/uganda/HISTORY.html) as on 30 March 2006
- <sup>11</sup> Central Intelligence Agency (2006) *The World Factbook: Uganda*, <http://www.cia.gov/cia/publications/factbook/geos/ug.html> as on 30 March 2006
- <sup>12</sup> Above, n 10
- <sup>13</sup> Above, n 8 p. 12
- <sup>14</sup> Above, n 8 pp. 11-12
- <sup>15</sup> Article 211(3), *Constitution of the Republic of Uganda* (1995)
- <sup>16</sup> Article 212, *Constitution of the Republic of Uganda* (1995)
- <sup>17</sup> Section 4, *Police Act 2005* (Uganda)
- <sup>18</sup> Article 23 (1), *Constitution of the Republic of Uganda* (1995)
- <sup>19</sup> Article 23 (2) & (3), *Constitution of the Republic of Uganda* (1995)
- <sup>20</sup> *Criminal Procedure Code 2000* (Uganda)
- <sup>21</sup> Section 25(3), *Police Act 2005* (Uganda)
- <sup>22</sup> Ugandan Human Rights Commission (1998) *Annual Report 1998*, Uganda p. 40
- <sup>23</sup> Ugandan Human Rights Commission (2001) *Annual Report 2000-2001*, Uganda p. 28
- <sup>24</sup> Above, n 23 p. 73
- <sup>25</sup> JLOS (2001) *Final Report on Review of the Criminal Trial Procedures in the Criminal Justice System*, Uganda p. 50
- <sup>26</sup> Human Rights Watch (2004) *State of Pain: Torture in Uganda*, <http://hrw.org/reports/2004/uganda0404/> as on 30 March 2006
- <sup>27</sup> Above, n 26
- <sup>28</sup> Uganda Human Rights Commission (1998) *Annual Report 1998*, Uganda p. 12
- <sup>29</sup> Section 21(e), *Anti-Terrorism Act 2002* (Uganda)
- <sup>30</sup> United Nations Press Release (2005) *Committee Against Torture begins consideration of initial report of Uganda*, 11 May 2005
- <sup>31</sup> Committee Against Torture (2005) *34th Session (Geneva, 2 to 21 May 2005)*, <http://www.ishr.ch/About%20UN/Reports%20and%20Analysis/CAT/CAT-34thSession.pdf> as on 30 March 2006 p. 12
- <sup>32</sup> Above, n 31 p. 14
- <sup>33</sup> Above, n 31 p. 14
- <sup>34</sup> Of these cases, 264 were against the Police Force, 95 were against the VCCU, 28 were against the CMI, 201 were against the UPDF, 5 were against the ISO and 12 were against the prison system: see Uganda Human Rights Commission (2003) *Annual Report 2003*, Uganda p. 88
- <sup>35</sup> Above, n 26

- <sup>36</sup> \_\_\_ (2005) *Torture perpetrators not prosecuted in Uganda*, [www.afrol.com](http://www.afrol.com) as on 17 May 2005
- <sup>37</sup> Government of Uganda (2000) *White Paper on The Report of The Judicial Commission of Inquiry Into Corruption in the Uganda Police Force*, Uganda p. 24
- <sup>38</sup> Inspector General of Government (1998) *Final Report, First National Integrity Survey*, Uganda
- <sup>39</sup> Inspector General of Government (2003) *Final Report, Second National Integrity Survey*, Uganda
- <sup>40</sup> Above, n 37
- <sup>41</sup> Above, n 8 pp. 86, 174, 176 and 198
- <sup>42</sup> Section 34, *Police Act 2005* (Uganda)
- <sup>43</sup> Section 35, *Police Act 2005* (Uganda)
- <sup>44</sup> Section 33, *Police Act 2005* (Uganda)
- <sup>45</sup> Human Rights Watch (2003) *World Report 2003 Uganda*, <http://www.hrw.org/wr2k3/africa13.html> as on 30 March 2006
- <sup>46</sup> Parliament of Uganda Hansard, 9 December 2003
- <sup>47</sup> Parliament of Uganda Hansard, 10 March 2004
- <sup>48</sup> Human Rights Watch (2005) *State action against torture*, [http://hrw.org/backgrounders/africa/uganda0505/3.htm#\\_Toc104017189](http://hrw.org/backgrounders/africa/uganda0505/3.htm#_Toc104017189), as on 30 March 2006
- <sup>49</sup> Above, n 46
- <sup>50</sup> Bahemuka (2003) *Uganda Police Force shaping up for a better future*, <http://users.peacelink.it/anb-bia/nr457/e07.html>, as on 30 March 2006
- <sup>51</sup> Amanyire & Mulumba (2002) "Police would vote a cow not me, says Musevini", *The Monitor*, 2 September 2002 and Muhwezi (2003) "Police Force rotten, says Musevini", *New Vision*, 2 September 2003
- <sup>52</sup> Above, n 49
- <sup>53</sup> Bureau of Democracy, Human Rights, and Labor (2003) *Country Reports on Human Rights Practices – 2002*, <http://www.nationbynation.com/Uganda/Human.html> as on 30 March 2006
- <sup>54</sup> Above, n 8 p. 433
- <sup>55</sup> Human Rights Watch (2003) *Uganda: Security Force Executions Reported*, <http://hrw.org/english/docs/2003/10/03/uganda6428.htm> as on 30 March 2006
- <sup>56</sup> Interview with Colonel Noble Mayombo, Director CMI, Kitante, Uganda, 23 May 2004
- <sup>57</sup> Above, n 48
- <sup>58</sup> Kimuli (2002) "Winnie slams anti-crime drive", *The New Vision*, August 8 2002
- <sup>59</sup> Edroma (2002) "Viewing Operation Wembley through the human rights perspective", *Your Rights*, (The Uganda Human Rights Commission Monthly Magazine), No. 7, Volume V, December 2002 p. 15
- <sup>60</sup> (2002) "Focus on Operation Wembley", *Security and Human Rights*, No. 7, Volume V, December 2002 p. 16
- <sup>61</sup> Above, n 58 p. 16
- <sup>62</sup> Njuguna (2002) "Robberies: Kayanja runs out detention room for suspects", *Nation*, 26 August 2002
- <sup>63</sup> Uganda Human Rights Commission (2003) *Uganda Human Rights Commission Annual Report 2003*, Uganda
- <sup>64</sup> Above, n 62
- <sup>65</sup> Above, n 62
- <sup>66</sup> Above, n 62
- <sup>67</sup> Eremu (2003) "Probe VCCU – Amnesty", *New Vision*, 30 June 2003, <http://www.newvision.co.ug/detail.php?mainNewsCategoryId=8&newsCategoryId=219&newsId=143612> as on 30 March 2006
- <sup>68</sup> Baker (2004) "Post-conflict policing: lessons from Uganda 18 years on", *The Journal of Humanitarian Assistance*, <http://www.jha.ac/articles/a138.htm>, as on 30 March 2006
- <sup>69</sup> Section 180, *Local Government Act 1997* (Uganda)

- <sup>70</sup> Interview with the Assistant Commissioner of Police in charge of Local Administrative Police, 21 May 2004
- <sup>71</sup> Mukasa and Owor (2001) *Final Report on Review of the Criminal Trial Procedures in the Criminal Justice System*, Justice, Law & Order Sector, Uganda
- <sup>72</sup> Nsereko (1993) "The Police, Human Rights and the Constitution: an African Perspective", *Human Rights Quarterly*, No. 3 Volume 15 p. 478
- <sup>73</sup> Interview with Haji Balimoyo on May 10 2004
- <sup>74</sup> Section 6 (2), *Police Act* 2005 (Uganda)
- <sup>75</sup> Parliamentary Select Committee on Election Violence (2002) *Report of the Parliamentary Select Committee on Election Violence*, Uganda p. 239
- <sup>76</sup> Bruce & Neild (2004) *The police that we want: A handbook for oversight of police in South Africa*, Center for Study of Violence and Reconciliation, Johannesburg, and Open Society Justice Initiative, New York
- <sup>77</sup> Mulondo (2005) "Judge withdraws from Besigye case", *The Monitor*, 19 November 2005
- <sup>78</sup> Constitutional Petition No 18/2005, *Uganda Law Society v Attorney General of Uganda*
- <sup>79</sup> \_\_ (2004) "Police to recruit 1000 Constables", *New Vision*, 26 October 2004
- <sup>80</sup> Uganda Police Force (2003) *Annual Crime Report 2003*, <http://www.ugandapolice.go.ug/crime.htm> as on 30 March 2006
- <sup>81</sup> Above, n 8 p. 3
- <sup>82</sup> Above, n 8 pp. 101-104
- <sup>83</sup> Above, n 35
- <sup>84</sup> Above, n 35 p. 26
- <sup>85</sup> Above, n 8 p. 241
- <sup>86</sup> Above, n 8 p. 256
- <sup>87</sup> Above, n 8 p. 447
- <sup>88</sup> Above, n 8
- <sup>89</sup> From the Statement by the 2<sup>nd</sup> Deputy Prime Minister and Minister of Internal Affairs, (WP) Above, n 35
- <sup>90</sup> Above, n 8 pp. 399-429
- <sup>91</sup> Above, n 8 pp. 240-242
- <sup>92</sup> Above, n 8 pp. 433-434
- <sup>93</sup> Above, n 8 pp. 257
- <sup>94</sup> Above, n 8 pp. 257
- <sup>95</sup> Section 71, *Police Act* 2005 (Uganda)
- <sup>96</sup> International Human Rights Network (2004) *Mid term evaluation of implementation of the Justice, Law and Order Sector Strategic Investment Plan (2001/2 – 2005/6)*, Draft 2
- <sup>97</sup> Above, n 95 p. 9
- <sup>98</sup> Above, n 95 p. 69
- <sup>99</sup> Uganda Police Force (2005) *Community Policing and Crime Prevention Training Manual for Police Trainers and Community Liaison Officers*, Community Affairs Department, Uganda
- <sup>100</sup> Kasingye (undated) *Implementing Community Policing: Uganda's Experience*, [www.ugandapolice.go.ug/IMPLEMENTING%20COMMUNITY%20POLICING.pdf](http://www.ugandapolice.go.ug/IMPLEMENTING%20COMMUNITY%20POLICING.pdf), as on 30 March 2006
- <sup>101</sup> Independent Commission on Policing for Northern Ireland (1999), *A New Beginning: Policing in Northern Ireland - The Report of the Independent Commission on Policing for Northern Ireland*, Northern Ireland p. 18
- <sup>102</sup> Global Facilitation Network for Security Sector Reform (undated) *Compendium of Good Practices on Security Sector Reform*, [http://www.gfn-ssr.org/good\\_practice.cfm?id=27&p=13](http://www.gfn-ssr.org/good_practice.cfm?id=27&p=13) as on 20 March 2006
- <sup>103</sup> Above, n 100
- <sup>104</sup> Section 45 and Schedule, *Police Act* 2005 (Uganda)
- <sup>105</sup> Section 2 of Schedule, *Police Act* 2005 (Uganda)
- <sup>106</sup> Sections 23 and 24, section 14(2) of the Schedule, *Police Act* 2005 (Uganda)



- <sup>107</sup> Section 47, *Police Act 2005* (Uganda)
- <sup>108</sup> Section 54(1), *Police Act 2005* (Uganda)
- <sup>109</sup> Section 49, *Police Act 2005* (Uganda)
- <sup>110</sup> Section 53(5) & (6), *Police Act 2005* (Uganda)
- <sup>111</sup> Section 52(1), *Police Act 2005* (Uganda)
- <sup>112</sup> Section (4), *Police Act 2005* (Uganda)
- <sup>113</sup> Section 10(1)(e), *Police Act 2005* (Uganda)
- <sup>114</sup> Section 48, *Police Act 2005* (Uganda)
- <sup>115</sup> Above, n 8 p. 240
- <sup>116</sup> Winslow (undated) *A comparative criminology tour of the world: Uganda*, <http://www-rohan.sdsu.edu/faculty/rwinslow/africa/uganda.html>, as on 30 March 2006
- <sup>117</sup> Above, n 52
- <sup>118</sup> Above, n 8 p. 257
- <sup>119</sup> Above, n 89 p. 35
- <sup>120</sup> (2003) *Statement of Uganda's Development Partners on Governance and Anti Corruption*, Consultative Group Meeting, Kampala, April 2003, <http://www.u4.no/document/showdoc.cfm?id=51->, as on 16 May 2004
- <sup>121</sup> AllAfrica.com (2004) <http://allafrica.com/stories/200406280415.html>, as on 30 March 2006
- <sup>122</sup> Tumwesigye (2004) *Tackling the Problem of Corruption in the Judiciary*, Seventh Biennial Conference of International Women Judges, 11 May 2004, Entebbe, Uganda
- <sup>123</sup> *Resistance Council and Committee Act 1987* (Uganda)
- <sup>124</sup> Above, n 67
- <sup>125</sup> Above, n 67
- <sup>126</sup> Article 51 (1), *Constitution of the Republic of Uganda* (1995)
- <sup>127</sup> Article 52 (1), *Constitution of the Republic of Uganda* (1995)
- <sup>128</sup> Article 53 (21), *Constitution of the Republic of Uganda* (1995)
- <sup>129</sup> Sekaggya (2003) *Comments on the Cabinet proposals for the abolition of Uganda Human Rights Commission*
- <sup>130</sup> Inspector General of Government (2003) *10<sup>th</sup> Report to Parliament*, Uganda
- <sup>131</sup> Above, n 129
- <sup>132</sup> Parliament of Uganda Hansard, 10 December 2002
- <sup>133</sup> Parliament of Uganda Hansard, 4 October 2002
- <sup>134</sup> Parliament of Uganda Hansard, 21 October 1998
- <sup>135</sup> Parliament of Uganda Hansard, 19 August 1998
- <sup>136</sup> Parliament of Uganda Hansard, 3 September 2002
- <sup>137</sup> Parliament of Uganda Hansard, 11 November 2003
- <sup>138</sup> Parliament of Uganda Hansard, 18 November 2003
- <sup>139</sup> Committee of Legal and Parliamentary Affairs (2002) *Report on the Human Rights Commission Annual Reports*, Uganda p. 5
- <sup>140</sup> Ministry of Justice and Constitutional Affairs (2004), *Ministerial Policy Statement Financial Year 2003/2004*, Uganda pp. 30-31
- <sup>141</sup> Parliamentary Select Committee on Election Violence (2002) *Report*, Uganda pp. 238-266
- <sup>142</sup> Parliament of Uganda Hansard, 26 February 2003
- <sup>143</sup> Above, n 31 p. 12
- <sup>144</sup> Uganda Human Rights Commission (2004) *Annual Report 2004*, Uganda p. 178
- <sup>145</sup> Above, n 144 p. 177
- <sup>146</sup> Above, n 144 p. 179
- <sup>147</sup> Above, n 144 p. 180
- <sup>148</sup> Kioko (2005), "The African Union and the Implementation of the Decisions of the African Court on Human and Peoples' Rights", *Interights Bulletin*, Volume 15, Number 1, pp. 7-8
- <sup>149</sup> *Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights*, Article 7



<sup>150</sup> Above, n 149, Article 27

<sup>151</sup> Above, n 149, Article 30

<sup>152</sup> Above, n 149, Article 31

<sup>153</sup> Above, n 149, Article 32

<sup>154</sup> Tripp (2004) *The changing face of authorisation in Africa: The case of Uganda*

<sup>155</sup> Izama (2005) "Police raid Monitor over FDC advert", *The Monitor*, 19 November 2005

<sup>156</sup> Bogere (2005) "Government Bans Talk on Colonel's Court Case", *The Monitor*, 24 November 2005

<sup>157</sup> Reporters sans Frontières Press Release (2006) *Government continues to tighten its grip on the press with elections less than 50 days away*, Paris, 24 January 2006

<sup>158</sup> Above, n 149

<sup>159</sup> Mukombozi (2005) "Brigadier Mayombo now heads New Vision", *The Monitor*, 26 November 2005

<sup>160</sup> Above, n 23 pp. 73

<sup>161</sup> United Nations (1990) *United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*

# CHRI Programmes

CHRI's work is based on the belief that for human rights, genuine democracy and development to become a reality in people's lives, there must be high standards and functional mechanisms for accountability and participation within the Commonwealth and its member countries. Accordingly, as well as a broad human rights advocacy programme, CHRI advocates access to information and access to justice. It does this through research, publications, workshops, information dissemination and advocacy.

**Human Rights Advocacy:** CHRI makes regular submissions to official Commonwealth bodies and member governments. From time to time CHRI conducts fact finding missions and since 1995, has sent missions to Nigeria, Zambia, Fiji Islands and Sierra Leone. CHRI also coordinates the Commonwealth Human Rights Network, which brings together diverse groups to build their collective power to advocate for human rights. CHRI's Media Unit also ensures that human rights issues are in the public consciousness.

## ACCESS TO INFORMATION

**Right to Information:** CHRI catalyses civil society and governments to take action, acts as a hub of technical expertise in support of strong legislation, and assists partners with implementation of good practice. CHRI works collaboratively with local groups and officials, building government and civil society capacity as well as advocating with policy makers. CHRI is active in South Asia, most recently supporting the successful campaign for a national law in India; provides legal drafting support and inputs in Africa; and in the Pacific, works with regional and national organisations to catalyse interest in access legislation.

**Constitutionalism:** CHRI believes that constitutions must be made and owned by the people and has developed guidelines for the making and review of constitutions through a consultative process. CHRI also promotes knowledge of constitutional rights and values through public education and has developed web-based human rights modules for the Commonwealth Parliamentary Association. In the run up to elections, CHRI has created networks of citizen's groups that monitor elections, protest the fielding of criminal candidates, conduct voter education and monitor the performance of representatives.

## ACCESS TO JUSTICE

**Police Reforms:** In too many countries the police are seen as oppressive instruments of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

**Prison Reforms:** The closed nature of prisons makes them prime centres of violations. CHRI aims to open up prisons to public scrutiny by ensuring that the near defunct lay visiting system is revived.

**Judicial Colloquia:** In collaboration with INTERIGHTS, CHRI has held a series of colloquia for judges in South Asia on issues related to access to justice, particularly for the most marginalised sections of the community.



