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REPORT ON THE MISSION OF THE SPECIAL RAPPORTEUR  
ON PRISON & CONDITIONS OF DETENTIONS  
IN AFRICA TO UGANDA

(Item 10)

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## **Introduction**

### ***Dates of the visit and composition of the delegation***

The Commissioner, Dr Vera Mlangazuwa Chirwa, Special Rapporteur on Prisons and Conditions of Detention in Africa of the African Commission on Human and Peoples' Rights, African Union, visited Uganda from 11 to 22 March 2001.

The purpose of this visit was to evaluate and document conditions of detention in Uganda and to build a constructive and permanent dialogue with the government of Uganda with the aim of improving conditions of detention and rehabilitation in Uganda.

The Special Rapporteur was accompanied by:

- Dr. Alpha Oumar Sankarela Diallo, Chief Medical Officer, Security and Prison Services, Guinea Conakry
- Annie Rashidi, Legal Officer, the African Commission on Human and Peoples' Rights, Gambia
- Audrey Pascaud, Assistant, France

The African Commission of Human and Peoples' Rights wishes to thank them for their contribution to this mission.

### ***Background information***

Uganda has experienced a number of changes from the time when it was declared a British Protectorate in 1860. A number of developments have occurred in the areas of social, economic and political establishment. However the area that has seen significant changes is the political governance of Uganda. Since 1962, when Uganda attained independence from the British, the country has so far seen a total number of 7 Presidents with 8 regimes. The dictatorial regime of Idi Amin (1971-79) was responsible for the deaths of some 300,000 opponents; guerrilla war and human rights abuses under Milton Obote (1980-85) claimed another 100,000 lives. During the 1990s the government promulgated non-party presidential and legislative elections.

On 12 March 2001, President Yoweri Museveni was reelected to a second 5-year term under the Constitution and continued to dominate the Government. He has ruled since 1986 through the National Resistance Movement, legislatively reorganized and renamed as "The Movement" in 1995. The Constitution provides for a 295-member unicameral parliament and an autonomous, independently elected president. During 2001, the Constitutional Review Commission (CRC) began work to amend the 1995 Constitution. The judiciary generally is independent but is understaffed and weak; the President has extensive legal powers.

The Uganda People's Defense Force (UPDF) is the key security force. The Constitution provides for civilian control of the UPDF, with the President designated as commander in chief; the UPDF remained active due to the continued instability in the north, northeast, and west and because of the country's involvement in the conflict in the neighbouring Democratic Republic of the Congo (DRC). UPDF soldiers and members of Local Defense Units (LDU's) assist the police in rural areas. LDU's operate under the authority of the Ministry of Internal Affairs but without a legal mandate. The Internal Security Organization (ISO) remained under the direct authority of the President. Although the ISO primarily is an intelligence-gathering body, its operatives occasionally detained civilians. The Directorate of Military Intelligence (DMI), which also is known as the Chief of Military Intelligence (CMI) and is under UPDF control, detained civilians suspected of rebel and terrorist activity. The police are organized as a national force under the authority of the Ministry of Internal Affairs. All security forces are under government control and are responsive to the Government.

Insurgent forces committed numerous serious abuses. The Allied Democratic Forces (ADF), a rebel group in the western part of the country whose activities decreased during the year, killed and abducted persons, including children. The Lord's Resistance Army (LRA), a terrorist organization led by Joseph Kony, and in the past supported by the Government of Sudan, operated in the north from bases in southern Sudan.

The economy grew at a rate of approximately 5.1 % during 2001. Annual gross domestic product (GDP) was \$320 (505,000 shillings) per capita. Foreign economic assistance provides approximately 52 % of government revenues. The agriculturally based economy continued to rely on coffee as its chief export. Foreign investment remained steady at approximately 4 percent of GDP amid chronic and serious levels of corruption and continuing concerns about regional security in the wake of the country's intervention in the DRC. The pace of the privatisation process increased due to the Government's privatisation of the Uganda Electricity Board (UEB). The financial sector was strengthened due to improved lending practices and more stringent supervision by the central bank.

### **People**

The country's population is approximately 24.7 million (July 2002 estimate). According to the UNHCR, by the end of 2001, Uganda was host to 178,815 refugees from a number of neighbouring countries, including: Sudan 155,996, Rwanda 14,375, and Democratic Republic of the Congo 7,459 (2002 est.)

There are several ethnic groups in Uganda, the most important numberwise being the Baganda 17%, followed by Ankole, Basoga and Iteso – all 8%.

Roman Catholics and Protestants represent a 33% each, Muslims 16%, and indigenous beliefs 18%

Uganda population is young, with 50.9% aged between 0-14 years. Life expectancy is 43.8 years (female: 44.67 years male: 42.97 years - 2002 est.)

It was estimated in 2001 that 1.1 million Ugandans lived with AIDS.

English is the official national language, taught in grade schools, used in courts of law and by most newspapers and some radio broadcasts; Ganda or Luganda is the most widely used of the Niger-Congo languages, preferred for native language publications in the capital and may be taught in school.

Literacy rate (age 15 and over can read and write) was estimated in 2000 at 62.7% (male: 74% - female: 54%).

35% of the population live below poverty line (2001 est.).

### **Economy**

Uganda has substantial natural resources, including fertile soils, regular rainfall, and sizable mineral deposits of copper and cobalt. Agriculture is the most important sector of the economy, employing over 80% of the work force. Coffee is the major export crop and accounts for the bulk of export revenues. Ongoing Ugandan involvement in the war in the Democratic Republic of the Congo, corruption within the government, and slippage in the government's determination to press reforms raise doubts about the continuation of strong growth. In 2000, Uganda qualified for enhanced Highly Indebted Poor Countries (HIPC) debt relief and Paris Club debt relief. Growth for 2001 was held back because of a continued decline in the price of coffee, Uganda's principal export.

Uganda was one of the first countries to finish its Poverty Reduction Strategy Paper (PRSP) as per the requirements of the International Monetary Fund (IMF) and World Bank and received new loans from the IMF and World Bank: the Poverty Reduction and Growth Facility (PRGF) and Poverty Reduction Support Credit (PRSC). However, reports indicate that

crucial policy prescriptions within the PRGF and PRSC may impair Uganda's ability to effectively realize its anti-poverty and growth goals<sup>1</sup>. Unfortunately the new IMF and World Bank loans to Uganda still contain the same highly controversial loan conditions that have been raising serious concerns for over 20 years, this despite the new Poverty Reduction Strategy process.

### ***Administrative and legal organisation***

The country is divided into 45 districts.

#### *Constitution*

The Constitution was adopted on 8 October 1995 by the interim, 284-member Constituent Assembly, charged with debating the draft constitution that had been proposed in May 1993; the Constituent Assembly was dissolved upon the promulgation of the constitution in October 1995.

#### *Legal system*

In 1995, the government restored the legal system to one based on English common law and customary law. Uganda accepts compulsory ICJ jurisdiction, with reservations.

#### *Executive branch*

The Chief of state and head of government is President Lt. Gen. Yoweri Kaguta Museveni (since seizing power 29 January 1986). The Prime Minister – Apollo Nsibambi (since 5 April 1999) assists the president in the supervision of the cabinet. He is appointed by President. The cabinet is appointed by the president from among elected legislators.

#### *Legislative branch*

The National Assembly is unicameral. It counts 303 members - 214 directly elected by popular vote, 81 nominated by legally established special interest groups [women 56, army 10, disabled 5, youth 5, labor 5], 8 ex officio members; members serve five-year terms. The last elections were held 26 June 2001.

#### *Judicial branch*

The Court of Appeal (judges are appointed by the president and approved by the legislature) and the High Court (judges are appointed by the president) comprise the judicial branch.

The judiciary receives support from external donors in order to increase its resources, improve its management and the training of judicial staff. Efforts to improve coordination between the various agencies involved in the criminal justice process are also undertaken and should be praised and continued. The Danish International Development Agency (D.A.N.I.D.A.), supported by the Royal Danish Embassy is one of Judiciary's biggest development partner.

#### *Courts*

The *Supreme Court* is established by Article 130 of the Constitution and stands out at the top of the Judicial pyramid as a final court of Appeal in Uganda. It has no original jurisdiction save as conferred by law. The Court is constituted by the Chief Justice and not less than six Justices, as Parliament may by law prescribe. It is duly constituted at any sitting by five Justices, but when hearing appeals from decisions of the Court of Appeal, a full bench of seven justices, has to be present. The decisions of the Supreme Court form precedents

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<sup>1</sup> See New Strategies; Old Loan Conditions, Do the New IMF and World Bank Loans Support Countries' Poverty Reduction Strategy Papers? The Case of Uganda By Warren Nyamugasira, Uganda National NGO Forum, Kampala and Rick Rowden, RESULTS Educational Fund, Washington, DC With Assistance from Action Aid, April 2002

followed by all lower courts. The Honorable the Chief Justice is the head of the Supreme Court, as well as the Judiciary.

The *Court of Appeal* is a child of the 1995 Constitution. It is a third court of record, and interpositioned between the Supreme Court and the High Court. The Court of Appeal as the titles suggests has appellate jurisdiction over the High Court. It is not a Court of first instance except when hearing constitutional cases since it is a Constitutional Court too. The Court of Appeal of Uganda came into being following the promulgation of the Constitution, and the enactment of the Judicature Statute, 1996. Article 134 established the structure of the Court of Appeal to consist of the Deputy Chief Justice, and such number of Justices of Appeal not being less than seven as Parliament may by law prescribe. The Court of Appeal does not exercise original jurisdiction in any Civil or Criminal matters except when sitting as a Constitutional Court under powers conferred on it by Article 137(1) of the Constitutional.

The *High Court* of Uganda is established by Article 138 of the Constitution and stands as a symbol of Justice. It is the third court of record in order of hierarchy and has unlimited original jurisdiction i.e. it can try any case of any value or crime of any magnitude in Uganda. Appeals from all Magistrates Courts go to the High Court. The High Court is headed by the Honourable Principal Judge and is responsible for the administration of the court and has general supervisory powers over Magistrate's courts. The decentralisation of the High Court has led to its services brought nearer to the people in the seven circuits at Fort Portal, Gulu, Jinja, Masaka, Mbale, Mbarara and Nakawa. There are plans to create more circuits in the nearby future. The High Court of Uganda has a total of 29 Judges.

*Magistrate's Courts* are the lowest subordinate's courts whose decisions are subject to review by the High Court. There are three levels of Magistrates courts: Chief Magistrates, Magistrates Grade I and Magistrates Grade II. These courts handle the bulk of cases in Uganda. Presently the country is divided into 26 Chief Magisterial areas administered by Chief Magistrates who have general powers of supervision over all magisterial courts within the area of their jurisdiction.

There are 27 Chief Magistrates' Courts, 52 Magistrates' Grade I Courts and 428 Magistrates' Grade II Courts.

#### *International treaties*

Uganda is party to the following international instruments protecting Human Rights:

- African Charter on Human and Peoples' Rights
- African Charter on the Rights and Welfare of the Child
- International Covenant on Economic, Social and Cultural Rights
- International Covenant on Civil and Political Rights – Optional Protocol 1
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Elimination of All Forms of Discrimination against Women
- Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment
- Convention on the Rights of the Child – Optional Protocol on the involvement of children in armed conflicts – Optional Protocol on the sale of children, child prostitution and child pornography
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families – will enter into force when 20 states have accepted it.

#### ***Prisons and police stations visited***

**Central government prisons**

**N° of prisoners**

Luzira Maximum security prison (Upper prison)	2049
Luzira remand prison	580
Luzira women prison	209
Murchison Bay prison	1203
Masaka prison	668
Kakiika prison	749
Masindi prison	553
Mbale prison	811
Mbale women prison	24
Tororo government prison	278

Total Prisoners visited: 7124 (44% of the total central government prison population)  
 Total Places visited: 10 (25 % of the total number of central prisons)

<b>Police stations</b>	<b>N° of prisoners</b>
Kampala central police station	111
Masaka Central police station	20
Kasese police station	13
Mbale police station	19

Total Prisoners visited: 163  
 Total Places visited: 4

<b>Local governments prisons</b>	<b>N° of prisoners</b>
Mpigi local government prison	93
Kasese local administration prison	57
Tororo local administration prison	7

Total Prisoners visited: 157  
 Total Places visited: 3

<b>Local governments police units</b>	<b>N° of prisoners</b>
Kamukuzi local administration police units	11
Kasese local administration police units	1

Total Prisoners visited: 12  
 Total Places visited: 2

<b>Others</b>	<b>N° of prisoners</b>
Nagguru remand home for juveniles	134

### ***Consultations undertaken by the delegation***

The Special Rapporteur and her delegation held talks with:

His Excellency H.E. Eriya Kategaya, Minister of Internal Affairs

Mrs Margaret Ssekagya, Chair, the Uganda Human Rights Commission (UHRC) and members and staff of the Commission

The International Committee of the Red Cross (ICRC)

The Inspector General of Police, Major General Katumba Wamala



The Chief Justice

The Director of Public Prosecution and His Deputy

The delegation had many very useful discussions with M. Etima, the Commissioner of prisons and the staff of the Uganda Prison Service (UPS), particularly Dr. Kurt Neudek, Assistant Commissioner. The Special Rapporteur is very grateful to Commissioner Etima for welcoming and introducing her and the delegation to the staff of UPS, as well as for the very open minded and useful discussions that followed.

The delegation also consulted representatives of non-governmental organisations: Foundation for Human Rights Initiative (FHRI); Build up again – ex prisoners association; Ugandan Prisoners Aid Society

The Special Rapporteur met the press: The Monitor, Radio Uganda, Dembe FM, Radio Simba, The New Vision, Monitor Radio, Uganda TV, WBS TV, Radio One

Many prisoners were questioned in private, individually and in small groups, within each establishment visited.

### ***Cooperation received***

The Special Rapporteur welcomes the spirit of cooperation and openness which marked the relationship with her delegation. She is particularly grateful to Dr. Kurt Neudek, Assistant Commissioner of Prisons and Mr. Ikerapa, Commissioner in charge of inspections who spared no effort to ensure success to the mission.

### ***Visit context***

Prison and judicial authorities in Uganda, as in many countries worldwide, face a repressive public opinion. Mob justice is widespread and well rooted, and prison is therefore considered as a lighter punishment. The fear of mob justice is invoked as a reason not to release these people on bail, as the population tends to think that a person on bond is free.

The capital punishment is highly debated, but further work remains to be done with regard to public awareness. The number of capital cases remains high, as well as the number of executions carried out each year (see below).

Corruption seems to be an important feature at all stages: police, prison and judiciary. Some institutions do exist to fight it, but a lot remains to be done.

The Uganda Prison Service (UPS), conscious of the conditions prevailing in prisons has adopted a policy document entitled "Uganda Prisons Services, 2000 and beyond". This document describes the commitment of UPS to the "*reasonable, safe, secure and humane custody of offenders in accordance with universally accepted standards, while encouraging and assisting them in their reformation and social reintegration as law abiding citizens*".

The UPS was in the process of drafting a new prison legislation, which the Special Rapporteur strongly encourages. The drafting of a new prison legislation can be an important step towards improvement of prison conditions and penal reform. The Special Rapporteur would like to insist on the importance of such legislation, which must be a tool for progress. The adoption of such legislation must be an occasion to promote a humanistic approach of prisons, bearing in mind the objective of prison, which is the rehabilitation of prisoners in view of their return into the community, as stated in the UPS policy document. The Special Rapporteur would like to encourage the Prison Service of Uganda to take its inspiration from progressive legislations which have been adopted on the continent.

## Findings

### ***The prison system***

#### *Legal framework and organisation*

Uganda has a dual prison system, with prisons under the responsibility of the central government, and prisons under local governments. There are 47 central government prisons, and than 145 local government prisons. To these must be added local governments lock-ups.

The Uganda Prison Service (UPS) was established under the Constitution of Uganda and the 1958 Prison Act (revised in 1964). These, together with the prison rules made under section 76 of the Act, continue to provide the legal framework under which the UPS operates. The UPS, along with the Uganda Police Force falls under the authority of the Minister of Internal Affairs. The Commissioner General for Prisons and his Deputy are appointed by the President, with parliamentary approval.

UPS has four major Departments headed by a senior Assistant Commission of Prisons:

- Department of Inspection
- Department of Administration
- Department of enterprises
- Department of Support Services

Creation of a separate department for health in prisons is underway.

Outside the Headquarters in Kampala, there are 11 regions, headed by a Regional Commander, and an Officer in Charge at each prison.

The budget for infrastructure today is estimated at 18% of what would be needed for smooth functioning, budget for operations at 42%, and budget for staffing at 50% of what is needed.

Under the provisions of the Police Act 1994 the police have power to arrest a person if they have reasonable cause to suspect that the person has committed or is about to commit an arrestable offence (punishable by one year or 100/= UGS). Furthermore, a police officer may arrest and detain a person if he considers it necessary to prevent them from causing physical injury to themselves or others; suffering physical injury; causing loss or damage to property; committing an indecent act; causing obstruction on a highway; inflicting harm on children or vulnerable persons.

Chief of villages, Local Councils and Committees, Local Defence Units and other individuals are also entitled to arrest people suspected of having committed an offence entailing an imprisonment sentence of at least a year.

A very striking feature of the legal framework in Uganda is the defilement offence. Defilement became a capital offence in 1990. Sex by any aged male with a female under the age of 18 constitutes defilement (18 being the age of consent, among the highest worldwide). The very high number of defilement cases is a feature of the Ugandan prison population. There have been reports that these cases are not always founded and that families get on with the police to extort money from the suspect, or even encouraged relationship between victim and offender only to later use the issue of defilement to extort compensation. As a capital offence, a case for defilement must be heard by a High Court judge, hence lengthy pre-trial periods. Following these delays, and for a variety of reasons such as insufficient evidence, age not proven, unavailability of witnesses, etc. , the rate of acquittal is high. Where a conviction is obtained, however, sentences range from caution to 25 years with most falling in the range of 6-10 years. Most offenders are almost as young as their victims (16-20). There have been no execution for this reason. There are currently proposals to enable lower

courts to be competent to handle such cases, and to reduce death sentences to life sentences.

According to the Constitution, petty offenders should get automatic bail after 120 days in prison, and serious offenders (murder, robbery, defilement, treason) after 360 days.

The lack of judges – in particular as far as High Courts are concerned – accounts partly for the very high proportion of remand cases.

Uganda has introduced community service as an alternative to custody in four pilot districts: Masaka, Mukono, Mpigi, Masindi. 90 offenders have been sentenced since introduction of the scheme. The mechanism will help decriminalize certain offences but magistrates and judges are not yet well acquainted with this sentence and do not use it often

The local government prisons receive very little funding from the government, if at all and the conditions there depend on the economic standing of the district. Situations and conditions vary according to the district. There are more reports of abuses in these prisons, and overcrowding is also more severe. The Constitution provides that all prisons should be under the Uganda Prison Service (UPS), and there seem to be moves towards this.

The Nagguru remand home for juveniles is under the Ministry of Gender, Social Affairs and Development; all the staff is therefore civilian.

Overcrowding and overstaying on remand are seen as the main problems faced by UPS.

UPS is debating on how to change the situation and has identified some means:

- 1) Dialogue with the government to increase the number of judges
- 2) Work to improve working methods
- 3) Law about community service order
- 4) Chain linked project (improved cooperation between Criminal Justice Agencies)
- 5) Prison farms
- 6) Donor co-ordination meetings every two months opened to civil society
- 7) Human rights committee at prison headquarters co-ordinates with Uganda Human Rights Commission and relevant bodies to examines prisoners complaints
- 8) Open door policy
- 9) Human rights training for all staff, including training trainers
- 10) Industries
- 11) Schools for prisoners
- 12) Collaboration with the Central, Eastern and Southern African Heads of Correctional Services Conference (CESCA) re. training, management, policy, conditions of service of personnel

The Special Rapporteur would like to encourage the Government of Uganda to seize the opportunity of the revision of Prison Bill to end this dual approach and put all institutions under one authority, namely the UPS, as per the Constitution. Resources will have to be made available accordingly. This important step would ensure an equal treatment of all prisoners.

### *Control mechanisms*

UPS as an internal control mechanism, the Commissioner for inspections. The regional Commanders of the UPS report to him.

As per the Constitution, the Uganda National Human Rights Commission (UHRC) is entitled to visit "jails, prisons, and places of detention or related facilities with a view to assessing and inspecting conditions of the inmates and make recommendations;" (art. 52 (1) (b)). The UHRC theoretically inspects prisons once a year, without prior notice; it points out problems and weaknesses and gets support from the authorities. The UHRC also provides civic education, monitor government's compliance with international treaties and obligations. In 1996, the UHRC created a prison committee to visit and monitor prisons. This committee was transferred to UPS (Complaints and investigation service under inspection department).

UHRC has tribunals hearing cases (These tribunals bring people to answer charges and compensation orders in favour of the victims can be decided). Commissioners of UHRC hear cases. There were 20 cases of compensation so far (up to 25 million shillings). UHRC is preparing a training manual for prisons. UHRC wished that each institution/service gets a HR committee. They pushed for that and prison, police, UPDF now have such committees. They are now working closely with them.

Several NGOs work in prisons, whether nationals (FHRI, Uganda Prisoners Aid Society) as well as the ICRC which has however scaled down its activities outside Kampala due to security problems. international (ICRC). FHRI has visited more than half of all the prisons, governmental and local of the country and was devising a programme to visit police stations as well.

### *Prisons in brief*

#### **Type of prisons**

The delegation observed different types of prisons: *receiving centres* (Mbale) for unconvicted prisoners or those with a sentence not exceeding six months; an *open prison* for low security offenders and short term prisoners up to four years (Murchison Bay); a *maximum security* prison (Luzira Upper prison), receiving capital offenders (murder, robbery, aggravated robbery, manslaughter, rape, defilement, treason, terrorism) and long term prisoners (over five years). There are also two women prisons in Luzira (Kampala) and Mbale, and four prison farms (Kigo, Mutukula, Isimba, Tororo). The hospital located at Murchison prison in Kampala serves as a national referral hospital for all prisoners from local and governmental prisons as well as police stations. Some prisons are equipped with industries and workshops (Luzira Upper, Murchison Bay, Mbale). Most prisons are old and date back to the 1920's.

#### **Number of prisons**

49 prisons under central administration; 145 prisons under local administration; a total of 194 prisons. To these must be added numerous lock-ups under local authorities.

#### **Capacity**

For the 49 prisons under central administration, as at April 2002: 8530 places.

#### **Number of prisoners**

For the 49 prisons under central administration, as at April 2002: 16,016 prisoners.

For local government prisons and other lock-ups, the Special Rapporteur was not provided with figures although she requested them.

#### **Prison population – Features**

The imprisonment rate in Uganda is currently of approximately 101 per 100 000 inhabitant, with a total prison population c. 16 016 (April 2002). The average age of offenders is 26 years old. During special international events, the prison population increases with numbers of people arrested for "idleness and disorder", to clean the city.

Women represent c. 4% of the total prison population. According to Constitution, they should be detained separately from men, as well as juveniles under 18.

Overcrowding makes it often difficult to classify prisoners. However, in some prisons (Tororo prison farm), convicts were separated from remand prisoners.

Ward leaders were appointed in all prisons visited by the delegation. Fellow-prisoners often complained about the violent behaviour of these leaders, who would beat them when prison rules were breached, or for other reasons. (see also Discipline section below).

### *Staff*

Below the Commissioner General of Prisons and the Deputy, there are 13 levels of staff. Staff enter into the Service at three levels: warder/wardress, Cadet Principal, Cadet Assistant Superintendent. The initial training for officers is six to nine months, and 18 months for senior officers. Human Rights training or information are also delivered. There are some local initiatives to train staff in Human Rights (Masindi).

There were 3 107 uniformed staff in April 2002 – approx. one to five ratio, where the UPS indicate that the ratio should be one to three, i.e. approx. 5 300. In the prisons visited by the delegation, ratio varied from one to 27 (Nagguru remand home) to more than 4 staff for each prisoner (Tororo local government prison: 32 staff, seven prisoners) – average one to seven. The structure is para-military, and all staff are considered permanent civil servants.

Their living conditions were extremely difficult: out of the nearly 3 000 housing units, less than 2 000 were originally built for human habitation. The rest are improvised temporary houses.

In most cases guards work in three shifts, sometimes seven days a week. Most don't have a uniform. The pay levels are insufficient (530.000 USH (306 USD) for an officer in charge in Kampala, 154.000 USH (90 USD) for a warder).

In various prisons, the Officer in charge put the blame on the staff for infringements to human rights, explaining he could not control everything, or he was not coming everyday (Masindi). However, in many other prisons, the Special Rapporteur noted that the management staff was particularly dedicated, which the prisoners acknowledged by saying they had better relations with higher grade staff. They also acknowledged that the working conditions of junior staff and their overstaying on duty accounted for their negative attitude.

Staff in local government prisons and police staff do not receive any training to deal with prisoners and are not prepared for that job.

### ***Police custody***

The official maximum duration of police custody is 48 hours (Constitution – art. 23 (4) (b)). However, many people were found by the delegation who had been under police custody for weeks or even months. Conditions in police stations were generally poor, with overcrowding even more severe than in prisons, less hygiene, less access to care. Several prisoners were ill (women in Kampala Central Police station) or wounded. Some of these wounds were received during the arrest (one had a bullet in the leg), or resulted from beatings and ill-treatments (Kampala). –See more details under the relevant sections below.

The existence of safe houses was denounced by some prisoners, who said they had been detained in such places and described their detailed location (in Kampala). They alleged having been beaten with wires and iron bars.

### ***Torture and ill-treatment***

Various structural factors increase the risk of torture or ill-treatments. The "ward-leaders" organisation contributes to numerous abuses. People who have not been trained to be warders and who are prisoners themselves are given power over fellow prisoners. The very low degree of awareness of the prison population as a whole, including ward leaders aggravates the situation. The insufficient training of staff on Human Rights is also of concern. The dual prison system hampers harmonised initiatives to prevent torture and ill-treatments and leaves up-country and isolated local prisons without much control. Officers in Charge usually agree that prisoners are not supposed to be tortured, but acknowledge that some officers may do so. The Officer in charge at Kampala central police station said he tried very much to resist such practices "but human beings are human beings".

Several prisoners complained of having been tortured by the police to extort false confession (Kakiika prisoners reports concerned Mbarara police station; Masaka). Torture consisted in beatings (Mbarara) or having to urinate on water connected to electric wires (Kampala central police station). A prisoner who had escaped Mbale prison on 9 December 2001 was allegedly shot after his arrest.

Corporal punishment is provided for in prison rules, with some restrictions (see enforcement of prison rules section). Breaches of prison rules can result in being beaten with batons. However, the practice often exceeds legal provisions: according to prisoners in Kakiika, one of them who had been caught after an escape died at the hospital on 16<sup>th</sup> October 2001. Juveniles in Naggulu remand home are also punished with caning when they breach the Centres' rules. Prisoners in Tororo prison farm, including women, also said beating occurred, in particular when capital offenders were concerned. Caning is frequently meted by fellow prisoners appointed as leaders, which also contradicts the rule. Women in Masaka and Luzira women prison also reported beatings, intimidations and language abuses. Cases of women being striped naked in Luzira Women Prison were reported by the victims to the delegation (see also *Women* section).

Other types of degrading treatment also occur. For example, newcomers in Kampala central police station are made to wash toilets with bare hands. Collective punishment such as was meted on women in Masindi and which afflicted also the baby of a detained mother clearly breach rules and standards and are unacceptable.

Overstaying on death row amounts to psychological torture, especially when prisoners are submitted to overcrowding and poor conditions of detention. A detention of 23 years on death row, as the Special Rapporteur witnessed in Luzira maximum security prison, clearly amount to psychological torture and inhumane treatment.

### ***Vulnerable groups***

#### *Death row prisoners*

Death sentences can be meted by military courts or civil courts. There is no appeal for military sentence. By law, legal representation is compulsory for capital and life offences (Constitution art. 28 (2) (e)). The State hence must provide lawyer for the accused, which can prove difficult in some remote areas and causes lots of delays.

Sentenced capital offenders from all over the country are transferred to Luzira maximum security prison, in Kampala – However, 54 capital offenders had been transferred from Upper prison to Luzira remand prison due to congestion and were kept in disciplinary cells. 281 prisoners were on death row in Luzira Upper, the longest time spent on death row was 23 years. One was arrested when 16 years old and had spent 10 years in prison. There are amnesties periodically, but they do not apply to all categories (the last amnesty was in October 2000 but applied – according to prisoners interviewed – only to treason cases resulting in violence). Before the execution (hanging) is carried out, the Supreme court must confirm the sentence, which aggravates overstaying.

## Executions:

1989: 3      1991:12      1993 12      1996: 3  
 1999: 28      2000: none      2001 none

The Special Rapporteur finds it encouraging that no execution took place in 2000 and 2001 and urges the Government of Uganda to maintain this retentionist policy.

Visits took place for condemned prisoners at Luzira Upper prison on Mondays and Wednesdays, for 20 to 30 minutes. Their section was compact; prisoners were allowed out of their cells during all day, but could not exercise due to lack of space. They are housed three to five per cell depending on the blocks. They wore uniforms, and were allowed to get food from outside. Their blocks were clean. The building was under rehabilitation to extend it.

Condemned prisoners in Luzira women prison said they felt discriminated and rejected: they were not allowed to go to other parts of the prison than their ward, except the yard.

Capital offenders in Mbale prison are detained in very poor conditions. There are no showers in the blocks, the roofs are leaking and threatening to collapse, taps are leaking and water is to be brought in jerrycans.

*Foreigners*

Illegal immigrants are detained until deportation. The delegation met a 22 years old Afghani in Kampala Central Police Station. He had spent ten months in police custody and had been sentenced 2.5 months for his expired visa. Since there was no flight to Afghanistan, the authorities wanted to deport him to Pakistan. Two Rwandese had been detained for three months without charge (Kamukuzi local administration local unit). Some of them were said to be from the army, the Internal Security Office being therefore responsible for their file.

Foreigners often find themselves without any visit nor assistance, having no relatives around. Moreover, foreigners in Mbale and Luzira explained they could not be bailed since they had not surety, and that their embassy was not informed of their detention or they had no contact. Two Rwandese detained in Kamukuzi local administration lock-up explained they had to work for officers and to beg in order to get food. Prisoners in this lock-up were not provided with blankets, and there was no light and no toilets.

The mail – including Red Cross messages – is censored, which poses a translation problem: they only receive messages from their families after they have been translated, which can take very long.

No special diet was organised for them.

*Women*

Women represent 4% of the total prison population. Many are there because of the actions of men: they are made to carry contraband for men, prostitution, they steal to fend for children who are neglected by their fathers, etc. (See FHRI The Prisons Update, Volume 3, issue n° 1 June 1997) Many are serving relatively lengthy periods of imprisonment. They are detained either in separated wards in mostly men prisons (Masaka; Kakiika), or in separate prisons (Luzira and Mbale). It does happen that they are not separated from men, e.g. in Mpigi local prison, where they are separated only at nights. In Tororo prison farm, they are separated from men by a light fence. In Kasese local prison, their iron inpot ( 4m diameter round military barrack was next to the guards' office, without any separation. The Special Rapporteur noted that this was an unacceptable situation and women needed to be separated for protection purposes.

Their *accommodation* conditions are usually poor (although better than men's on the whole). The women's cell at Kasese police station accommodated between five and seven prisoners

at a time, for a 6 m<sup>2</sup> surface. The cell had no light and no toilet. At the time of the visit of the delegation, one woman had her baby with her. Their ward in Tororo prison farm had no lights, and poor ventilation. It accommodated 12 women and one baby. In Masaka, they had only a small yard to go outside. In Masindi, 19 women shared in a 10 x 5 m cell (2.60 m<sup>2</sup> per person), with two toilets and three showers in a separate room. These women did not have access to water and had to collect it from the kitchen. The premises at Mbale women prison were dilapidated. Ceilings let water infiltration and there was no light. Windows had bars only. One cell had no ceiling at all, to let bats out. Luzira women prison was built in 1972. It has a capacity for 78 persons, but housed 209 on the day of the visit. 62 were convicted, 141 on remand and 6 condemned. There was no separation between remands and convicts, only their uniform differed (green for remands, red for convicts). In some building (condemned), women could not access the toilets at night, and had to use a bucket.

The three women in Kasese local prison complained about their sleeping conditions and the lack of *bedding*. This problem was shared in almost each prison visited by the delegation, despite the distribution of blankets that took place in some of them shortly before the visit of the Special Rapporteur. In many prisons, women had no mattress and only one blanket to sleep, two in some rare places. Only in one ward of Mbale women prison were beds provided. Four pregnant women in Kakiika found it difficult to sleep on the floor with one blanket or two. In Luzira women prison, not all women had a bed to sleep on, some slept on the floor. In other cells, they shared a mat (one to two).

Some women detainees or prisoners have their *baby* with them. In Masindi, there was a separated space for mothers with children. Nursing mothers and pregnant women were not getting any special diet. Even babies got poshow (maize meal) and beans, and porridge without sugar, no milk. The three women with children did not receive any visit (and therefore no additional food) since they were too far away from their families. One of them was ill and could not breast feed her child. In Tororo Prison farm, one baby was staying with his mother. He got milk and sugar everyday. In Mbale women prison, the baby got cow milk, but no diapers nor clothes. In Luzira women prison, there were 24 kids up to 3 years, and 9 pregnant women. It was difficult to obtain a special diet for babies, but they did get milk, with the help of NGOs and the Red Cross.

The lack of variety in *food* was a problem almost everywhere. In Tororo Prison farm, women complained about worms in their food. They said they were not allowed to receive anything from outside. In Mbale women prison, they complained about not getting any sugar. Women were sometimes allowed to cook for themselves, but this was not the case, in Masaka for example. In Luzira women prison, women had three meals a day: porridge, poshow, vegetables, beans and meat on special occasions. (see also the *food* section below).

*Water and sanitation* were often problematic. In Kakiika[B&R1], the only tap was outside the section. Women were locked up from 18.00 to 07.00. The yard was barely large enough to have all women sitting in it (39 of them). In Luzira women prison, inmates also deplored the lack of water and bathing facilities.

Women in Masaka said they were *beaten up* for petty reasons, and that beating was the main punishment. In Luzira women prison, they mentioned intimidation from staff, i.e. beatings and abuse of language. They alleged that some had been beaten naked by several staff, and that one of them had been striped naked after water was poured on her.

Their *particular needs* are irregularly attended to, depending on the prison. In several prisons, they said they received no pads, no soap, no detergents or toilet paper. In Luzira women prison, soap is distributed only every two months, but the Red Cross helps.

All women had *uniforms* in Mbale and Luzira women prison.

In most of prisons, women engaged in some activities. They raised poultry in Mbale. In Luzira women prison, an adult literacy programme engaged 20 prisoners. A wide range of activities were proposed: handicraft, needle, weaning, rags/blankets making, poultry for egg



production, mushrooms, gardening. Radio and newspapers were allowed and women could have personal activities including sports in the afternoon (14.30 – 16.30). However, women complained of being locked-up too much. Those who have activities are allowed outside in the afternoon, others from 7.00 to 11.30 only, for lack of staff. They also have to eat inside.

### *Juveniles*

There is no special court for juveniles.

According to art. 34 (6) of the Constitution: "*a child offender who is kept in lawful custody or detention shall be kept separately from adult offenders*". However, this is not always the case, particularly as girls are concerned. There were for instance a few juveniles detained at Luzira, allegedly for lack of screening facilities at Mulago hospital and others at Ihungu local administration prison, for which no clear explanation could be given. There were two very young girls of 15 and 16 years of age in Kakiika women section. Juveniles in Luzira Upper prison were kept in a ward which they shared with elderly people, ward leaders and religious leaders. There were 15 of them on the day of the visit, the youngest was 15. Some of them had been victims of sexual assaults by other prisoners. They complained of being far from their families and mentioned drug problems. Their reports of being victims of sexual assaults did not receive attention from prison authorities.

The delegation visited Nagguru remand home, which housed 134 juveniles, out of which seven were girls. The initial capacity of the building, built in 1954 was 45. A majority was charged with capital offences, including defilement (50 cases). According to the officer in charge, the youngest was 12 years old. However, the delegation met with a 10 or 11 years old boy; who was there not because he had committed an offence, but was placed there for protection. Some were more than 18, but it was deemed preferable to keep them in this institution.

Once convicted, juveniles will be transferred to a rehabilitation centre.

A number of programmes have been set-up for these juveniles:

- Escorting them to court
- Counselling services for new-comers, sick people and those who have spent a long time on remand or the convicted. The purpose is to make them cooperate with the institution.
- Family tracing and resettlement (which involves determining where they were staying before imprisonment and what problems they faced). This is conducted in cooperation with an NGO known as "Give me a chance".
- Training in life skills such as carpentry, needle, art, etc.
- Moral and spiritual rehabilitation
- Formal education at primary school level. However, they did not pass tests as they did not take all the syllabus, since they didn't stay in the Centre for long periods.
- Gardening

The children received three meals a day. They requested that their diet be changed. They did not get meat, except on celebration days. The main problem in the centre are, according to the officer in charge, understaffing and overstaying. The maximum period should be six months, but some have been here for more than a year. A boy facing a capital charge had been there for two years, despite the rule saying that the maximum remand period in such case should be three months. The situation had improved during the past year, with the help of a legal aid clinic which gave legal representation to capital offenders. However, children complained of these lengthy remand periods. Some had not been presented to Court since they were charged.

The building were dilapidated, some doors locks and windows were broken, roofs were damaged. In the dormitory for minor offenders (boys), there where 30 bunk beds (60 sleeping places) for 68 boys. The room was 72 m<sup>2</sup> and equipped with one toilet and two showers. Sheets, blankets and pillows were provided, but they were old. In the second dormitory, there were 17 bunk beds (34 sleeping places) for 58 juveniles. Some had to sleep on the floor.

Boys and girls were mixed during the day, under supervision.

Specific needs of girls were not attended to: they did not receive sanitary pads.

Most went to school Monday to Friday, in the morning, but some were too old and did not attend. There was no sport or exercise, despite the existence of a playing ground.

Juveniles deplored the lack of books. Some said their parents were not informed of the whereabouts. Communications with outside is difficult, since there is no phone and they can't take letters far from Kampala[B&R3].

Caning was inflicted by leaders ("Prime Ministers") as a punishment (three strokes), and when leaders themselves were punished, they received 10 strokes.

#### *Other vulnerable prisoners or specific groups*

The delegation was informed that prisoners aged over 52 should be released. However, people above the given age limit are still found in the prisons (Mbale and Luzira prisons, for instance) as they are illiterate and do not know their rights. A 62 year old prisoner in Mbale police headquarters said he wanted bail, but had nobody to stand for him as his family lived far. There was an 89 year old man in Luzira, and several others above 70.

It seems that mentally ill prisoners do not get the attention and care they deserve. Most of ward two prisoners in Luzira maximum security prison suffered mental disorders, and were not attended to. Five mentally ill were kept under police custody at Kampala central police station.

Five prisoners in Luzira prison are said to be political prisoners, and detained separately for security reasons.

#### *Discriminations*

It appears that discrimination based on ethnic origin does take place. It was mentioned by prisoners in Masindi and Mbale prisons, as well as Kampala central police station. They explained that their relations with guards and ward leaders depended on their ethnic group. Prisoners in Mbale said Iteso prisoners were privileged. Communication problems with people of some tribes were mentioned in Mbale and Luzira upper prison.

Condemned prisoners in Luzira women prison said they felt discriminated and rejected: they were not allowed to go to other parts of the prison than their ward, except the yard. Condemned prisoners at Luzira Upper prison seem to be discriminated by doctors at Mulago Hospital. Doctors allegedly look at them as if they were animals.

### **Buildings and housing**

#### *Cells*

Most of the premises were built in the 1920's for a much smaller population. The accommodation capacity of UPS' 47 prisons is c. 8 000, against a prison population of more than 16 000. Prison rules say that prison accommodation should allow 4 square feet per prisoner but this is impossible. Acute overcrowding in many facilities was aggravated by the fact that some of the remote, rural facilities were under utilised as they are inaccessible to

the courts. The most common feature was dormitory accommodation. Premises were usually dilapidated. In Luzira remand prison, there were infiltration problems in several wards, and the ceilings were about to collapse. Some wards were also affected by nearby kitchen's smoke and others were extremely hot, due to the absence of ceiling. The general state of the premises was extremely poor, with defective taps, leaking roofs, etc. Mpigi local prison was built in 1940, and was not meant initially to be a prison. It was not well maintained, and conditions were very poor. Mbale prison was built in 1956, and was in dire need of repair (sick bay building was rotten, some buildings and roofs were threatening to collapse at capital offender's section, roofs were leaking).. Mbale women dormitory and Tororo governmental prison were in the same conditions. The local administration prison in Tororo held eight prisoners only and was falling in ruins.

The prison administration is trying to improve prison conditions by building, renovating or extending premises. Works had been completed in Masindi and Masaka with the support of respectively Austrian and Danish governments; more was underway or about to start at Murchison Bay and Luzira Upper prison.

*Overcrowding* primarily affected prisons near the courts and remand sections, but people could not be transferred to less crowded places such as prison farms until they were sentenced. Luzira upper prison was severely overcrowded, with 2 049 persons for an accommodation capacity of 668. One ward had 3 m<sup>2</sup> cells, housing two or three prisoners. Some prisoners had to sleep in corridors. Murchison Bay open prison accommodated 1203 prisoners, for an upgraded capacity of 601 (initial capacity: 475). For example, a dormitory of 12 x 5 m (60 m<sup>2</sup>) in block A housed 53 persons on the day of the visit, and could accommodate up to 70, while the initial capacity was 20 persons. Mpigi local prison faced severe overcrowding: less than 0.5 m<sup>2</sup> per person – or even more occasionally, with up to 44 people in a 16m<sup>2</sup> cell, i.e. 0.36 m<sup>2</sup> each –, no blankets, no mats, no toilets... Prisoners were locked-up for lengthy hours (8.00 to 13. 00 and 16.00 to 6.30) due to the lack of staff. Some wards at Kakiika prison offered less as 0.40 m<sup>2</sup> per person and overcrowding reaches 370% (749 prisoners – accommodation capacity of 159). The yard was not large enough to contain all prisoners, even standing. In Masindi prison, the number of prisoners (553) more than doubles the accommodation capacity (268). Same in Mbale with 811 prisoners for a capacity of 376. At Kamukuzi local administration police unit, on the week of the visit, 17 to 19 people were detained in a 9 m<sup>2</sup> cell, i.e. about 0.5 m<sup>2</sup> space per person. It was reported that the week before, 30 persons were kept in the same cell (0.30 m<sup>2</sup> per person). According to the register, 29 persons were kept on 19 February 2002. At Kampala central police station, people under custody can be kept by groups of up to 30 or 40 people in 10 m<sup>2</sup>.

*Blankets* are usually distributed, most of the time by ICRC. However, not all prisoners do get one. There were 20 blankets for 100 persons in Masaka prison. Prisoners had two each in Kakiika prison women section, but had to share one blanket for three people in other places, such as Kakiika prison male sections, Luzira remand. In some places, they were provided by the ICRC, the FHRI, or relatives (Masindi, Mbale, Luzira), which did not necessarily entail that each prisoner has one (for example, new comers in Luzira Upper prison). Some were in poor condition (Masindi). Prisoners seldom have beds, sometimes mats (Luzira remand). Prisoners in Mbale said that mats, blankets, buckets and toothbrush that had been given by the Red Cross in March 2001 had not been distributed, and that they had to buy jerricans, buckets, bulbs, plates, etc. Those who could not afford buying a blanket slept uncovered; sheets were not allowed. Prisoners in Tororo local administration prison had no blankets at all. They only had bamboo mats. In Tororo prison farm, blankets were distributed the week before the visit of the delegation.

*Ventilation* was not always sufficient. This was true the case with Tororo prison farm, especially in the remand wards, where shutters were kept closed, at Luzira, due to congestion, at Kasese police station and Mpigi local prison. It was also the case in Kakiika where prisoners complain that cells become very hot. This is all the more problematic as

prisoners often stay locked inside more than half of the day for security reasons (due to lack of staff and the compound not being properly secured).

*Light* was often lacking in police stations (Kasese police station, Kampala Central), or during the night in prisons (in Masindi, there was no light to go to the toilets at night). On the other hand, it was left on all night in some wards at Tororo prison farm and in Masaka. In the elderly people's ward in Mbale, the electrical device was very dangerous. In Luzira upper prison, lights are switched off by rule at 10.00 pm, but prisoners could do it themselves at any time by separating electrical wires. However, some wards had no bulbs. The ward accommodating juveniles, elderly people, and ward and religious leaders was dark. In Luzira remand, electric wires were also in a poor state. Electrical device were generally deteriorated (e.g. bare wires) and constituted a real danger of electrocution or fire in many places (Luzira remand, Mbale F block): prisoners would for instance switch of the light by manipulating the wires, while water would leak from the ceiling.

Conditions in *police stations* were usually difficult. At Kasese police station, there were no windows, hence no fresh air, whereas 15 people were in the cell on the day of the visit, and up to 18-20 could be there on other occasions. At Mbale police headquarters, the premises were very dirty and smelt very badly. There was almost no light and prisoners said they were becoming blind. They had no blankets, nothing to sleep on. One of the cells in Mbale police headquarters had nine detainees in 10 m<sup>2</sup>, i.e. 1.1 m<sup>2</sup> per person. In Kampala central police station, prisoners had less than 0.5 m<sup>2</sup> per person. Some cells did not have any light, and only a very small window.

#### *Disciplinary cells*

Isolation in a disciplinary cell for a limited period is provided for as a punishment in the prison rules. There were 18 individual cells in Luzira upper prison, 5 of which were used for isolation purposes. Five persons were detained there on the day of the visit, four on remand – one of them for eight years – and one convict; according to the Officer in Charge, they were political prisoners and were kept here for security reasons. They had no toilets and isolated prisoners were never allowed to go out.

Other places had punishment cells, but they would not be used (Murchison Bay). One of the six in Luzira was used on the day of the visit. Those punished, according to prisoners, did not receive water and visits were suspended. Isolation cells in Masaka could be used for up to two weeks, but punishments were usually no more than two or three days and were assorted ranging from penal diet to prisoners not being allowed to get out of the cell.

An isolation cell in Kampala central police station was used as punishment for those refusing to clean the toilets with bare hands.

#### *Kitchen*

The poor state of the kitchens usually made it impossible to prepare more than one meal a day for prisoners. Luzira remand was an exception, having five modern wood stoves donated by the ICRC in 1999, which permitted to prepare food quickly and to serve three meals a day. Murchison Bay used to be equipped with such stoves, which required only one hour to cook food for all prisoners and allowed for three meals to be served. However, they were only used between 1990 and 1993, and are not any more for lack of fuel and electricity.

Moreover, sewage deficiencies, insufficient water supply and lack of equipment prevented food from being prepared under hygienic conditions. The absence of energy saving device – with an exception in Masindi and Luzira Upper prisons – entailed incurring high costs in the purchase of firewood. This is aggravated in some cases by transportation problems suffered in bringing the firewood to the prison. The kitchen in Mbale was dirty and had sewage problems. There was only one tap, and three clay-stoves. The Kitchen in Tororo prison farm

was also dilapidated. It was under a mere shed, which caused problems when the wind was blowing. Luzira maximum had no proper kitchen; it had two boilers (only one was working) donated by the ICRC; six steam pots and firewood stoves. The place was clean. 70 prisoners worked there night and day. The kitchen at Kakiika prison was very basic and smoky. It had only two taps, and cooks had to use drums and jerricans.

### *Religious facilities*

In most prisons, a room was dedicated to religious activities, but could also serve other purposes. The hall in Mbale prison served for religious celebrations. One of the wards at Tororo prison farm was not used and served as a mosque. In Murchison Bay, each block had room used as a church and class-room. There was also a church in Luzira remand.

### *Library*

There was a library in Luzira, but it had no books, only newspapers and numerous religious publications. In many prisons, prisoners deplored the lack of books and reading materials.

## **Health and Hygiene**

### *Health*

#### **General situation and structure**

There are medical services both in the prisons under the Ministry of Justice and in the police stations under the Ministry of the Interior, but not in prisons that are managed by local government. The patients in these prisons are transferred to the nearest public health centre.

Infirmaries receive monthly *supplies* based on the statistics of the preceding month provided by the Health Department. However, the delegation noticed that some prisons that were very far from Kampala did not regularly come to pick up their allocation of drugs. This is explained by the fact that transport costs to collect the parcels of drugs in Kampala are very high, sometimes much higher than the actual monetary value of the parcel to be delivered.

It should be noted that medical care is provided free of charge in the Ugandan Public Health Centres. Thus, for instance, in the prison farm of Tororo, situated 200 km from Kampala, prisoners are regularly treated with medicine obtained from the district dispensary. This is facilitated by the fact that the same health personnel who manage the prison infirmary also manage the district health centre. On another level, the NGOs that combat AIDS help the medical departments of prisons through donations of drugs to treat opportunistic diseases that attack AIDS sufferers. This assistance, although irregular, relieves the infirmaries to some extent.

Three quarters of *staff* in the medical departments of prisons are simply seconded by the Ministry of Health and are therefore not part of the prison administration staff. Due to their difficult work conditions and lack of incentives (housing, means of transport, etc.), many of these seconded employees had already successfully tried to return to their original department. Contrary to the police, prisons have not started to recruit their own health staff. The medical service of Masaka prison, for instance, was classified as Grade 2 due to the size of the prison, and should therefore have had a doctor as its head. But due to lack of personnel, a nurse was still managing it. The same situation existed in the prison farm of Tororo and the other regional prisons. The police medical departments practice a permanent health staff recruitment policy. Thus, six new doctors were recently recruited. They were going to complete their police training very soon and were going to be assigned to jobs inland as chief medical officers for the police of the Region.

There were no means of *transport* for sick people (ambulance) in any of the prison health centres. At best sick people were transferred to hospitals in a prison vehicle or by public transport. In most prisons visited inland, sick persons would have to walk to hospital if they could to receive treatment. At Masaka prison, for example, sick persons who needed to be transferred had no other choice than to walk 1 km to the district hospital. The infirmary's bicycle used to transport patients who could not walk had broken down several months earlier. The lack of means of transport explains in part the delay in transferring sick people to hospitals, which was one of the main complaints of the prisoners when they spoke to the Special Rapporteur's delegation.

With the exception of the model prison hospital, nearly all prison infirmaries are installed in improvised *premises*. The space allocated to these infirmaries in prison is usually so small that they do not have an adequate consulting room or quarantine rooms for patients with contagious diseases and sometimes not even toilets. This lack of a consulting room where patients can be seen, with respect for their intimacy and private life is a bigger problem in the large prisons where a relatively greater number of prisoners daily request the services of the infirmary. In Mbale and Masaka prisons, which held respectively 811 and 668 prisoners on the day of the visit of the Special Rapporteur's delegation, the medical staff had a lot of difficulty consulting and giving treatment in a single room. This undoubtedly affected the quality of the medical consultations, which the doctors had to make as short as possible. For this reason, the management of Mbale prison and their families, who should have been able to use the infirmary, never went there. In this infirmary, the office that is used as a treatment room is so small that a bed will not fit into it. It is thus in the only room for hospitalization that consultations are held, on a bed that is not separated from the other patients' beds even by a simple screen.

According to the prison rules, the superintendents of prisons in which there are detainees who require a *special diet* for reasons of health must apply to the Director of the Prison Health Department. The latter should deal with the issue through the administrative and financial services of the Department and contact the prison superintendent once he has obtained the requested means. In practice, this process has never worked well, as it is too slow and sometimes ends without a favourable result. Thus, some superintendents simply decide to make the sick persons' families contribute whenever possible, while trying in their turn to increase the quantity of rations served to these sick prisoners.

The health policy in the field of HIV screening has been reviewed in Uganda. Until recently, the *AIDS* test was not only free of charge for everybody, but the medical corps also had the power of requesting it systematically for any persons who presented signs of the disease. Today however, the medical corps is requested to work on the basis of the clinical signs of the disease, and the test is used only as a last resort. Its cost of about US\$1 is very modest, but is still out of reach of most detainees. This fact explains why some people with *AIDS* are never tested, and yet this would help the medical corps to know the serological status of their patients in order to provide better treatment for them. The efforts of NGOs like TASO to encourage voluntary testing for *AIDS* among prisoners through its various branches, are of course praiseworthy but remain insufficient within the prisons. During the conversations between the delegation and the prisoners, many of the latter asked to be screened for *AIDS*, voluntarily and free of charge. At Murchison Bay prison, prisoners expressed their wish to the delegation for a law to be adopted allowing those of their colleagues who were in the terminal stages of *AIDS* to be released, to be able to die at home.

A study on the causes of death in Ugandan prisons, covering a period of 10 years (1985 – 1995) identified *tuberculosis* as being the main cause of death in prisons. In an interview published in « Prisons in the New Vision 2001-2002 » the Director of the Prison Health Department indicated that the risk of contracting *tuberculosis* in prison is around 15 times greater than outside prison. The same source reports that 34% of deaths in prison are due to pulmonary infections, including *tuberculosis*. Current overcrowding in nearly all the prisons, some of which hold three times their capacity, the absence of quarantine rooms for persons

with contagious diseases and the delay in diagnosing tuberculosis sufferers are at the root of the persistence of this disease in Ugandan prisons.

The infirmaries visited, especially inland, mostly lacked *equipment* and medical materials. None of the inland prisons visited, with the exception of Tororo prison farm, had any sphygmomanometers. Several detainees expressed their concern in this regard, knowing they had high blood pressure before entering prison, but no longer being able to monitor their blood pressure.

#### Medical services in prisons

The UPS medical officials acknowledge that 90% of deaths that occur in prison are of remand prisoners, and that 50% of these occur within the first year following admission. According to ICRC, 20% of prisoners die during their first year of detention.

Until 1976, the administration of health care for detainees was the responsibility of the Director of Health in the District where the prison was located. In 1977, the Minister of Health decided that from then on all the medical staff of the Murchison Bay Hospital in Kampala would handle prison health matters while still being in the employment of the Ministry of Health. It was only after this that the prison hospital started to have a permanent medical staff. Two years later, the Prisons' Health Department was created under the direction of Dr Denson Nyabwana. In March 2002, he had five full-time assistant doctors working in the medical departments of Kampala's prisons and nearly one hundred paramedics of different grades and status, working in different prisons throughout the country. Each of the five prison doctors is responsible for several regions which they must visit whenever necessary.

Two doctors, one of whom is a dentist, 14 paramedics and a laboratory technician work full-time at the *Murchison Bay hospital*. A psychiatrist works there once a week. This hospital is situated within the premises of the prison of the same name and has a capacity of 54 beds. It serves as a model hospital for all the central government's prisons and houses the central pharmacy.

Built in the 1940s, this hospital is still in a good state of repair. It has offices for the staff and reception areas where newly arrived patients are dealt with, the hospital is structured in three units, one on each of the three storeys of the building. The 1st floor houses the unit for people suffering from diarrhoea (12 beds on the day of the visit) and the central pharmacy; the 2nd floor contains the patients with non-infectious diseases (14 beds); and on the 3rd floor are the patients with tuberculosis (15 beds). The surgical unit, which is just being built, is on the 2nd floor. At the time of the visit of the Special Rapporteur's delegation, seven patients were in the unit for diarrhoea sufferers, ten in the wing for persons with non-infectious diseases and ten in the tuberculosis unit. Prisoners expressed concerns at having to share razor blades which could contribute to the spread of HIV/AIDS.

The January 2002 statistics indicated that out of a total of 573 patients received by the hospital in 2001, 95 had malaria, 90 had respiratory infections, including tuberculosis, and 65 suffered from diarrhoea. There were thirty-nine deaths at the hospital during 2001, and there has been one case since January 2002.

The hospital possessed the minimal material and equipment necessary to function properly. Seriously ill patients who could not be treated locally were taken to the national hospital of Mulago.

There is a project to extend this model prison hospital. One of the multistorey prison buildings in front of the hospital has already been earmarked for this purpose. With refurbishment and new equipment the number of beds in the hospital should be increased to 200.

The *maximum-security prison of Luzira* has an infirmary, which is headed by a doctor assisted by eight paramedics. They see on average 120 patients per day. In January 2002, about 1,932 persons consulted in the infirmary, about 1,385 of them being new patients. The premises of the infirmary contained an office for the doctor, a pharmacy, a waiting room for patients, a room for treatment and observation rooms for those who were sick.

When the delegation of the Special Rapporteur visited, there were ten patients in quarantine room No. 1, which contained only four beds; four patients were in one of the two rooms for those suffering from diarrhoea; and nine patients were in the two rooms for people with tuberculosis. This last unit had 20 beds in a good state, with mattresses. In an individual quarantine room there was a leper who had all the medication he needed for his treatment. Some of the infirmary's rooms, such as the room for treatment and the doctor's office, had had no electricity for the past three months.

The diseases which predominated in that prison according to the monthly statistics of February 2002 were malaria, respiratory infections and diarrhoea. There had been in all 11 deaths since January 2002.

When the delegation spoke to the prisoners, they complained of sometimes being obliged to carry the corpses of their co-detainees who had died, without being supplied with appropriate protection (gloves) by the prison authorities. Furthermore, they informed the delegation that the medical reports, which should be included in defendants' files, are often lost in the machinery of the justice system. Finally, the detainees made allegations of corruption against some doctors who accept bribes to confirm the age of those who claim that they are minors or to prescribe a special diet.

The prisoners complained that they received no assistance if they fell ill at night, and that the doctor did not see them as often as the prisoners in other sections. Condemned prisoners in maximum security unit said that more than six of them had died in two months (January-February 2002). They complained of being looked at like animals by doctors, and of not being taken seriously when taken to Mulango hospital.

At the *women's prison of Luzira* there is an infirmary with a full-time nurse and her assistant. A doctor came twice a week for consultations for seriously ill patients. In the hospitalization room, each of the seven patients had at least a mattress. Two of them were ill with AIDS. Three others who were terminally ill with AIDS were hospitalized in the city hospital. In the second room, two mentally ill patients were receiving treatment.

Nine pregnant women and 24 babies who were in the prison at the time of the delegation's visit had been given all the necessary vaccinations.

At *Luzira remand* the infirmary, employing two qualified nurses and two assistants, contained a consulting room, a room for treatment and two observation rooms. Of the 25 beds in these observation rooms, only six were still usable, all the others having become unusable due to wear and tear.

In all, 115 HIV positive persons were registered in this prison during the year of 2001. Most of them knew they were HIV positive before they went to jail.

The prison medical staff expressed the wish to have a room fitted out specifically for newly arrived prisoners. According to them, these newcomers are often carriers of contagious diseases that can spread within the prison. Prisoners confirmed that due to congestion, incoming prisoners could not be segregated which contributed to the spread of disease. They also complained of being given expired medicine.

In *Mpigi local prison*, sick prisoners have consultations in the hospital which is at a distance of 500m. Those who need to be hospitalized are admitted to Mulago hospital.



On the day of the delegation's visit, there were six patients in bed, one due to high blood pressure, one with asthma, and three with secondary infections in traumatic wounds on their limbs received while working in the fields, a job which prisoners are obliged to do. Another one had multiple fractures which occurred when he was arrested. He had been to the hospital and had the fractured part bandaged.

The prisoners told the Special Rapporteur that they were forced to work regardless of the state of their health. Furthermore, they were only given painkillers when they were taken to hospital for consultation. About 30 persons were not working on the day of the visit and looked really exhausted.

At *Masaka prison*, two qualified nurses, who had been seconded by the district hospital, were in charge of the infirmary, which had a consulting room that was also used as a room for treatment and hospitalization. A doctor would come at irregular intervals to the district hospital to see those who were seriously ill. There was no quarantine room for contagious illnesses and the observation room contained neither beds nor mattresses.

In this prison, which had 668 inmates on the day of the delegation's visit, i.e., three times its capacity, some diseases such as scabies, diarrhoea and tuberculosis were rife and practically endemic. There were 40 sick persons under observation on the day of the delegation's visit, i.e., twice the capacity of the observation room. Seventeen of them had diarrhoea and eight had scabies.

In all, 20 persons were known to be HIV positive, of whom 17 were prisoners and 3 were guards. The test, which was voluntary, was preceded by counselling in which the health personnel of the infirmary took active part. The test was offered by an NGO called TASO « The AIDS Support Organisation », which also provided some food for those who were HIV positive. The main problem at this level was the fact that the test was not free of charge, which meant it excluded needy detainees. No HIV test had been carried out in that prison in 2001. Three of the six detainees who had done the test the week before the visit of the Special Rapporteur were found to be HIV positive. Six of the 21 deaths, which had occurred in the prison in 2001, were due to AIDS. Awareness raising sessions about AIDS for the prisoners were only sporadically carried out in this prison, although it had the necessary didactic material, including a video. According to prisoners, the last programme took place end of 2000.

The prisoners said that they were sometimes the victims of discrimination or verbal aggressions when they went to the district hospital for treatment.

At *Kakiika prison* a room of 3 to 4 m<sup>2</sup> serves as an infirmary for the prison. The two nurses who work there see on average 30 patients per day. The most serious cases are taken to the central prison of M'barara where they have fitted out a space to receive all the sick prisoners coming from other prisons in the region. This prison is contiguous to the regional hospital. On the day of the delegation's visit, 98 sick prisoners, of whom 17 had come from the prison of Kakiika alone, were being kept in this place, under the surveillance of the hospital doctors. At present, this unit contains more than four times its real capacity, which is 50 places. Prisoners complained that they were taken to hospital only when they are about to die. A child died in Kakiika prison in February 2002.

The Superintendent of the Kakiika prison took the salutary initiative a few months ago of contacting Dr Gerard Jeger, a dermatologist, and his wife, a general physician, who accepted to consult and treat the sick prisoners as a purely humanitarian gesture. Dr Jeger comes once a month and his wife once a week. This couple's help has considerably reduced the number of sick persons who are taken to hospital.

At the local prison of *Kasese*, sick people were evacuated to the village health centre at a distance of around 800m. When the delegation arrived, at 3:30 pm, four sick persons had not

been able to go to work in the fields because they were too ill. Three of them had secondary infections in traumatic wounds on their limbs, which they had received during their daily work in the fields. None of these sick persons had received any treatment so far.

Among the group of prisoners who came back from the fields while the delegation was still there, there were at least three whose poor state of health would have justified not going to work that day. Two of them had septic traumatic wounds on their feet and hands respectively, with serious local inflammation, and the third had a secondary infection on a post-operative wound after having had a bullet extracted from his right thigh. This surgical operation had been carried out only two months before.

A woman was going through a bout of malaria with a temperature of 40°C, and was therefore lying in her cell. It appears that she had been in this state for 48 hours but had not been taken to see the doctor nor received any kind of treatment. The Special Rapporteur made sure that the patient was immediately taken to the infirmary to receive the emergency treatment that she needed.

The prisoners' main complaint during their talk to the delegation was that they were forced to work even when they were unwell.

At *Masindi* prison, the infirmary had a consulting room, a room for treatment and an observation room, but without either beds or mattresses. The nurse and his assistant who worked there lived in the housing for prison staff built a few meters from the infirmary. All the prison premises, including the infirmary, were new, as they had just been rebuilt.

The prevalence of illnesses was similar to that of other prisons, with however a small number of cases of scabies. Of the 468 patients admitted to the infirmary during February 2002, 98 suffered from malaria, 59 from diarrhoea and 83 had respiratory infections. On the day of the delegation's visit, 24 prisoners had been found to be HIV positive. Prisoners complained of having to pay those who take them to hospital. They further explained that a prisoner with TB had to pay for his medicine.

There had been 12 deaths in the prison in 2001 and seven since January 2002.

There were in all three mentally ill people in prison, one of whom had been awaiting trial since 1993. The latter is said to have been taken to Kampala once where he underwent treatment for a year. After this he was brought back to Masindi, in spite of his health not having improved much.

The prison of *Mbale*, which serves the entire eastern region, has an infirmary. However, the premises are dilapidated and consist of only a small office, in which not even a bed would fit, and a room for hospitalization that is also used as a consulting room; there are no drugs. Two qualified nurses work there full-time and a doctor, who is housed by the prison, works there whenever required. The prison superintendent often buys prescriptions for very urgent cases himself, as the infirmary is always running out of drugs.

Although there were 811 inmates in this prison on the day of the delegation's visit, the infirmary staff had no statistics on the number of cases of AIDS in the prison and was not even capable of making an estimate. Two sick persons had been hospitalized in the regional hospital, one with tuberculosis and the other with meningitis.

The detainees told the delegation that there were many cases of prisoners who needed to be operated but who did not have the means to pay for treatment. This was notably the case of a 32-year-old prisoner with a large bilateral inguinal hernia, who had been referred for an operation since 12 October 2001. According to the prisoners, seven inmates suffered from hernias. Prisoners complained that whenever the doctor recommends special diets, warders at the reception would give their own conditions for allowing the prisoners have the special

diets, for instance they could ask for money before they allow these special diets to be given to the sick prisoners.

In the *women's section of Mbale prison*, a nurse worked in the small infirmary, which contained a reception room and a room for treatment. Because there were only a few detainees, the prison superintendent was able to buy urgently needed drugs when these were unavailable from the infirmary's pharmacy. The nurse helps women in labour. Two births were expected in prison in March 2002. In all, there were seven cases of AIDS in the women's section, but four had been released in the preceding weeks because of poor health. On the day of the delegation's visit, the detainees were preparing for the visit of the TASO team for voluntary HIV screening on the 25th of March 2002.

At the *Tororo prison-farm*, three qualified nurses and two assistants worked in the infirmary. Only one assistant was a permanent prison staff member. The infirmary had sufficient space, but the infrastructure, dating back to 1960, was dilapidated and lacked equipment (beds, mattresses) and functioning toilets. Ten patients were under observation on the day of the delegation's visit, two of whom had tuberculosis. Complicated cases are transferred to the regional hospital of Tororo or to Kampala. The lack of means of transport to evacuate sick persons appears to be one of the problems that are cause for concern in this prison-farm, according to the medical team.

#### **The medical service in police stations**

The Director of the Police Health Department is a general physician who is also a police officer. He has in all nine assistant doctors, six of whom have just finished their police training. The latter were getting ready to be assigned to inland regions. In all, 70 police stations had operational infirmaries. All the medical staff of the police are police officers.

The most important health centres within this corps are: (1) the police clinic of Nsambya, (2) the clinic of the Masindi police training school, and (3) the clinic of the Nagune mobile police patrol unit.

Malaria, respiratory infections and diarrhoea were the main pathologies. People with AIDS are transferred to the « AIDS Control Programme », in the Police Training Centre of Kibuli. Cases of tuberculosis are transferred to the police clinic of Nsambya.

At the *central police station of Kampala*, a nurse works at the police station's infirmary situated in one of the rooms of the main building. Her work finishes at 2 pm, and from that time until the following morning, the police clinic of Nsambya is responsible for any health-related problems among suspects. A police doctor comes once per week to see serious cases.

During the delegation's visit to the cells, six suspects were in bed, two with diarrhoea, three with shock and traumatic wounds that had occurred during their arrest, while one had been shot a week before and had a bullet lodged a third of the way down his lower right leg. The bullet had not yet been extracted and the delegation recommended that the patient be transferred to hospital to receive appropriate treatment. The infirmary had basic work materials, but its stock of drugs appeared to be insufficient to meet its needs.

At the *Masaka police station* the suspects who are ill are transferred to the police infirmary situated in the police centre at a distance of 800 m. Three assistant nurses work in this infirmary, whose purpose is to serve the police staff and their families. There are no statistics available about persons transferred from the police station to this infirmary, but those in charge said that there were not many cases of sickness among arrested suspects.

The authorities at the *local police station of Mbarara* said that sick persons are transferred to hospital when necessary. This information, however, was not confirmed by the suspects who complained of being given insufficient food, and said this had affected their health. Six out of eleven suspects had clearly lost a considerable amount of weight to judge from the size of their waist.

In the police station of *Kasese*, the infirmary is a small office fitted out within the police centre, at a distance of 1 km from the station. A qualified nurse and one assistant work in it. The infirmary serves the police staff and their families, and eventually suspects. The general hospital is a distance of about 65 km. It was observed that this infirmary is open for only a few days each month to distribute its allocation of drugs. The rest of the time, the infirmary remains closed and the chief nurse works in the police station in his twofold capacity as police officer. Further to talks with the suspects, it was found that none of them knew about the existence of the infirmary. However, they did say that the chiefs of police always managed to buy painkillers for those suspects who were ill and did not have families to help them.

At *Mbale Police Station*, the suspects said that the most seriously ill persons were always taken to the police infirmary in the police centre or to hospital for treatment. Only one said that he suffered from reduced vision because of having been kept in a cell for such a long time. The others said they had no illnesses.

**The medical service in the juvenile prison of Nagguru, under the Ministry of Gender, Work and Social Development**

The infirmary in the juvenile prison of Nagguru (which had about 134 detainees on the day of the delegation's visit) is managed by an assistant nurse. She does not receive any drugs from the supervisory department or any other departments. Normal operation of the infirmary is ensured by regular assistance from the Italian NGO COWA, which supplies drugs and food for the patients. Furthermore, a doctor from this NGO comes to the infirmary once a week.

Serious cases are taken either to the private clinic of Namela or to the Naguou clinic in Kampala. COWA pays all the expenses for the treatment of the patients transferred to these clinics. Awareness raising among juveniles with regard to AIDS is also carried out with the support of this NGO.

The prison has had two deaths in 2002, one from tuberculosis and the other from epilepsy. The prison authorities requested the ministry responsible for prisons to allocate a budget for the purchase of medicines and to second a qualified nurse to manage the infirmary.

*Water, sanitation, bathing and toilet facilities*

Article 39 of the Constitution states that "every Ugandan has a right to clean and healthy environment". This is clearly not the case in Ugandan prisons.

Soap provision is insufficient – sometimes non-existent – and detergents are seldom distributed. Most often, soap availability depends on external donations (Red Cross, NGOs, relatives) or on prisoner's capacity to buy it. In several places, prisoners washed themselves only with water (Tororo local prison, Mbale police headquarters, those in Masaka whose relatives live too far to come). Women in Masindi had got no soap since 1<sup>st</sup> December, while others had got three bars (six pieces in a bar) for 26 persons. Men in the same prison said they had not received any soap from the authorities since the Ebola Epidemy in December 2001. The Officer in charge explained that this was depending on funds available. In Murchison Bay, relatives were allowed to supplement whatever was needed, including soap. Cleaning material are lacking including at police stations.

*Toilets* are usually insufficient, located next to the cells and dormitories. Prisoners have to use buckets at night (Luzira Upper and condemned section). Sometimes, these buckets are also used for other purposes (Kasese police station). There are some pit latrines (Kasese

local prison, Tororo local administration prison). In Mbale, the state of toilets and showers in men's wards ranged from dirty to very dirty. Prisoners at Masindi and Kampala central police station complained for having to clean the sewage with bare hands – however, the nurse said gloves were provided. Some places are totally deprived of toilets, water and shower (Luzira Upper – C).

*Showers* are scarce (none in Kasese local), usually located outside the cells. Taps were often leaking. There was no bathing facility in Tororo prison farm, not even basins or jerricans, according to prisoners. There was no shower in the men's section in Kakiika.

*Water* can also be lacking (Tororo prison farm, Kakiika), which can lead to smelly toilets or problems with the bathroom (Masindi). The taps were leaking or broken in Murchison bay, as well as in all wards at Mbale prison. In Kasere local administration prison, there was no water in the compound, and prisoners had to go to a nearby farm to get some. Masindi had an electrical pump for water, as well as tanks to save rain water. However, the pump had a low capacity of work, and power came irregularly; therefore, prisoners had to carry water when the pump was not working, and supply was not always sufficient. Water pressure in Luzira upper prison was frequently insufficient. Some wards had no water during the night. Others had water tanks provided by the ICRC. There was at least a tank in each building. Murchison Bay and Tororo prison had problems with pipes and sewerage systems all over the prison. The average number of prisoners per toilets (with no flush most of the time) ranged from 25 to 75 (average 45) and of prisoners per shower from 20 to 111, while Tororo and Kakiika had no shower at all.

The situation is usually worse in *police stations*. At Kamukuzi local administration police unit, there was no shower, no toilet (prisoners had to use buckets at night), the only light was a candle and ventilation was insufficient. Detainees could not wash themselves, except when they went to do some washing up for officers. Prisoners in Mbale police station did not get any soap, and said they were sometimes prevented from washing themselves. They had to urinate in a basin through the door's bars. During the day, they could go to the toilets, or would perform their natural needs inside and throw it outside through the bars. In Kasere police station, only the ICRC provided cleaning material. The situation was similar in Kampala central police station: no soap, the buckets had been recently distributed

*Lice*, cockroaches and other insects are found in several places (Kasese police station, Luzira upper prison), as well as rats (Tororo prison farm). Mosquitoes were mentioned as a problem in Tororo prison farm, women prison in Mbale, Luzira remand & women prison, Murchison Bay.

However, some prisons, although dilapidated are kept clean (ward 9 in Luzira upper prison, Murchison Bay).

### *Food*

Food is usually comprised of poshow and beans, sometimes supplemented with vegetables. In some places, cassava is the main ingredient (Tororo local prison). In many prisons visited by the delegation, food is only distributed once or twice a day (Luzira, Mbale, Murchison Bay, Masaka). Three meals are provided at Nagguru remand home, Luzira remand, Luzira women, Mbale women and Tororo. The lack of cooking facilities, of firewood and of funds to buy food account for this. Quality and variety are almost systematically subject for complaints. Prisoners in Tororo prison said they found worms in the food and that it was half-cooked. Quantity is clearly insufficient in some places (Mbale, where prisoners were very thin, Masindi, Tororo local prison) but deemed sufficient in others (Murchison Bay). In Luzira upper prison, the Officer in Charge acknowledged that "many prisoners had died of malnutrition". Meat is scarce (once a year in Kakiika, according to prisoners). In Mpigi, prisoners said they were given the meat from dead cows. In some prisons (Kasese local

administration prison), prisoners were very thin, and exhausted. In Tororo local administration prison, no food was provided by the government, and prisoners had to work for it. In Mpigi, prisoners would did not go to work were not fed.

Women in Masindi complained that the lack of change in diet (poshow, beans and salt) gave them stomach pain.

There are shambas (vegetable gardens) everywhere space is available. According to the officer in charge in Kakiika prison, prisoners produce 50 kg vegetables everyday, for 750 prisoners (0.06g per prisoner). In Tororo local prison, the vegetables grown by prisoners are allegedly taken by the warders. In Murchison Bay, every space available is used to grow greens.

In some police stations the only food available is that brought from the outside by relatives. A detainee in Kamukuzi local administration police unit reported staying 14 days without food, and having to beg it; other detainees worked for food. The Officer in charge of the police unit explained that he had a budget to feed 10 people, and when he had more than this, he had to share (they were 11 on the day of the visit). The Officer in charge at Kasese police station said food was distributed twice a day – according to prisoners, the only food they receive is brought by their relatives.

Usually, it is not an offence to bring food from outside, but this is sometimes subject to bribe (Mbale – prisoners said they have to pay 15.000 USH) and is restricted (Mondays, Tuesdays and Fridays for women at Masaka prisons) or prohibited (Tororo prison farm, Luzira remand). Some prisons restrict it to uncooked, others to cooked food (Luzira maximum, Masaka). Special diet is sometimes available upon medical advice, but it can be subject to bribes (for instance given to guards) or not available at all (Tororo prison farm).

### *Clothing*

Uniforms are normally distributed to convicted prisoners. However, this was not always the case (Mbale, Tororo local prison and prison farm, Luzira remand, Mpigi local prison), which they regret as their own clothing are often in poor state. They complained they did not have cloth to go to court or on release. There are some exceptions, e.g. in Kasese local prison, but in this case for example, the uniforms are old and dirty, and they only get one set, which they wash during the week-end. In Masindi they are supposed to have uniforms, but some went in rags. Uniforms in Luzira upper prison were for convicts only.

Prisoners in police stations do not get uniforms. They do not always have enough clothes to be able to change them for a wash (Mbale police station). Uniforms were distributed to prisoners at Tororo prison farm the week before the visit of the delegation.

### **Contact with the outside/familial links**

Due to congestion and to the lack of transport, prisoners can be detained far from their place of origin, which hampers family contacts. Most of the time, prisoners whose relatives are poor get few visits. Some prisons have a meeting room in which prisoners which are deemed dangerous are separated from visitors (Masindi, Luzira Upper Prison). Sometimes (Tororo prison farm), visits take place at the gate. Visiting hours vary from one place to the other. They are usually permitted every day (Mbale, except week-end), although there are restrictions in some places (only Sundays at Kasere and Mpigi local prisons; Mondays, Wednesdays and Fridays at Masindi and Kakiika; week-ends at Tororo local administration prison; Mondays, Wednesdays and Fridays at Luzira Maximum security). The duration of visits is sometimes restricted to a few minutes (Masindi, Luzira remand, Tororo prison farm : 10-15 minutes), or suppressed, and visitors are harassed by staff who demand money from

them. Visits can be suspended as punishment (Mbale). In Mbale, visitors are separated from prisoners by a counter.

In some places, radio and/or newspapers are restricted or prohibited (Kakiika, Masindi, Mbale, Luzira max). In Masaka prison, newspapers were allowed, except *The Monitor*. In the latter prison, women can listen to one radio channel. Prisoners are usually allowed to send and receive letters submitted to censorship, which can create delays for letters written in certain tribal languages who need to be translated. Prisoners in Luzira remand complained that it was not possible to send letters, or that they were so severely censored that their letters were almost illegible.

In Kampala central police station, prisoners said that visitors were harassed or even beaten, which hampered communications with families. Visitors were kept waiting for lengthy hours before being authorised to see their relatives for a few minutes.

### **Work/Education/Exercise**

#### *Work*

Prisoners – including those on remand, as the proportion of convicted prisoners is low – usually have to work. This can take place in the fields or shambas, or to keep the prison (cleaning, cooking, etc.). In almost all places visited by the delegation, prisoners complained about the excessive harshness of work, and the fact that they were made to work even when they were ill or very weak (Masindi, Tororo local prison, Luzira women prison and remand prison; a prisoner in Mpigi local prison suffered from asthma and still was made to work), or without enough food (no breakfast in Mbale). Working hours are often lengthy (7.00 to 15.00 at Kamukuzi local administration police unit; 06 00 to 17.00 for remand prisoners in Masindi, etc. ). The delegation also heard widespread allegations that beatings took place during work (Luzira remand, Mpigi local, Masaka).

Prisoners said they could be hired to individuals to perform work for private interest. Prisoners in Mpigi explained they work mainly in private farms. In Kakiika prison, they received their food from the person who hired them, at the end of working day, i.e. around 15.00 (poshow and beans). Since they had no clothes or uniforms, they could not get change at the end of working day. Some also work for prison staff (on Saturdays at Kasese local prison; in Masindi – but not as domestics). In Tororo local administration prison, prisoners are “rented out” to individuals in order to earn money to pay for their subsistence, since the budget allocated to the prison is highly insufficient.

Capital offenders are sometimes let off work, for fear of escape (Kakiika) or for other reasons (Mbale).

Women also have to perform work. In Masindi, they were made to clean the surrounding of the house (cut grass) or to prepare shambas (dig).

Money from prison farm production goes to the treasury.

Some prisons such as Masindi had workshops (Carpentry, metal work, crafts, brick laying, vegetable gardens...). However, the number of prisoners involved in them was limited (seven in carpentry, 24 in brick laying, 10 in vegetable gardens; women do handicrafts). The numbers were also limited in Tororo prison farm (18 in a carpentry workshop, out of 278 prisoners). Luzira upper prison had a tailoring workshop involving 53 persons, a joinery and carpentry workshop involving 77 convicts. A board decides who works, according to the length of imprisonment or qualification. Prisoners said they received no salary, and that there was a problem of security: two prisoners had lost their fingers two months before. There was also an important poultry section, with 500 birds producing 300 eggs per day, which were sold outside.

Workshops also existed in Murchison Bay prison (blacksmith, handicrafts, carpentry). More existed in the past, but had closed down. Many prisons had workshops that were not equipped, or did not function for various reasons (Mbale had tailoring and shoe making workshops which didn't work, and only nine prisoners benefited from the carpentry workshop and training; Masindi).

#### *Education*

Provisions for education are very limited throughout the country, despite the very low education level of the majority of prison population. There is a school in Luzira upper prison, with 502 prisoners attending the different grades and another school in the condemned section. Prisoners complained that access to higher education was lacking. No school or educational programmes existed at Masindi, despite the fact that it was quoted as a model prison. Attendance was low at Murchison Bay school, due to short terms of imprisonment. Prisoners in Masindi complained about the "lack of facility to keep the brain bright" and asked for a library.

Efforts in this direction could contribute to prisoners' rehabilitation upon release.

#### *Exercise/Cultural activities*

Prisoners complained about the lack of activities, sport and exercise possibilities. In some prisons, e.g. Masindi, Luzira upper prison, the facilities exist for sports such as volley ball, football, basket ball, netball, etc.

At some facilities, prisoners can stay out during all day (Luzira Upper condemned section, Tororo prison). However, due to lack of staff, it is not rare that time out of the cell is very limited: 30 minutes in the morning and 30 in the afternoon in Mbale according to officer in charge, and 15 mn per day according to prisoners – before an escape that took place in December 2001, time out of cell use to be two hours in the morning and two hours in the afternoon. In some prisons, prisoners go out in groups, in turn, due to the lack of staff or as officers fear potential escapes (Kasese local administration prison).

The situation is different in police stations. Space is usually very limited and does not allow proper outdoor exercise. At Kasese, prisoners get out only a few minutes a day to receive visits.

There are no activities or exercise in Tororo prison farm and Luzira remand.

#### *Preparation for release*

Prisoners complained everywhere that there was no help and preparation to release. The welfare department is usually not strong enough in prisons.

In Masindi, Mbale, Tororo prison farm, prisoners said they were released without any means for transports or pocket money. However, the officer in charge in Masindi said they did get some amount for transport, back to the place where they were arrested.

An NGO known as "Uganda Prisoners Aid Society" visits prisons and interviews prisoners who are about to be released. They visit their homes and checked whether the community was ready to reintegrate them. Another NGO worked with prisoners to prepare them and help them return to their families.



## **Prison Rules & Discipline / Security**

### *Existing prison rules*

In principle, prison regulations are told to prisoners upon arrival by the welfare officer. They are posted in some prisons (in each dormitory at Murchison Bay). Some prisons have a list of prison offences (Masindi). When breached, the prisoner is brought before the Officer in Charge and can bring his own witness. Good behaviour entails classification in different stages, providing better conditions. The time spent in prison is also taken into account.

The Special Rapporteur did not notice any information about rules in local prisons and police stations.

### *Enforcement of prison rules*

The law emphasises that every prisoner charged with a prison offence shall be informed of the offence with which he is charged and shall be entitled to defend himself. The punishments which a prisoner may undergo if found guilty are:

- a) Confinement in a separate cell for a period not exceeding three days on the penal diet prescribed in the Rules
- b) Reduction in stage, or postponement of promotion in stage or forfeiture of privileges
- c) Forfeiture of remission not exceeding 14 days
- d) Forfeiture or removal from earning scheme until the prisoner is considered fit for restoration.
- e) In case of an adult male prisoner not over the age of 45 and not under death sentence or a civil prisoner, or a vagrant, corporal punishment may be awarded in case of an aggravated prison offence. However, all corporal punishments must be inflicted after the approval of the Commissioner of Prisons.

Other forms of punishment can be the transfer of a prisoner to another prison (Kasese local); Women in Masindi also described collective punishment, including deprivation of shower for the babies. In Masaka prison, prisoners said that water was spread on the floor of the isolation cell and punished prisoners were put naked and received only half of the food ration, or even without food.

"Ward leaders" are appointed and sometimes tasked to enforce discipline and carry out punishments. Conditions to become a ward leader being (Masindi) the length of service and the good discipline. Those leaders get privileges. In Murchison Bay, each ward had a leader in charge of cleanliness and a leader in charge of discipline. Then each block had a leader, and there were "prison head prisoners" for discipline, cleanliness and for all prisoners. There were six caporals at Luzira Upper prison.

### *Complaint mechanisms*

The system is not harmonised and varies from prison to prison. Complaint books usually exist, but the mechanism is not efficient according to prisoners (Masindi, Mbale). In Tororo, there were no complaint in 2002, 19 in 2001 and 28 in 2000. In Mbale, there were few complaints in the book (73 since January 2001). They concerned receiving special diet from home, personal problems and seeking advice. In various prisons, prisoners said they were punished when they complained (kept indoors, transferred, visits suppressed or even beaten, including by leaders who are given sticks – a boy in Mbale said he had been beaten on his genitals). At Luzira Upper prison, complaints are reported in the reception office book. The duty officer investigates and handles them or refers them to the officer in charge depending on the matter. In Luzira remand prison, complaints were channelled through the staff which

opened the door in the morning. A complain book existed, for individual complaints only. General complaints were not registered. Prisoners said that complaint mechanisms were not effective since they had no prisoners representatives. They also said they were beaten when they complained.

Complaints are also channelled through wards, blocks and prison leaders. Main issues were court related. Women in Masaka deplored they could not complain directly to the officer in charge, and requested that he devotes one day a month to hear their problems.

A prisoner's relation with the ward leader could influence considerably the outcome of complaints. Ethnic based discrimination was also mentioned here.

### *Security*

Isolation cells exist in some prisons (Masindi) for prisoners deemed dangerous, for mentally ill prisoners (Masindi) or those affected with TB (Masindi). In this later prison, the tap for the showers of the isolation ward was in the toilets. In Masindi, the prison was double fenced with a round way in between and watch towers. Ward leaders were appointed in all prisons visited by the delegation. Fellow-prisoners often complained about the violent behaviour of these leaders, who would beat them when prison rules were breached or for other reasons;

Escapes are not common: there were none in Luzira Upper prison for five years, but eight from Luzira remand in 2001. There was one escape in Mbale in December 2001 which explained the movement restrictions imposed since. There were three escapes at Masindi prison in 2000, two in 2001 and none in 2002.

### **Staff**

#### *Relationship between staff and prisoners*

Relations are usually described as good. However, there are unacceptable behaviours. Prisoners denounce corruption of staff, both within prisons and at the police. On various occasions, prisoners explained having to bribe the staff to be able to go to court, to buy items such as utensils and buckets or to receive food from relatives. At Kasese local administration prison, were relations are described as bad or for those working at shambas or in women's ward at Tororo prison farm. Prisoners alleged being beaten up with canes all over the body, including on the head. They looked scared. In Mbale, the atmosphere was heavy with intimidation. In some place, communication problems are mentioned (Kasese police station, Masaka). Prisoners in Mpigi local prison said they had good relations with the Officer in charge and his deputy, but problems came from warders.

In Masindi, during the interviews with women, the Special Rapporteur noted that the staff remained to listen to the discussion.

Prisoners in Mbale complained that prison staff did not always keep confidential information for themselves. Corruption seemed widespread in this prison. According to prisoners, they needed to pay for everything, from hot water for tea to sugar, cigarettes, to have items purchased from outside the prison, etc. They expressed the view this attitude of prison staff was due to overstaying on duty, which made them embittered.

#### **Remand detention**

Overstaying on remand is a major complaint of prisoners. According to 1999 statistics, approximately 60% of the prison population was on remand – the ICRC gives an estimate of 80% –, 64% of those being capital cases (murder and defilement cases). In Kakiika prison, a man told the delegation he had been detained since 1996 and had never appeared in Court.

Another detained in isolation at Luzira Upper prison had spent 8 years on remand, which raises the issue of political prisoners in Uganda. In Masindi prison, the longest remand case dated from 1993. 78% of prisoners were on remand. Prisoners complained that no compensation was given when they were released after many years on remand.

There are several factors which added one to the other account for this situation:

- *Magistrates and Judges are too few* to handle all the cases and committals to High Court in particular: there are 31 judges only and seven High courts in the whole country, with two judges each. In Tororo, the judge died and was not replaced. Suspects are therefore not tried; consequently, they are not brought to the prison, and rather kept in police stations. The minimum delay for a High Court trial is said to be two years. The High Court covering the districts of Masindi, Hoima and Kibale (Midwest region) sat twice in 2001. Each session had to examine 30 to 40 cases. In Mbale district, the High Court sat thrice in 2001, and examined about 30 cases during each sessions. Moreover, the infrastructure is often inadequate.
- *Lawyers are too few* and not equally spread across the country: most are in Kampala and around. Since legal assistance is compulsory for capital offences and life offences, this creates further delays. Legal assistance is also defective for appeal procedures.
- *The lack of transport* hampers the due presentation of prisoners to court. Sometimes, prisoners have to walk to court, publicly (for instance, those from Kakiika prison and Tororo prison farm have to walk for 3 miles). At Mpigi local prison, prisoners walk to court handcuffed two by two, and tied together with ropes to Masaka. In Masindi prison, prisoners said they were not taken to court even if they were called by magistrate.
- Prisoners in Masindi explained that *complainants* did not show-up at courts and that prisoners are therefore kept on remand. Prisoners in Luzira remand also said that even when there was no complainant, they would be kept in prison if they were not ready to pay.
- The *bail* system appears not to function well. Bail is mandatory after 120 days detention, "*in the case of an offence which is triable by the High Court as well as by a subordinate court*" (Constitution, art. 23 (6) (b)) or after 360 days "*in the case of an offence which is triable only by the High Court*" (Constitution, art. 23 (6) (c)) but this rule is not applied either.
- Those who should be released on bail are either not allowed to go to court to be bailed, or do not have the surety to guarantee their bail. They also said that when the complainant withdrew the case, they would not be released.
- *Corruption* within the system is an aggravating factor. Prisoners in Mbale said that they were taken to district court every 14 days, but were not presented to the judge: they remained in cells and warders represented them. Only those who had money (100.000 Ush) were taken to court. They also said they had to pay for bail. They added that they were convicted on the mere basis of witness testimonies, without further evidence. It was a frequent practice for the State attorneys to be bribed by complainants (Kakiika), that without bribing the magistrates and prosecutors, no bail could be obtained or that prisoners would never be put on court role (Luzira maximum; Mpigi local prison). It was also heard on several occasions that whatever the offence, one could be released if he/she was ready to pay.
- Arrest and imprisonment appeared to take place sometimes, without sufficient grounds or evidence. Prisoners in Masaka said they could be arrested on unfounded denunciation, and remain several years in prisons, for which they

received no compensation; they were also considered as criminals by their communities when released. A prisoner in Mbale said he had been arrested after reporting embezzlement by government officials to the police. He said he was depressed and was crying during the visit. Some prisoners complained that they were re-arrested the very day of their release, under the same charge, same case.

- People are usually unable to afford pecuniary sentences (fines) and go to prison instead. It also happens that people stay in prison after their term is served as they are unable to pay the related fine.

According to the Constitution (art. 23 (8)), the remand period should be taken into account in the sentence, but it seems that this is not always the case.

The authorities are very conscious of this situation, and various initiatives have been taken to address it, such as the Chain Linked Project or the Backlog Project. According to the authorities, the remand period has been reduced from 5 to 2.5 years within two years.

### **Areas of concern**

The findings described above raise concern on a number of issues. The Special Rapporteur would like to highlight some points which, according to her, deserve particular and urgent attention. Further details about each of these topics can be found under the *Findings* section.

#### ***Torture and ill-treatment***

While it can not be stated that torture is widespread, it is not exceptional either. The Special Rapporteur would like to strongly recall that torture and cruel, inhumane or degrading treatment is strictly prohibited, under all circumstances, by international instruments, and by article 24 of the Constitution of the Republic of Uganda, which reads "*no person shall be subjected to any form of torture, cruel, inhumane or degrading treatment or punishment*". It is the responsibilities of the authorities to have this rule enforced and to ensure that officers under their responsibility abide to it. This is also stated in the Constitution, article 20 (2):

*The rights and freedoms of the individual and groups enshrined in this Chapter [4] shall be respected upheld and promoted by all organs and agencies of Government and by all persons."*

This is reinforced in article 44:

*Notwithstanding anything in this Constitution, there shall be no derogation from the enjoyment of the following rights and freedoms–*

- (a) *Freedom from torture, cruel, inhuman or degrading treatment;*

It should be made very clear to all officers that any act of torture or ill-treatment will be severely punished, as State agents have an enhanced responsibility to show the example of abiding to the law. Torture is inhumane and should not be tolerated.

Having "ward leaders" to enforce discipline within prisons results in numerous abuses. Rule 28-1 of UN the Standard Minimum Rules for the Treatment of Offenders reads "No prisoner shall be employed in the service of the institution, in any disciplinary capacity". It clearly prohibits conferring disciplinary powers on certain categories and classes of prisoners.

#### ***The situation of juveniles***

According to law and the Constitution – as well as international instruments to which Uganda is party – juveniles in conflict with the law deserve a specific treatment geared towards

education and rehabilitation in order to help them prepare to be future law abiding citizens. In this perspective, juveniles should be separated from adults and preferably be detained in separate institutions which offer rehabilitative activities.

These requirements were not met in several places that the Special Rapporteur and her delegation have visited (see the *Juveniles* section). Not only were they detained with adults (Mbale, Kampala Central police station, Luzira Upper prison, Kakiika women section), but they did not receive the special treatment they deserved in terms of rehabilitation, education and psycho-social support. Even more worrying, reports of sexual abuses of which juveniles were victims did not receive proper attention and remedial action.

### **Foreigners**

Foreigners often find themselves without visits or assistance, having no relatives around and face conditions even worse than the bulk of the prison population. Many of them have committed no other offence than not carrying the necessary documents, and are not dangerous individuals. Very little, if at all, is done to meet their specific needs, e.g. in terms of diet, and the national representations (Embassies) who could bring support are not always informed of their detention. Communication difficulties with police, prison staff and the rest of the prison population can even worsen their situation.

### **Discriminations**

The Special Rapporteur heard several allegations and examples of ethnic based discriminations, as well as of discriminations against certain categories of offenders e.g. condemned prisoners in Luzira women prison. Prisoners also felt discriminated by doctors when taken to outside hospitals e.g. Mulago hospital. The right to be protected from any type of discrimination is stipulated *inter-alia* in the Universal Declaration on Human Rights (art. 7), the Constitution of Uganda (art. 21-2), the UN Standard Minimum Rules for the Treatment of Offenders (Rule 6).

### **Relations between staff and prisoners**

While acknowledging that relations between staff and prisoners are usually described as good, and praising the senior staff of prison service for their commitment and competence, the Special Rapporteur is concerned that some staff have an unacceptable behaviour. As mentioned above, torture and ill-treatments do exist in prisons and police stations. The delegation found some prisoners in very poor condition. The Special Rapporteur would like to insist that it is the full responsibility of senior staff and authorities to ensure that rules are enforced including by their own staff and that sanctions be taken against those who do not abide by the regulations.

### **Remand detention and related overcrowding**

As described under the *Findings* section, remand detention is a major issue in Uganda. One of its consequences is the severe overcrowding which afflicts most prisons throughout the country. Moreover, many Ugandan citizens who have not been proven guilty, and are therefore presumed innocents, are kept behind bars in dire conditions. Overcrowding entails consequences on numerous aspects of prison life. It hampers the smooth delivery of services such as food, health care, education, makes it difficult to maintain hygiene, to organise visits for relatives, exercise for prisoners and so forth. It also creates difficult working conditions for prison staff, at all levels.

### **Work**

The Constitution, art 25 states that:

(2) *No person shall be required to perform forced labour*

(3) *For the purpose of this article, "forced labour" does not include –*

(a) *any labour required in consequence of the sentence or order of a court*

(b) *any labour required of any person while lawfully detained which, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interest of hygiene or for the maintenance of the place at which the person is detained;*

The Special Rapporteur is concerned that in many places which she visited with her delegation, she saw prisoners being clearly overworked and not receiving good treatment – in terms of feeding, hygiene and living conditions compatible with the requirements of their work. There are many reports of prisoners being beaten during their working hours. The situation in Mpigi and Kasese local prisons was of particular concern: prisoners were exhausted, were not provided with enough food, slept badly because they were overworked – in brief, they were treated like slaves.

Moreover, working for private interests clearly does not fall under the provisions of the abovementioned article of the Constitution, and therefore breaches the Constitution.

### **Medical care**

The medical departments visited, both in prisons and in police stations lacked sufficient supply of drugs. Furthermore, the fact that only a small number of different drugs are supplied means that there are many current pathologies that cannot be treated in spite of the fact that the large prisons have qualified staff for such treatment.

Nearly all the medical services of prisons, and to a certain extent of the police, lack qualified medical staff. This fact, which is more widespread inland, explains why health centres in prisons and/or police stations situated at the administrative centres of the regions are mostly managed by nurses or even simply health assistants.

The insufficient infrastructures, the severe overcrowding which affects places of detention and the lack of resources hampers the smooth delivery of medical care. The administrative organisation of medical care within UPS further contributes to an ineffective spending of meagre resources.

### **Double management of prisons**

The current organisation of prisons in Uganda, by which the central government controls a number of prisons, and local governments control a others, creates discrepancies between prisons in terms of treatment and rights granted to prisoners. The numerous local government lock-ups and prisons do not receive the necessary allocations in terms of resources, and conditions therein are usually far behind requirements – and breach Uganda's own internal legal and Constitutional provisions.

Ensuring the uniformed treatment of all offenders according to their status and category is a duty of the government.

### **Good practices**

1. The Special Rapporteur welcomes the new policies and measures which are being devised and implemented by the government to improve conditions and trust they will help put right some of the concerns mentioned. Several measures have been taken to reduce pre-trial and remand detention. Efforts are undertaken to build up capacity of courts, to increase the number of judges, to develop backlog reduction programme, etc. Interesting pilots are conducted to improve speed of trials: e.g. day to day trials in Masaka whereby trial and sentence take place the same day, for petty offences or the Chain Link project in the same region, which aims at improving communications between agencies, hence speeding up the judicial process. Alternatives to imprisonment, such as Community service are used. The creation of the Director

General of Prosecution by the 1995 Constitution has already noticeable effects: the average remand period was reduced from 4 to 2 years.

2. There are also efforts to improve working methods and efficiency. Donors co-ordination meetings take place every two months and are open to civil society. The Human rights committee at prison headquarters co-ordinates with Uganda Human Rights Commission and relevant bodies to examine prisoners' complaints. The collaboration with the Central, Eastern and Southern African Heads of Correctional Services Conference (CESCA) in training, management, policy and conditions of service of personnel is, no doubt, an opportunity to exchange experience and learn from other's successes.
3. The Open door policy of UPS is certainly a great step towards improvements, and is a clear sign of openness and willingness to see things change for the better. The work of NGOs in prisons is considerable and should be praised. The Special Rapporteur encourages NGOs and the Ugandan authorities to develop this cooperation and to extend it.
4. The Special Rapporteur wishes to commend the work and the professional behaviour of the central prisons' staff, in particular Officers in charge at Murchison Bay, Kakiika and Mbale women section. Efforts are made to upgrade lower level staff. Human rights training is being organised for all staff.

## **Recommendations**

### ***General recommendations***

1. Overcrowding is the most important problem. It is the source of many problems found. The Special Rapporteur would like to draw the attention of the Government of Uganda to the fact that the solution to this issue is not to build more prisons, but to reform the system towards more efficiency in the police and courts. The Special Rapporteur recommends that the initiatives that have already been taken to reduce congestion be developed and implemented throughout the country. Moreover, the following measures could contribute to further addressing the problem:
  - Offences such as idleness should be removed from the Penal code and other offences which could be dealt with in another way should be decriminalised (e.g. Community service could be ordered for those who failed to pay taxes).
  - Alternative sentences, suspended sentences and probation should be implemented
  - Considering the large proportion of persons on defilement cases, the government should consider amending the law to ensure that magistrates courts be able to dispose of them. Magistrates could pay a particular attention to these cases and investigate thoroughly to avoid unfair prosecution.
1. Local administration of prisons needs urgent attention:
  - Their budget should be increased in order to ensure that inmates are kept in humane conditions (Mpigi, Kasese)
  - The working conditions of inmates there should be systematically investigated. Overwork and forced labour should be eradicated, as they amount to human rights violations and degrading and inhumane treatment. Moreover, they are prohibited by the Constitution.
2. The behaviour of staff towards inmates should change:
  - Inmates complained of ill-treatments and corporal punishment should be ended in all places where it is still used by staff and leaders amongst prisoners

- Intimidation and discrimination should not be resorted to as a way of controlling prisoners and other measures should be used to keep discipline
  - Officers in charge should be given the opportunity to move to another station after a certain period of time; some have overstayed and become uncaring
  - Human rights sensitisation for staff and inmates (particularly ward leaders) should be intensified
3. Advances made towards increasing the budget of all institutions dealing with inmates and offenders should be increased and closely monitored to ensure that inmates are kept in good and healthy conditions. Assistance should be planned and according to the needs, not as an answer to crisis situations. It should include a budget for maintenance of prisons.
  4. Rehabilitation programmes should be developed to ensure that inmates prepare themselves for release and for a constructive life in the future. Educational and literacy programmes adapted according to length of detention and vocational training should be offered as well.
  5. Officers in charge should not restrict the freedom of prisoners too much as is the case in Mbale or Masindi for instance. Most of the time, prisoners are indoors; they should be given time to do outdoors exercises;
  6. Corruption practices at the police should be investigated and eradicated.
  7. Infrastructures are very poor. Tororo and Kasese local administration prisons should be closed as well as Mbale central government prison, as they are currently dangerous for inmates and staff. Staff quarters should be rehabilitated.
  8. Hygiene and accommodation should be improved. Inmates should be provided with enough bedding, soap, detergent and cleaning material as needed.
  9. The Legal assistance and representation at hearings should be improved. In particular, Uganda should investigate the possibility to develop paralegal systems to sensitise inmates on their rights and represent them to court.
  10. Government should consider abolishing the death penalty . Death sentences passed should be commuted into long term sentences.

### **Health**

- 1) The budget for the prison and police health service departments to buy pharmaceutical products should be increased to improve supplies of these products for the prison and police medical departments. A better distribution strategy for these drugs should be set up, ensuring that those health centres furthest from the capital receive their monthly allowance of drugs locally, without being obliged to send to Kampala for it. Moreover, the Ministry of Gender, Work and Social Development should open up a budget line for the purchase of pharmaceutical products for the juvenile prison under its responsibility.
- 2) Existing medical facilities should be refurbished and expanded when it is not possible to build new ones, especially in the large prisons. In particular, consulting and treatment, observation and quarantine rooms for contagious diseases, and toilets should be built.
- 3) The supply of beds and mattresses as well as small items (bandages, stethoscopes, sphygmomanometers, sterilisation equipment for medical materials, etc.) for the medical departments should be improved. The model hospital of Murchison Bay should be supplied with the additional equipment it needs to render its surgical unit operational. Furthermore, the larger health centres in prisons and police stations, and



those that are far from big hospitals should be provided with means of transport for the patients (ambulance).

- 4) Prison superintendents should have the necessary resources at their disposal to be able to deal directly with any emergency treatment needed for some prisoners who, for instance, might need a surgical operation and to be able to provide special diets recommended by the doctors for some of the detainees.
- 5) The head of the prison health department should have more staff. In this respect, it is recommended that prisons, like the police, recruit their own personnel.
- 6) AIDS education programmes should be strengthened and voluntary screening should be encouraged. For this purpose, it is of the utmost importance to offer the AIDS test free of charge for all prisoners.

### ***Recommendations – prison bill***

The Adoption of a new Prison Bill is a unique occasion to promote and implement much needed changes and new policies, as described in the policy documents of UPS and international standards. The Draft that is currently circulating does not meet these challenges.

- The Special Rapporteur would like to encourage the UPS to move from a paramilitary approach to a management based on the identification of needs of the prison population in order to prepare their reintegration into their communities; the combination of static and dynamic security principles will reduce risks for staff and improve their working conditions as well as living conditions for prisoners;
- The new Prison Bill should include changes that will support the fundamental goals, values and principles articulated in the Uganda Policy Document 2000 and Beyond, as well as the principles of the 1996 Kampala Declaration on Prison Conditions in Africa and the African Charter on Prisoners Rights (CESCA – 2001).