

# Preventing Torture in Uganda

Sharon Lamwaka\*

## Abstract

The Republic of Uganda acceded to the UN Convention against Torture and other cruel, inhuman or degrading treatment or punishment (UNCAT) on 26 June 1987. Freedom from torture, and other cruel, inhuman or degrading treatment or punishment, is also guaranteed by Article 24 of the Ugandan Constitution of 1995: under Article 44(a), this is an absolute freedom. In Uganda, when a right is absolute, it means that under no circumstance should this right be violated. Yet, contrary to international, regional and national laws preventing torture, the practice is still widespread in Uganda. While the UNCAT and Ugandan Constitution condemn torture, it is not recognised as a distinct criminal offence but rather is treated as assault under the Penal Code. The fact that torture is not recognised as a crime in Uganda is probably the biggest problem for human rights activists advocating against the use of torture by Government security organisations.

## 1. The African Centre for Treatment and Rehabilitation of Torture Victims (ACTV)

The ACTV is a unique African organisation that was created in June 1993 in Kampala (Uganda) by African professionals drawn from different walks of life; it was established under the guidance of the International Rehabilitation Council for Torture Victims (IRCT) in Denmark. The organisation is registered as a non-political and non-governmental organisation dedicated to the promotion and protection of human rights, with emphasis on the health and rehabilitation of victims of torture. The ACTV is accredited by the Ugandan Ministry of Health to operate a medical referral centre that provides physical and psychological care to support the process of rehabilitation of victims of torture, including individuals tortured by security agencies or armed groups (such as rebels in Uganda and neighbouring countries). To date, the ACTV is the only human rights NGO that specifically provides holistic medical treatment to victims of torture in Uganda. The organisation's vision is 'A world free from torture by security agencies and organised armed groups'. Its mission is 'To provide quality treatment and rehabilitation services to torture victims and to advocate against torture and for services to torture victims'.<sup>1</sup>

The ACTV defines torture according to Article 1 of the UN Convention against Torture and other cruel, inhuman or degrading treatment or punishment (UNCAT), which Uganda acceded to

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\* Sharon Lamwaka has been Communications and Advocacy Officer at ACTV since 2004. See <http://www.actvuganda.org>.

<sup>1</sup> See <http://www.actvuganda.org/about%20us.html>. Last accessed 15 January 2010.

on 26 June 1987 without any reservation or declarative interpretation that in any way affects the contents of the treaty. Article 1 defines torture as

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanction.<sup>2</sup>

The ACTV also extends its mandate to include people tortured by non-state actors (i.e. rebels and paramilitary forces) under Article 3 of the Geneva Convention on Treatment of Prisoners of War of 1949.<sup>3</sup>

## 2. Trends of Torture in Uganda

Although the 1995 Constitution of the Republic of Uganda aimed to abolish torture by including a provision to protect all citizens against all forms of torture,<sup>4</sup> the Uganda Human Rights Commission (UHRC) continues to receive allegations of torture; an indication that the practice still prevails. In the absence of national statistics, it is difficult to estimate the overall number of torture victims in Uganda. However, the scale of torture in Uganda can be estimated from the number of victims treated by the ACTV<sup>5</sup> and also the number of torture-related complaints submitted to the UHRC.

The number of victims has increased considerably since 2006. The ACTV opened a permanent Office in Gulu, northern Uganda, at this time to monitor the problem in this region, which has witnessed considerably rebel activity, particularly on the part of the Lord's Resistance Army.

### 2.1 ACTV annual trends of torture cases registered<sup>6</sup>

<b>Years</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>Total</b>
<b>Number of Victims</b>	438	754	1145	1400	1410	5147

<sup>2</sup> UNCAT, adopted by the UN General Assembly, UN Doc. A/Res/39/46, 10 December 1984, entered into force 26 June 1987.

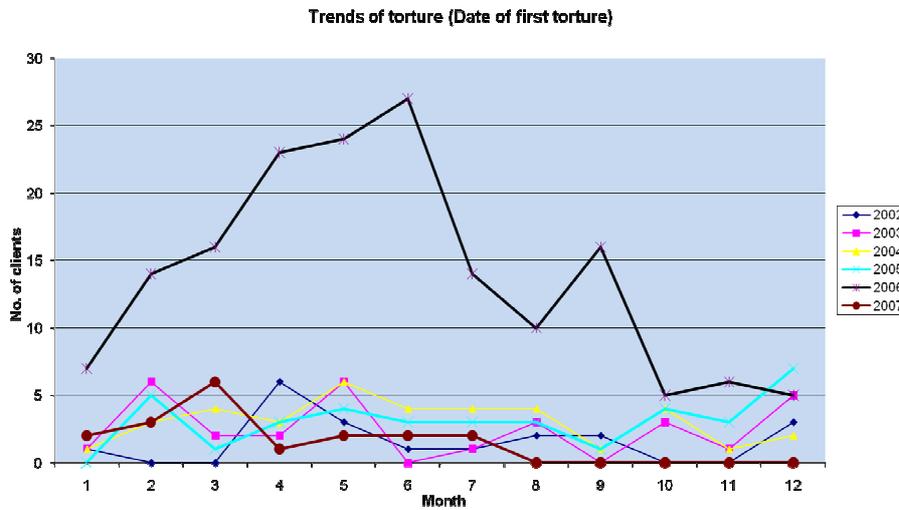
<sup>3</sup> Geneva Convention Relative to the Treatment of Prisoners of War, adopted by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, 12 August 1949, entered into force 21 October 1950. Available at <http://www2.ohchr.org/english/law/prisonerwar.htm>. Last accessed 24 June 2009.

<sup>4</sup> *Constitution of the Republic of Uganda* (Kampala: Law Development Centre, 1995), Chapter 4, Article 24. See also <http://www.usig.org/countryinfo/laws/Uganda/CONSTITUTION%20OF%20THE%20REPUBLIC%20OF%20UGANDA%201995.pdf>. Last accessed 15 January 2010.

<sup>5</sup> See ACTV Annual Reports. Hard-copies available from the ACTV.

<sup>6</sup> See ACTV Annual Reports. Hard-copies available from the ACTV.

*Trends of torture 2002-2007*<sup>7</sup>



According to the baseline survey data on which this graph is based,<sup>8</sup> the incidence of torture peaked between 2002 and 2004. This was probably due to the fact that presidential and parliamentary elections took place in this period: torture was routinely used during this period in conjunction with electoral ‘foul play’.<sup>9</sup>

<sup>7</sup>African Centre for Treatment and Rehabilitation of Torture Victims, Rehabilitation Centre for Victims of Torture in Ethiopia and Independent Medico-legal Unit, Baseline Survey Report on Trends and Nature of Torture in Uganda, Kenya and Ethiopia, 2008. See also REDRESS, Torture in Uganda: A Baseline Study on the Situation of Torture Survivors in Uganda, pp.13-14. Available at [http://www.redress.org/reports/TortureUganda\\_Apr%2007.pdf](http://www.redress.org/reports/TortureUganda_Apr%2007.pdf). Last accessed 15 January 2010.

<sup>8</sup> Baseline Survey Report on Trends and Nature of Torture in Uganda, Kenya and Ethiopia, 2008, pp.15, 18, 26. See fn.7.

<sup>9</sup> For a discussion of election-related violence in Uganda see Human Rights Watch, Preparing for the Polls Improving Accountability for Electoral Violence in Uganda, 3 December 2009. Available at <http://www.hrw.org/en/node/86934/section/5>. Last accessed 15 January 2009.

### 2.3 Torture cases registered by the UHRC 1997-2008<sup>10</sup>

Year	Number of Victims
1997	21
1998	44
1999	69
2000	93
2001	149
2002	115
2003	334
2004	622
2005	286
2006	264
2007	254
2008	314
<b>Total</b>	<b>2565</b>

Since 1997, when UHRC started hearing cases of human rights violations, collecting reliable statistics on torture has been a priority for the Commission. In the UHRC's 11<sup>th</sup> Annual Report, which was launched and presented to the Parliament of Uganda in October 2009, torture ranked top of the list of human rights violations in Uganda, comprising 29.6% of all violations, with child abuse following at 22.1%. It is likely that the UHRC has recorded fewer cases of torture than the ACTV because the ACTV also looks at torture by non-state actors: the UHRC does not.

### 3. Perpetrators of Torture

The ACTV's Baseline Survey indicated that in Uganda the most common reasons for torture being used were (i) to obtain information (in 46% of cases), (ii) as punishment for crime (in 22% of cases), (iii) for no identified reason (in 19% of cases), (iv) to obtain confessions (in 8% of cases), (v) in relation to political affiliation (in 3% of cases), and (v) as punishment for illegal possession of a firearm (in 2% of cases).<sup>11</sup> Security forces are key perpetrators of torture. The Ugandan Police Force was implicated in 49% of cases.<sup>12</sup> The army and the Uganda Prison Service have also been implicated in a large number of cases. These statistics are consistent with those of the UHRC.<sup>13</sup>

<sup>10</sup> UHRC, Annual Reports 1997-2008. Annual Reports for 2001-2008 are available at [http://www.uhrc.org/index.php?option=com\\_docman&Itemid=137](http://www.uhrc.org/index.php?option=com_docman&Itemid=137). Last accessed 15 January 2010.

<sup>11</sup> Baseline Survey Report, 2008, pp.15, 18, 26. See fn.7.

<sup>12</sup> Baseline Survey Report, 2008, pp.15, 18, 26. See fn.7.

<sup>13</sup> For a discussion of agencies of the state 'against which credible allegations of torture have been made', see International Rehabilitation Council for Torture Victims, Country Assessment Report: Uganda, 2006, p.10 especially.

In 2003, the UHRC Kampala Office received a total of 270 complaints of torture; 122 of these were against the Uganda Police Force. The UHRC has reported the same trend in recent reports, although no specific statistics are given.<sup>14</sup>

## 4. ACTV Interventions to Curb Torture in Uganda

### 4.1 Treatment

The ACTV provides multidisciplinary treatment to victims of torture, including medical treatment, physiotherapy, nursing care, social and trauma counseling, and legal advice.

#### 4.1.1 Case study I<sup>15</sup>

In 2002, an 18-month-old girl three was allegedly abducted (with her mother) from an internally displaced people's camp in Gulu District, where there has been a civil war for more than 20 years. The family claims that she was tortured by Lord's Resistance Army rebels for crying during the abduction. The torture included being stabbed in the left eye with a bayonet and witnessing her mother being gang raped. As a result of this torture, her left eye had to be removed following an evisceration procedure in Gulu Hospital; she also suffered recurrent septic infection of the empty socket and pain in the left ear. When the ACTV first saw the girl, in 2006, then aged three and a half years, it was reported that she was unable to see well at night, that she was being stigmatised by children in the community and that she suffered recurrent nightmares. During a treatment programme in Gulu District in March 2006, the ACTV treatment team (i) referred the client to an ophthalmologist in Gulu who, in turn, referred the client to an eye replacement specialist in Kampala, (ii) counseled the parents on how to handle a traumatised child, and (iii) informed the parents about the recommendation from the ophthalmologist regarding an artificial eye for their daughter. As a result of this treatment, the parents consented to the eye replacement operation. The ACTV supported the client through the operation, providing transport, accommodation, and funds for upkeep and for a hospital follow up. The client underwent the operation successfully but, a few months after the operation, the eye popped out of the socket. The ACTV medical team realised that the artificial eye was too big for the young girl's socket. Another operation was arranged. It was successful. However, the artificial eye continues to discharge because of re-infection and the girl, now age eight, does not go to school due to the stigma associated with losing her eye.

### 4.2 Training

The ACTV provides training programmes on torture-related issues to clinicians, health professionals, government officials, community-based organisations and NGOs. This training lays particular emphasis on sensitive approaches to dealing with torture, human rights and assisting torture victims. Workshops for health workers are especially important because, as

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<sup>14</sup> See, for example, UHRC, 2008 Annual Report, pp.17-18. See fn.10.

<sup>15</sup> ACTV case files, on file with the author. See also ACTV, *The Agony of a Baby in the Face of Armed Conflict*. Available at <http://www.actvuganda.org/Scripts/2007%20TOUC.pdf>. Last accessed 15 January 2010.

primary service providers, health professionals are often the first people that torture victims seek help from in the community. Training for health workers focuses on how to provide effective, sensitive support and assistance to victims, and also how to identify cases of torture and document initial evidence so that cases can be referred to the ACTV and/or public agencies.

The ACTV has also been instrumental in training internship students from Makerere University (Uganda's biggest and oldest University), and other international institutions, in various aspects of assessing and managing the needs of torture victims.

#### *4.2.1 Case study II*

The ACTV regularly provides training to security officers to encourage greater awareness of (i) human rights laws regarding torture, (ii) the situations that make torture more likely, and (iii) the ways in which torture victims can be assisted. The security officers involved in these training programmes include officers from the army, police force and prisons: attendees included special police constables, local administration police, members of the Uganda People's Defense Army Forces, prison officers, military police, members of the Chieftaincy of Military Intelligence, and members of the Joint Anti-Terrorism Taskforce and Rapid Response Unit. Training sessions focus on topics such as the concept of torture, common types/ methods of torture and their consequences, Codes of Conduct, Uganda's legal obligations to combat torture, and sensitive handling of torture victims.

Common questions from participants include

- As medical doctors of the ACTV, how do you document evidence of torture if there are no physical scars or other evidence?
- Why should the security forces observe the rights of people who abuse the rights of lawful citizens?
- Without torture, hardcore criminals do not reveal information: we have recovered guns used to terrorise the community through torture. Therefore, how can it be bad if used in this way?

Training sessions are carried out by the ACTV and Uganda Police Force facilitators. This kind of working relationship between an NGO and Government is rare in many African countries. During a meeting of African organisations, held in Burundi in December 2008, aimed at sharing experiences of torture prevention, participants from the Democratic Republic of Congo were amazed that the ACTV works with security organisations to curb the incidence of torture in Uganda.

Although the ACTV has already provided some training for staff from the police force, the People's Defenses Forces and the prison service, the ACTV is currently negotiating to be included in the security organisation's official training curriculum so that all new officers and members of these forces can be educated about preventing torture before being passed out. If these negotiations are successful, it will be possible to gain a more reliable understanding of the impact of such initiatives on the incidence of torture. At present, it is not possible to separate the various facts which have led to the reduction in torture noted in the 2008 Baseline Survey,

though it is not unreasonable to suppose that the training already carried out has had some impact.<sup>16</sup>

#### 4.3 *Research and documentation*

The ACTV collects information from clients and documents evidence of torture for legal, medical and other uses, using the Istanbul Protocol Guidelines. Surprisingly, to date the ACTV has not faced any major challenges in documenting torture because of an established working relationship with security institutions, coupled with the fact that the anonymity of victims is respected.

The Ugandan Prison Service has appeared appreciative of feedback regarding the ACTV's activities in prisons. Every year, a team from the ACTV meets with officials from the Ugandan Prison Service to give feedback on prison conditions. This feedback has improved conditions of both prisons and individual inmates in areas where the ACTV works.

#### 4.4 *Advocacy and communication*

The ACTV raises awareness of the prevalence of torture through (i) working with the mass media, (ii) publication of newsletters (*The Torture Watch*),<sup>17</sup> and (iii) awareness raising workshops.

#### 4.5 *Networking*

The ACTV has, for the last three years, been the host of the Coalition Against Torture: a loose network of ten civil society organisations. As part of the Coalition, the ACTV, in collaboration with UHRC, has drafted a Bill on Torture. The Coalition members and the UHRC celebrated the United Nations International Day in Support of Victims of Torture on June 26<sup>th</sup>. Amongst the activities organised, there was a peaceful march on the streets of Kampala: the Chief Walker/Guest of Honour was Honourable Justice A. Rugadya Atwoki of the High Court of Uganda. Justice Atwoki noted that the Prevention of Torture Bill 2009, drafted by the Coalition Against Torture and UHRC, is 'one of the most comprehensive' bills he has come across.<sup>18</sup> Jean-Baptiste Niyizurugero, speaking for the Association for the Prevention of Torture (APT), a Geneva-based partner of the Coalition and the UHRC, agreed with the Honourable Justice A. Rugadya Atwoki; he noted that 'In comparison with other torture bills (and drafts) that I have come across from other countries worldwide, it would be even one of the best if it was adopted as it is now'.<sup>19</sup>

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<sup>16</sup> Baseline Survey Report, 2008: pp.15, 18, and 26. See fn.7.

<sup>17</sup> Available at <http://www.actvuganda.org/Scripts/2007%20TOUC.pdf>. Last accessed 15 January 2010.

<sup>18</sup> Personal correspondence (email), 1 July 2009. On file with the author.

<sup>19</sup> See fn.18.

The Prevention of Torture Bill seeks to give effect, in accordance with Articles 24 and 44(a) of the Ugandan Constitution,<sup>20</sup> (i) to respect of human dignity and protection from inhuman treatment by prohibiting any form of torture or cruel, inhuman or degrading treatment or punishment, (ii) to provision that criminalises torture, and (iii) to the obligations of Uganda as a State Party to the UNCAT.<sup>21</sup> The Bill seeks to define (i) what constitutes the crime of torture, (ii) how information obtained by torture may or may not be used, (iii) the permissible treatment of prisoners, especially where there is a likelihood of torture, (iv) jurisdiction over the offence of torture, (v) the duty to report torture, (vi) State responsibility to promote awareness of torture and the conditions that give rise to it, and (vii) restrictions on extradition where torture is likely and for other related matters.

The Bill seeks to reaffirm that freedom from torture is a right that must be protected under all circumstances. Also, the Bill seeks to underline the importance of the approach to prohibition and prevention of torture represented by the Optional Protocol to the UNCAT<sup>22</sup> (OPCAT),<sup>23</sup> which Uganda has not ratified. The OPCAT declares that ‘efforts to eradicate torture should first and foremost be concentrated on prevention’;<sup>24</sup> the Bill seeks to establish that prevention should be as much a goal of interested actors as dealing with existing violations and victims. The ACTV’s approach already takes account of the importance of preventive work via the importance it places on training of security forces and general awareness raising, and is working to widen the nature and scope of its preventive efforts.

## 5. The ACTV’s Main Challenges

The ACTV is entirely dependant on its partners for financial support. When there are delays in disbursing funds (as is commonly the case), it hampers the timely running of activities. This has implications for treating victims of torture. Moreover, the ACTV does not have the capacity to help all victims of torture in Uganda. Most outreach programmes, for instance in prisons, are conducted in hard to reach areas with poor roads that become impassable to most vehicles during the rainy season. Many prison inmates have been kept on remand for very long periods (some up to seven years). This creates many opportunities for torture, so it is of vital importance that the ACTV’s work can continue year-round and can reach all those who are in need of its assistance, especially in the absence of other organisations that specialise in this complex area.

Torture is an extremely sensitive area of human rights activism in which to work. Perpetrators are often government officials who are unwilling to acknowledge that their staff torture people. Often, individual perpetrators are security personnel who are constitutionally mandated to maintain law and order. Human rights defenders, such as the members of the ACTV, are thus engaged in an area of human rights activism that is extremely dangerous to their lives and those of their families. The ACTV is, therefore, conscious of the importance of adopting safety procedures and safeguards in its approach to engaging with perpetrators of torture during preventive activities. For instance, rather than use an approach that employs blame and

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<sup>20</sup> *Constitution of the Republic of Uganda*, pp.44, 54. See fn.4.

<sup>21</sup> UNCAT. See fn.2.

<sup>22</sup> See UNCAT, Article 2(2). See fn.2.

<sup>23</sup> OPCAT, adopted by the UN General Assembly, UN Doc. A/RES/57/199, 18 December 2002, entered into force 22 June 2006. Available at <http://www2.ohchr.org/english/law/cat-one.htm>. Last accessed 3 December 2009.

<sup>24</sup> OPCAT, ‘Preamble’. See fn.22.

accusations, security organisations are looked at as partners in the fight against torture. This is in line with the approach put forward in the OPCAT<sup>25</sup> and, as with the OPCAT, it is bearing fruit in relation to the ACTV's activities.

Unfortunately, investigating bodies, such as the UHRC, are bogged down by low capacity, difficulties in locating witnesses, lack of cooperation from the government institutions, lack of awareness on the part of security forces and others about the powers of the UHRC, lack of access to both victims and members of security forces accused of torture, and lack of cooperation from eye witnesses and others. Moreover, while the Ugandan Constitution mandates the UHRC to investigate, document and report all human rights violations in Uganda, the organisation has no powers to prosecute. Thus, although the UHRC is the most important body involved in awarding compensation, it has no powers to enforce its decisions. Thus, in practice, many of those accused of torture remain beyond domestic and international law.

## 6. Conclusion

Besides non-state actors such as the Lord's Resistance Army rebels, police officers rank high on the list of common perpetrators of torture in Uganda. However, only the police and other security forces are mandated to arrest and detain. The fact that torture is not recognised as a crime in Uganda is probably the biggest problem for human rights activists advocating against its use by government security organisations.

The use of torture as an interrogation tool is a weakness in the criminal investigation process.<sup>26</sup> Due to the reported lack of effective alternatives for investigating crime, law enforcement officials resort to torture. However, these officials are often unaware of the many studies that have shown that torture is a very ineffective way of obtaining reliable information. Moreover, many are unaware that allowing it means that Uganda is in violation of its duties under the UNCAT.

The incidence of torture in Uganda has often peaked in parallel with elections: it was particularly high at a time when Uganda was shifting into a multi-party system (i.e. after the July 2005 constitutional referendum that led to the ban on multi-party politics). The next elections will take place in 2011 and tension in the country is already high. Thus, the development of the Prevention of Torture Bill is especially important and laws, procedures and other measures should be put in place as a matter of urgency to prevent the incidence of torture increasing again in line with the run up to the elections.<sup>27</sup>

Although the ACTV is involved in many interventions to prevent torture, and to provide redress when it happens, there are still many weaknesses in the system. Uganda's various judicial institutions face many operational and structural challenges; civil society organisations often

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<sup>25</sup> See Casale and Rodley in *Preventing Torture in the 21<sup>st</sup> Century – Part I*.

<sup>26</sup> For a more detailed discussion of the use of torture during interrogations in Uganda, see Human Rights Watch, *State of Pain: Torture in Uganda*, March 2004, Section I: Summary. Available at <http://www.hrw.org/en/node/12159/section/1>. Last accessed 15 January 2010.

<sup>27</sup> See also Human Rights Watch, *Uganda: Ensure Accountability for Election Violence*. Available at <http://www.hrw.org/en/news/2009/12/04/uganda-ensure-accountability-election-violence>. Last accessed 15 January 2010.

play a particularly important role in such situations. However, the ACTV is the only NGO in Uganda that commits its resources entirely to addressing torture. If the Government passes the Prevention of Torture Bill, it will be far easier to drive key changes forward. Moreover, it would provide an important example for other African States to learn from and, potentially, to replicate.