



Home Office

OPERATIONAL GUIDANCE NOTE

UGANDA

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1. Introduction

- 1.1** This document provides Home Office caseworkers with guidance on the nature and handling of the most common types of claims received from nationals/residents of Uganda, including whether claims are or are not likely to justify the granting of asylum, humanitarian protection or discretionary leave. Caseworkers must refer to the relevant asylum instructions (AIs) for further details of the policy on these areas.
- 1.2** Caseworkers must not base decisions on the country of origin information in this guidance; it is included to provide context only and does not purport to be comprehensive.
- 1.3** The conclusions in this guidance are based on the totality of the available evidence, not just the brief extracts contained herein, and caseworkers must likewise take into account all available evidence. It is therefore essential that this guidance is read in conjunction with the relevant country of origin information (COI) and any other pertinent data, such as country caselaw.

- 1.4** COI is published by the [Country of Origin Information Service \(COIS\)](#) and is available on the intranet.
- 1.5** Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. Where a claim for asylum or humanitarian protection is being considered, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules.
- 1.6** Where a person is being considered for deportation, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Part 13 of the Immigration Rules. Caseworkers must also consider if the applicant qualifies for discretionary leave in accordance with the published policy.
- 1.7** If, following consideration, a claim is to be refused, caseworkers should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

2. Country assessment

- 2.1** Caseworkers should refer the relevant COI Service country of origin information material. An overview of the human rights situation in certain countries can also be found in the [Foreign & Commonwealth \(FCO\) Human Rights and Democracy Report](#), which examines developments in countries where human rights issues are of greatest concern.

2.2 Actors of protection

- 2.2.1** Caseworkers must refer to section 7 of the AI - [Considering the asylum claim and assessing credibility](#). To qualify for asylum, an individual must have a fear of persecution for a Convention reason and be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to seek protection in their country of origin or habitual residence.
- 2.2.2** Caseworkers must take into account whether or not the applicant has sought the protection of the authorities or the organisation controlling all or a substantial part of the State, any outcome of doing so or the reason for not doing so.
- 2.2.3** Effective protection is generally provided when the authorities (or other organisation controlling all or a substantial part of the State) take reasonable steps to prevent the persecution or suffering of serious harm by for example operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.
- 2.2.4** The Uganda Police Force (UPF), under the Ministry of Internal Affairs, has primary responsibility for law enforcement. The Uganda People's Defense Forces (UPDF) is charged with external security but also had significant responsibility for implementing the disarmament campaign in Karamoja, providing election-related

security for by-elections that were held during the 2012, and responding to walk-to-freedom protests that occurred during September and October 2012. The Internal Security Organization (ISO) and External Security Organization (ESO), security agencies and intelligence-gathering entities under the Minister of Security, occasionally detained civilians. The Chieftaincy of Military Intelligence (CMI) is legally under the UPDF authority, although it often acted as a semiautonomous unit in detaining civilians suspected of rebel and terrorist activity, as did the ISO and the ESO.¹

- 2.2.5** The UPF was constrained by limited resources, including low pay and lack of vehicles, equipment, and training.² Freedom House reported that “The problem of corruption is serious at lower levels of the government, particularly among the police. Corruption is also rife in the districts”.³ Similarly, the U.S. Department of State reported that “According to Transparency International, the police and judiciary were the institutions most prone to corruption”.⁴
- 2.2.6** The UPF’s Professional Standards Unit investigated complaints of police abuse, including torture, assault, unlawful arrest and detention, mismanagement of case papers, and corrupt practices. The UPF was the sole government agency charged with the responsibility of investigating charges of impunity.⁵ According to the September Justice Law and Order Sector Annual Performance Report 2011/2012, the UPF received and investigated 4,304 complaints of human rights violations by police officers. Of these, 143 involved criminal conduct and were referred to the Directorate of Public Prosecutions (DPP), 852 were referred for disciplinary action, and 1,003 were dismissed for lack of evidence; there was no information on the remaining complaints. The cases referred for disciplinary action resulted, among various actions, in the forced retirement of 22 police officers, 55 dismissals, 13 demotions in rank, 219 fines, 100 confinements to barracks, and 57 severe reprimands.⁶
- 2.2.7** From January to September 2012, the African Center for Treatment and Rehabilitation of Torture Victims registered 170 allegations of torture against police, 214 against the UPDF, one against military police, 23 against the Special Investigations Unit (SIU), 361 against unspecified security personnel, and 24 against prison officials.⁷ The Uganda Human Rights Commission (UHRC) reported registering 272 human rights complaints against private individuals, 151 UPDF members, 457 police officers, 45 personnel of other security agencies, 40 prison wardens, and 128 government departments and 19 private companies. Of the complaints, 34 percent involved allegations of torture or cruel, inhuman, or degrading treatment and punishment.⁸ Amnesty International reported that “torture and other ill-treatment by police remained widespread. Despite investigations by

¹ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

² US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

³ Freedom House, Countries at the Crossroads: Uganda, Anti-Corruption and Transparency, 20 September 2012, <http://www.freedomhouse.org/report/countries-crossroads/2012/uganda>

⁴ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 4, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁵ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁶ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁷ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁸ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

the Uganda Human Rights Commission, no action was taken to hold law enforcement officials responsible for human rights violations to account or to grant victims and their families an effective remedy”.⁹

- 2.2.8** The UPDF continued efforts to transfer responsibility for law enforcement in the North and in the Karamoja Region to the UPF. In August authorities reported that 150 specialized police officers were deployed to the Karamoja sub-region to assist in effective restoration of law and order. However, the UPDF maintained personnel in the sub-region for security reasons.¹⁰ Excessive force and the indiscriminate use of live ammunition by the State Security Forces (SSF), which includes the UPDF, resulted in deaths during disarmament operations and cattle recovery in the Karamoja region in the east.¹¹ Local and international human rights groups noted authorities neglected the Karamoja subregion and that there was a large backlog of human rights cases there due to the absence of a tribunal. The OHCHR received several complaints of torture, arbitrary arrest, and detention in military facilities in conjunction with the UPDF’s response to cattle raids and the government’s disarmament campaign there.¹² A report looking at customary law in the Kramoja region found that there are “understaffed and poorly facilitated courts in Karamoja “ that “often lack the capacity to handle their caseloads. The police, while in some places effective, are also inaccessible for much of the population and suffer from allegations of corruption in a number of study locations”.¹³
- 2.2.9** Police leadership disbanded the Police’s Rapid Response Unit (RRU) in December 2011 explicitly because of its poor human rights record, renaming it the Special Investigations Unit (SIU). However the police have failed to investigate abuses committed by RRU officers or ad hoc operatives, some of whom continue to work with the SIU.
- 2.2.10** The constitution and law provide for an independent judiciary, and the government generally respected this provision. The president appoints Supreme Court, High Court, and Court of Appeal judges with the approval of parliament. The president also nominates, for the approval of parliament, members of the Judicial Service Commission, which makes recommendations on appointments to the judiciary. The judiciary ruled against the government in several high-profile cases during the year.¹⁴
- 2.2.11** Lower courts remained understaffed, weak, and inefficient. The U.S. Department of State reported that “An inadequate system of judicial administration resulted in a serious backlog of cases and impaired the right to a fair trial”.¹⁵ Judicial corruption was a problem.¹⁶ Executive influence undermines judicial independence. Prolonged pretrial detention, inadequate resources, and poor judicial

⁹ Amnesty International, Annual Report 2013: Uganda, Torture and other ill-treatment, 23 May 2013, <http://www.amnesty.org/en/annual-report/2013>

¹⁰ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

¹¹ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1a, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

¹² US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

¹³ Feinstein International Center, Tradition in Transition: Customary Authority in Karamoja, Uganda, Customary Law: Persisting Strengths, October 2012, <http://sites.tufts.edu/feinstein/files/2012/11/Tradition-in-Transition.pdf>

¹⁴ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1e, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

¹⁵ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1e, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

¹⁶ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1e, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

administration impede the fair exercise of justice. The country has also faced criticism over the military's repeated interference with court processes.¹⁷

2.2.12 As was the case in 2011, mobs attacked persons suspected of stealing, ritual sacrifice, witchcraft, and other crimes, resulting in deaths. Motivated in part by lack of confidence in law enforcement and the judicial system, mobs beat, lynched, burned, and otherwise brutalized their victims.¹⁸

2.2.13 If the applicant's fear is of ill-treatment/persecution by the state authorities, or by agents acting on behalf of the state, then it is improbable that they can apply to those authorities for protection. If the ill-treatment/persecution is at the hands of non-state agents, then applicants should be able to access effective state protection. Each case must be considered on its individual facts and the assessment of whether effective protection is available should be considered in relation to the particular circumstances and profile of the claimant and the latest country of origin information.

2.3 Internal relocation.

2.3.1 Caseworkers must refer to the AI on [Internal Relocation](#) and in the case of a female applicant, the AI on [Gender Issues in the Asylum Claim](#), for guidance on the circumstances in which internal relocation would be a 'reasonable' option, so as to apply the test set out in paragraph 339O of the Immigration Rules.

2.3.2 It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a part of the country of return where the person would not have a well founded fear of being persecuted and the person can reasonably be expected to stay there, then they will not be eligible for a grant of asylum.

2.3.3 Similarly, if there is a part of the country of return where the person would not face a real risk of suffering serious harm and they can reasonably be expected to stay there, then they will not be eligible for humanitarian protection. Both the general circumstances prevailing in that part of the country and the personal circumstances of the person concerned including any gender issues should be taken into account.

2.3.4 Caseworkers must refer to the gender issues in the asylum claim where this is applicable. The fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.

2.3.5 Where a category of applicant's fear is of ill-treatment/persecution by the state authorities, then internal relocation to escape that persecution will not generally be an option. Very careful consideration must be given as to whether internal relocation would be a viable way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents.

2.3.6 If an applicant who faces a real risk of ill-treatment/persecution in their home area

¹⁷ Freedom House, Freedom in the World 2013; Uganda 6 June 2013 <http://www.freedomhouse.org/report/freedom-world/2013/uganda>

¹⁸ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dlid=204180>

would be able to relocate to a part of the country where they would not be at real risk, whether from state or non-state actors, and it would not be unreasonable to expect them to do so, then asylum or humanitarian protection should be refused.

2.3.7 The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation. The government at times limited these rights in practice. A married woman must obtain her husband's written permission on her passport application in order to list children on her passport.¹⁹

2.3.8 Careful consideration must be given to the relevance and reasonableness of internal relocation on a case by case basis taking full account of the individual circumstances of the particular claimant. Caseworkers need to consider the ability of the persecutor to pursue the claimant in the proposed site of relocation, and whether effective protection is available in that area. Caseworkers will also need to consider the age, gender, health, ethnicity, religion, financial circumstances and support network of the claimant, as well as the security, human rights and socio-economic conditions in the proposed area of relocation, including the claimant's ability to sustain themselves.

2.4 Country guidance caselaw

[Supreme Court. RT \(Zimbabwe\) & others v Secretary of State for the Home Department \[2012\] UKSC 38 \(25 July 2012\)](#) The Supreme Court ruled that the rationale of the decision in HJ (Iran) applies to cases concerning imputed political opinion:

"32. Under both international and European human rights law, the right to freedom of thought, opinion and expression protects non-believers as well as believers and extends to the freedom not to hold and not to express opinions.(...)

"42. Refugee law does not require a person to express false support for an oppressive regime, any more than it requires an agnostic to pretend to be a religious believer in order to avoid persecution".

Consequently an individual cannot be expected to modify their political beliefs, deny their opinion (or lack thereof) or feign support for a regime in order to avoid persecution

[Supreme Court. HJ \(Iran\) v Secretary of State for the Home Department \(Rev 1\) \[2010\] UKSC 31 \(07 July 2010\)](#)

The Supreme Court hereby established at paragraph 82 the test which should be applied when assessing a claim based on fear of persecution because of an applicant's sexual orientation which is as follows:

- (i) Is the applicant gay or someone who would be treated as gay by potential persecutors in the country of origin?
- (ii) If yes, would gay people who live openly be liable to persecution in that country of origin?

¹⁹ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 2d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

- (iii) How would the applicant behave on return? If the applicant would live openly and thereby be exposed to a real risk of persecution, he has a well-founded fear of persecution even if he could avoid the risk by living discreetly.
- (iv) If the applicant would live discreetly, why would he live discreetly? If the applicant would live discreetly because he wanted to do so, or because of social pressures (e.g. not wanting to distress his parents or embarrass his friends) then he is not a refugee. But if a material reason for living discreetly would be the fear of persecution that would follow if he lived openly, then he is a refugee.

JM (homosexuality: risk) Uganda CG [2008] UKIAT 00065 (11 June 2008)

In this country guidance case the Tribunal found that although there is legislation in Uganda which criminalises homosexual behaviour there is little, if any, objective evidence that such is in fact enforced. Notwithstanding a prevailing traditional and cultural disapproval of homosexuality, the evidence does not establish that in general there is persecution of homosexuality in Uganda.

PN (Lord's Resistance Army) Uganda CG [2006] UKAIT 00022 (6 March 2006)

The AIT found there was no risk from the Ugandan authorities to a former member of the Lord's Resistance Army on return to Uganda. The Ugandan Government's amnesty to members of the LRA remains in place. A person who is at real risk of forcible conscription into the LRA in the north of Uganda may be able to relocate without undue harshness to Kampala. This case confirms and supplements the findings in [AZ \(Eligibility for Amnesty\) Uganda \[2004\] UKIAT 00166](#).

LM (Acholi – LRA – internal relocation) Uganda CG [2004] UKIAT 00107 (17 May 2004)

The appellant's evidence was that she was abducted by the Lord's Resistance Army and treated as a sex slave. The then AIT found in the following paragraphs .that:

"24. We do not accept that simply as an Acholi the appellant would be targeted by the government in Kampala or that the LRA would be able to get their hands on the appellant, as it were, there. [...]"

28. We do not disagree with the way in which the Adjudicator considered the position for the appellant on return. He was entitled to find the situation, while dangerous in the appellant's home area, did not render it unduly harsh for the appellant to relocate to other areas of Uganda including Kampala. He was entitled to find there was adequate protection there. He noted and was entitled to note that her only claimed fear of residing in Kampala was that she was wanted by the authorities. The Adjudicator properly concluded that any such fear was baseless.

29. Accordingly, we affirm the adjudicator's determination. On the material before us we find, for the reasons given above, it is not in general unduly harsh for Acholi to relocate, for example to Kampala. It is of course always necessary to consider the facts of each particular case to ascertain whether the individual would face risks or whether, for that individual, the internal flight option would not be viable".

3. Main categories of claims

- 3.1** This section sets out the main types of asylum claim, humanitarian protection claim and discretionary leave claim on human rights grounds (whether explicit or implied) made by those entitled to reside in Uganda. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/

punishment.

- 3.2** It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, humanitarian protection, sufficiency of protection and internal relocation are set out in the relevant asylum instructions, but how these affect particular categories of claim are set out in the instructions below.
- 3.3** All asylum instructions (AIs) can be accessed via the Horizon intranet site. The instructions are also published externally on the Home Office internet site at [asylum policy instructions](#).
- 3.4** Each claim should be assessed to determine whether there is a reasonable likelihood that the applicant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in the Court of Appeal's judgment in [Karanakaran](#) should be followed when deciding how much weight to be given to the material provided in support of the claim (see the AI '[Considering the asylum claim and assessing credibility](#)').
- 3.5** For any asylum cases which involve children either as dependants or as the main applicants, caseworkers must have due regard to Section 55 of the Borders, Citizenship and Immigration Act 2009. The Home Office instruction '[Every Child Matters: Change for Children](#)' sets out the key principles to take into account.
- 3.6** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of humanitarian protection is appropriate. (See AI on [humanitarian protection](#)). Where an application for asylum and humanitarian protection falls to be refused, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules.
- 3.7** They must also consider whether there are any compelling reasons for granting discretionary Leave (DL) to the individual concerned. (See AI on [discretionary leave](#)).

Consideration of Articles 15(a) and (b) of the Directive/Articles 2 and 3 ECHR

- 3.8** An assessment of protection needs under Article 15(c) of the Directive should only be required if an applicant does not qualify for refugee protection, and is ineligible for subsidiary protection under Articles 15(a) and (b) of the Directive (which broadly reflect Articles 2 and 3 of the ECHR).
- 3.9** Caseworkers are reminded that an applicant who fears a return to a situation of generalised violence may be entitled to a grant of asylum where a connection is made to a Refugee Convention reason or to a grant of humanitarian protection because the Article 3 threshold has been met.

Other severe humanitarian conditions and general levels of violence

- 3.10** There may come a point at which the general conditions in the country – for example, absence of water, food or basic shelter – are unacceptable to the point

that return in itself could, in extreme cases, constitute inhuman and degrading treatment.

- 3.11** Decision makers need to consider how conditions in the country and locality of return, as evidenced in the available country of origin information, would impact upon the individual if they were returned. Factors to be taken into account would include age, gender, health, effects on children, other family circumstances, and available support structures. It should be noted that if the State is withholding these resources it could constitute persecution for a Convention reason and a breach of Article 3 of the ECHR.
- 3.12** As a result of the [Sufi & Elmi v UK](#) judgment in the European Court of Human Rights (ECtHR), where a humanitarian crisis is predominantly due to the direct and indirect actions of the parties to a conflict, regard should be had to an applicant's ability to provide for his or her most basic needs, such as food, hygiene and shelter and his or her vulnerability to ill-treatment. Applicants meeting either of these tests would qualify for humanitarian protection.

Credibility

- 3.13** Caseworkers will need to assess credibility issues based on all the evidence available to them from the interview, documentary evidence and country of origin information. Caseworkers will need to consider credibility issues based on all the information available to them. For guidance on credibility see 'Section 4 – Making the Decision' in the AI ['Considering the asylum claim and assessing credibility'](#).
- 3.14** Caseworkers must also ensure that each asylum application has been checked against previous UK visa applications. Where an asylum application has been biometrically matched to a previous visa application, details should already be in the Home Office file.
- 3.15** In all other cases, the caseworkers should satisfy themselves through CRS database checks that there is no match to a non-biometric visa. Asylum applications matches to visas should be investigated prior to the asylum interview, including obtaining the Visa Application Form (VAF) from the visa post that processed the application.
- 3.16** **Members and suspected supporters of the Lord's Resistance Army (LRA)**
- 3.16.1** Applicants may make an asylum and/or human rights claim based on ill treatment amounting to persecution at the hands of the Ugandan authorities due to involvement or suspected involvement with the Lord's Resistance Army (LRA).
- 3.16.2** **Treatment.** The Lord's Resistance Army (LRA), a rebel group led by Joseph Kony, originated in Northern Uganda as a movement to fight for the interests of the Acholi people. Kony rapidly lost support, and since around 1990 has led a terrifying regime that is accused of killing, raping, and abducting tens of thousands of people in the region and kidnapping children and forcing them to fight in his rebel forces. Driven out of the country by the Ugandan army, the LRA's rebels are now scattered across the Democratic Republic of Congo (DRC), Central African Republic (CAR) and southern Sudan, where brutal attacks continue on remote

villages that can take months to be reported.²⁰

- 3.16.3** Although LRA members who were abducted as children continued to leave the LRA and return home, an estimated 250 to 400 LRA fighters remained. Despite a significant reduction in LRA size since 2008, the LRA continued to hold women and children against their will, although increasingly the group abducted children from neighbouring countries..²¹
- 3.16.4** Although the LRA continues to operate in neighboring countries, it has not staged attacks in Uganda itself since 2005. Many LRA fighters were given amnesty in 2000 in an effort to bring peace to the region; however, Kony and four other LRA leaders were charged with war crimes and crimes against humanity by the International Criminal Court in 2005. In October 2011, the United States dispatched 100 military advisers to Uganda to assist regional efforts to eliminate the LRA, and the African Union (AU) in March 2012 set up a 5,000-member force to bolster those efforts. In May 2012, Ugandan forces captured LRA leader Caesar Achellam in Central African Republic; his arrest sparked debate about whether he should be given amnesty or tried in Uganda.²² Amnesty International noted that in the same month Caesar Achellam was captured, the Minister of Internal Affairs removed a provision in the Amnesty Act 2010 which had granted amnesty to LRA fighters.²³ Amnesty International also stated that "The government began investigations into Caesar Acellam Otto, but by the end of the year [2012] no charges were preferred against him and his detention remained incommunicado. It was unclear whether he and others subsequently captured would be effectively prosecuted by the International Crimes Division of the High Court".²⁴
- 3.16.5** Ugandan officials continue to encourage defection from the LRA, promising defectors amnesty from prosecution; an Amnesty Act that lapsed in 2012 was reinstated in 2013. The Amnesty Act does not extend to top LRA commanders. "The amnesty law is still there for those who are not indicted by ICC (International Criminal Court) - Kony and three of his most senior commanders have been indicted on several charges, including crimes against humanity and war crimes]. We encourage them to abandon the rebellion and come out. They are welcome back home," Lt Col Paddy Ankunda, Uganda People's Defence Forces (UPDF) spokesperson, told IRIN. "If they have no fighters, they have no future." He added, "The hard-core ones like Kony and his top leadership can't surrender. We have an AU [African Union] force there. We shall resume hunting them once AU gets authorization from the new CAR authorities."²⁵ According to IRIN, those LRA members who are granted amnesty receive "a reinsertion package of 263,000 shillings (US\$120), a mattress, a blanket, a hoe, a machete, cups, plates and maize and bean seeds".²⁶ However, according to an advocacy officer for the Amnesty Commission in Gulu, northern Uganda, funding has been cut affecting

²⁰ War Child, The Lord's Resistance Army, undated, accessed October 2012, <http://www.warchild.org.uk/issues/the-lords-resistance-army>

²¹ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

²² Freedom House, Freedom in the World 2013, 6 June 2013: Uganda, <http://www.freedomhouse.org/report/freedom-world/2013/uganda>

²³ Amnesty International, Annual Report 2013: Uganda, International justice, 23 May 2013, <http://www.amnesty.org/en/region/uganda/report-2013>

²⁴ Amnesty International, Annual Report 2013: Uganda, International justice, 23 May 2013, <http://www.amnesty.org/en/region/uganda/report-2013>

²⁵ Integrated Regional Information Networks (IRIN), LRA "weaker than it has been in at least 20 years", 1 August 2013, <http://www.refworld.org/docid/51fb84e84.html>

²⁶ IRIN, UGANDA: Lack of funding stalls ex-combatants' reintegration, 18 June 2012, <http://www.irinnews.org/report/95672/uganda-lack-of-funding-stalls-ex-combatants-reintegration>

reintegration programmes for former combatants and this has left them marginalized, rejected by their communities and provoked, with many ending up committing crimes.²⁷

- 3.16.6** Warrants issued by the International Criminal Court (ICC) for LRA leaders in 2005 remain outstanding. The War Crimes Division of the High Court did not begin its first trial of the only defendant in custody, former LRA fighter Thomas Kwoyelo, who has been charged with wilful killing, taking hostages, and extensive destruction of property. Kwoyelo had previously applied for amnesty.²⁸ In September 2011, the Constitutional Court ruled that Kwoyelo qualifies to benefit from the Amnesty. The government through the Attorney General filed an application seeking an interim order to stay execution of the same court. The government also appealed against the decision of the Constitutional Court. Both appeals were dismissed by the Court of Appeal.²⁹ In January 2012, the High Court ordered the prosecutors to grant amnesty and release him, but the state has appealed.³⁰ In October 2012, Kwoyelo through his lawyers, lodged a complaint with the African court saying the Kampala administration was denying him the right to liberty. Despite the court rulings, Kwoyelo continues to be detained and he has not got the amnesty as the government appealed to the Supreme Court which stayed execution of any “consequential orders arising” from the constitutional court ruling.³¹ IRIN reported that this trial has been viewed by some as a case of selective justice as former high-ranking LRA commanders, such as Brig Kenneth Banya and Brig Sam Kolo Otto, have received an amnesty. Another LRA leader, Caesar Acellam Otto, who was captured in 2012, has also not benefited from the amnesty. Accelam’s wife, Nightly Akot, who was captured alongside him said: “Let him be [set] free because he is no different from other senior LRA commanders enjoying the amnesty”.³²
- 3.16.7** Key sections of Uganda's Amnesty Act were allowed to lapse in May 2012, meaning that members of armed groups, notably the Lord's Resistance Army (LRA), no longer automatically escaped prosecution if they willingly abandoned their armed struggle. In early May 2013, these sections of the act were reinstated and will remain in force for two years. Only top LRA commanders are ineligible for amnesty.³³
- 3.16.8** Human Rights Watch identified in its report on Uganda’s International Crimes Division several shortcomings in the judicial system, including:

- Inadequate and Problematic Legal Frameworks: the Ugandan Amnesty Act, the Ugandan ICC Act and the availability of the death penalty as a punishment;

²⁷ IRIN, UGANDA: Lack of funding stalls ex-combatants' reintegration, 18 June 2012,

<http://www.irinnews.org/report/95672/uganda-lack-of-funding-stalls-ex-combatants-reintegration>

²⁸ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1d, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

²⁹ African Journalist, Thomas Kwoyelo's trial, 4 August 2013, <http://www.africanjournalist.com/news/thomas-kwoyelos-trial-0>

³⁰ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1d, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

³¹ African Journalist, Thomas Kwoyelo's trial, 4 August 2013, <http://www.africanjournalist.com/news/thomas-kwoyelos-trial-0>

³² IRIN, Rebel amnesty reinstated in Uganda, 30 May 2013, <http://www.irinnews.org/report/98133/rebel-amnesty-reinstated-in-uganda>

³³ IRIN news, 'Rebel Amnesty Reinstated in Uganda', 30 May 2013

<http://www.irinnews.org/report/98133/rebel-amnesty-reinstated-in-uganda>

- Right to an Adequate Defense: “The lack of assistance to defense counsel and the limited time they have to prepare pose serious concerns to assuring fair trial rights in Kwoyelo’s case, the terrorism trial, future cases before the ICD, and criminal cases in Uganda more broadly”.
- Structural Issues: “several aspects of Ugandan legal practice and procedure—which pose challenges for all criminal cases in the country—are ill-suited to serious crimes cases. These include lack of paid legal assistants for judges, frequent rotation of staff, lack of a witness protection and support scheme, and insufficient interpretation”.³⁴

3.16.9 The same report also noted that “Information on other possible cases involving serious crimes committed either by LRA members or the Ugandan army was not available. At least one alleged LRA member, Patrick “Mission” Okello, has been in the custody of Ugandan military intelligence since March 31, 2010, although the legal basis for his ongoing detention has not been made public. Persons in detention should be promptly charged with an offense or released. Plans for Okello’s release or prosecution are not known”.³⁵

See also: [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

3.16.10 Conclusion. Senior LRA commanders are not entitled to the amnesty provision and have been imprisoned. Where an applicant is at real risk of being imprisoned caseworkers should consider each case on its individual facts to determine whether a particular applicant is at risk taking into account the human rights violations documented in pre-detention centres and in prisons, as well as barriers to justice. Caseworkers should note that members of the LRA have been responsible for serious human rights abuses. The individual circumstances of joining the particular rebel group should be taken into account, given the extremely high levels of abductions and forced recruitment by the LRA. If it is accepted that the claimant was an active operational member or combatant for the LRA and the evidence suggests that he/she has been involved in such actions, then caseworkers must refer to the guidance on [Exclusion under Article 1F of the Convention](#), and consider whether one or more of the Exclusion clauses is applicable. Caseworkers must refer such cases to a Senior Caseworker.

3.17 Political opponents or those perceived to be in opposition to the government, including NGO members, human rights defenders and journalists

3.17.1 Some applicants may make an asylum and/or human rights claim based on ill-treatment amounting to persecution at the hands of the Ugandan authorities due to

³⁴ Human Rights Watch, Justice for Serious Crimes before National Courts Uganda’s International Crimes Division, III. Lessons Learned, January 2012, http://www.hrw.org/sites/default/files/reports/uganda0112ForUpload_0.pdf

³⁵ Human Rights Watch, Justice for Serious Crimes before National Courts Uganda’s International Crimes Division, II. The Start of the ICD, A. ICD Cases to Date, January 2012, http://www.hrw.org/sites/default/files/reports/uganda0112ForUpload_0.pdf

their active or perceived opposition to the government, including thorough membership or support for opposition political organisations, NGOs and human rights organisations.

Political opponents or those perceived to be in opposition to the government

- 3.17.2 Treatment.** According to observers from the European Union (EU) and the Commonwealth, the 2011 elections were undermined by flawed administration, extensive state media bias, and government spending on behalf of incumbents. The single-chamber National Assembly and the powerful president, who faces no term limits, are elected for five-year terms. Of the legislature's 386 members, 238 are directly elected and 137 are indirectly elected from special interest groups including women, the military, youth, the disabled, and trade unions. Eleven ex-officio seats are held by cabinet ministers, who are not elected members and do not have voting rights.³⁶
- 3.17.3** Freedom House further notes that "significant concerns remain over the ability of opposition parties to compete with the ruling NRM [National Resistance Movement]. The opposition is hindered by harassment of its leaders, restrictive party registration requirements, voter and candidate eligibility rules, the use of government resources to support NRM candidates, a lack of access to state media coverage, and paramilitary groups—such as the Kiboko Squad and the Black Mambas—that intimidate voters and government opponents".³⁷
- 3.17.4** Freedom of assembly is officially recognised but often restricted in practice, as illustrated by the continued police violence and criminal charges against opposition protesters during 2012.³⁸
- 3.17.5** During 2012 the Ugandan Police Force (UPF) routinely restricted the right to assemble freely. The UPF either gave no official response to critical opposition parties and civil society organisations critical of the government that sought UPF authorization for public gatherings or instructed them not to assemble. On 3 April 2012, relying on section 56 of the Penal Code Act, the government outlawed the opposition-linked Activists for Change (A4C) group.³⁹ The U.S. Department of State report further noted that "Police often met attempts to assemble by opposition activists, students, and workers with excessive and brutal force".⁴⁰
- 3.17.6** There were approximately 38 registered parties. The ruling National Resistance Movement (NRM) party operated without restriction, regularly holding rallies and conducting political activities. Authorities occasionally restricted the activities of the main opposition parties by refusing them permission to hold public demonstrations and preventing opposition leaders from appearing on local radio stations. Police fired tear gas to disperse rallies of opposition leaders. For example, on 21 May 2012, police fired tear gas to disperse a crowd that had gathered to hear opposition leader Besigye and Kampala Mayor Lukwago at Nakasero Market in

³⁶ Freedom House, Freedom in the World 2013:Uganda, 6 June 2013, <http://www.freedomhouse.org/report/freedom-world/2013/uganda>

³⁷ Freedom House, Freedom in the World 2013: Uganda, January 2013, <http://www.freedomhouse.org/report/freedom-world/2013/uganda>

³⁸ Freedom House, Freedom in the World 2013:Uganda, 6 June 2013, <http://www.freedomhouse.org/report/freedom-world/2013/uganda>

³⁹ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 2b, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁴⁰ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 2b, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

Kampala. There were no reports of injuries.⁴¹

- 3.17.7** Opposition leader Kizza Besigye has been arrested numerous times in recent years for trying to organise street protests over the cost of living. On October 4 2012, security officers in Kampala arrested Moses Tumukunde, driver of opposition leader Kizza Besigye, for “participating in an unlawful assembly. Tumukunde claimed the police tortured him with beatings before they released him without charge on October 10”.⁴²
- 3.17.8** Police arbitrarily arrested several Forum for Democratic Change (FDC) opposition leaders during 2012. For instance, on 16 April 2012, police arrested six supporters of the FDC and charged them with disobeying lawful orders. Authorities released the suspects on police bond, and the case was pending at the end of 2012. On 15 October 2012, police in Nakasongola arrested six FDC supporters; they were granted bail on 22 October after being charged with holding an unlawful assembly. On 20 November 2012, police arrested another FDC official, Simon Rutarondwa, over allegations of links to a new rebel group fighting to overthrow the ruling NRM government. He was in detention at the SIU in Kireka, Kampala at the end of 2012.⁴³
- 3.17.9** On 25 September 2012, police arrested and later released opposition MP for Kyadondo East, Ibrahim Nganda Ssemujju, and charged him with illegal assembly. Ssemujju reportedly held a rally at Kireka Park, a suburb of Kampala, in defiance of police orders.⁴⁴ Ssemujju was later arrested on 19 October 2012 as anti-riot police prevented him from holding an illegal rally. The opposition FDC MP had vowed to hold a rally to address the constituency about what he said was the increasing crime rate in his constituency as well as providing updates from an on-going investigation into corruption allegations amongst the area local councillors.⁴⁵
- 3.17.10** Journalists, opposition leaders and activists critical of the authorities continued to face intimidation, harassment, arbitrary arrest and trumped-up charges.⁴⁶
- 3.17.11** Police often met attempts to assemble by opposition activists, students, and workers with excessive and brutal force. During 2012 none of the hundreds of protesters arrested during 2011 walk-to-work events, protests that began against the country’s soaring fuel and food prices, had been convicted of any offense.⁴⁷
- 3.17.12** The U.S. Department of State reported that “The SSF and government officials occasionally interrogated and detained radio presenters and political leaders who made public statements critical of the government and used libel laws and national security as grounds to restrict freedom of speech”.⁴⁸ There were reports of political

⁴¹ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 3, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁴² US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1c, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁴³ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 3, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁴⁴ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 3, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁴⁵ Daily Monitor, Teargas in Bweyogere as MP Nganda is arrested, 19 October 2012, <http://www.monitor.co.ug/News/National/MP-Ssemujju-Nganda-arrested-again/-/688334/1537200/-/m7d4p/-/index.html>

⁴⁶ Amnesty International, Annual Report 2013; Uganda, Freedom of Expression, 23 May 2013 <http://www.amnesty.org/en/region/uganda/report-2013>

⁴⁷ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 2b, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁴⁸ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 2a, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

prisoners during the year, and in addition authorities detained several opposition politicians and more than 20 supporters on politically motivated grounds for short periods. Authorities released many of these individuals without charge, but charged others with crimes such as treason, inciting violence, and holding illegal rallies.⁴⁹

- 3.17.13** The U.S. Department of State reported that “The UPS held 67 political prisoners on treason charges; of these, eight were committed for trial in the High Court after they appeared in court, while 59 others remained in custody pending case hearings. The political prisoners faced conditions similar to those of the general prison population”.⁵⁰ Freedom House reported that “torture and abuse of suspects and detainees by security forces remain problems” especially by the JATT, which is “expanding the scope of the law to crack down on the political opposition”.⁵¹
- 3.17.14** The U.S. Department of State also stated that “There were unconfirmed reports of politically motivated disappearances. For example, on 15 October 2012, the opposition Democratic Party (DP) publicity secretary reported that he had received complaints from family members that party activist Rogers Segujja had disappeared. Family members suspected security operatives might have kidnapped Segujja. Unidentified individuals kidnapped DP activist Annette Namwanga in January 2011, and the Chieftaincy of Military Intelligence (CMI) acknowledged arresting her. In February 2011, authorities charged her and nine others with terrorism and remanded them to prison. On October 19 2012, Namwanga and the nine terrorist suspects appeared in court. At the end of 2012 they remained free on bail and the case was pending trial”.⁵²
- 3.17.15** On 6th August 2013, the Ugandan Parliament passed the Public Order Management Bill.⁵³ The bill, which is controversial and limits public protests has been branded a "serious blow to open political debate" by Amnesty International. The Public Order Management bill was passed despite fierce criticism from religious leaders, opposition MPs and the public as well as rights groups. Police approval will now be required if three or more people want to gather publicly to discuss political issues.⁵⁴
- 3.17.16** The bill gives the police discretionary powers to veto gatherings of as few as three people in a public place to discuss political issues. Police can also break up meetings of three or more people discussing political issues in their own homes. Police must receive written notice of public meetings seven days in advance and they may only take place between 06:00 and 18:00. They are entitled to turn down requests on grounds that the venue is already being used, is considered unsuitable or "any other reasonable cause", the bill states. The bill also allows police to use firearms in self-defence, in defence of others or against those resisting arrest.⁵⁵

⁴⁹ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1e, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁵⁰ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1c, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁵¹ Freedom House, Freedom in the World 2013: Uganda, January 2013, <http://www.freedomhouse.org/report/freedom-world/2013/uganda>

⁵² US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1b, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁵³ Article 19, Legal analysis Uganda: Public Order Management Bill, 13 August 2013

<http://www.article19.org/resources.php/resource/37201/en/uganda:-public-order-management-bill>

⁵⁴ BBC News, Uganda public order bill is 'blow to political debate', 6 August 2013, <http://www.bbc.co.uk/news/world-africa-23587166>

⁵⁵ BBC News, Uganda public order bill is 'blow to political debate', 6 August 2013, <http://www.bbc.co.uk/news/world-africa-23587166>

3.17.17 The actual meaning of the recently passed Public Order Management Bill began to be felt mid August 2013, as police blocked a press conference and vowed to even block family meetings. Kampala Metropolitan Police Operations Commander Sam Omala, while blocking a press conference called by civil society organisations (CSO) and a group of opposition politicians, on Monday 19 August, said: "As the police, we must know about every meeting even if it is in your home."⁵⁶

Treatment of NGO members and human rights defenders

3.17.18 Freedom of association is guaranteed in the constitution and the law but is often restricted in practice; nevertheless, civil society in Uganda remains vibrant. Several nongovernmental organizations (NGOs) address politically sensitive issues, but their existence and activities are vulnerable to legal restrictions, including the manipulation of burdensome registration requirements under the 2006 NGO Registration Amendment Act. The U.S. Department of State further notes that one of the "three most serious human rights problems" affecting Uganda were "unwarranted restrictions on civil liberties (including freedom of assembly, the media, and association)".⁵⁷

3.17.19 In 2012, the government stepped up its campaign to harass and even shut down NGOs and civil society groups that advocate for sensitive issues, such as combating corruption, transparency in the oil sector, land rights, and LGBT (lesbian, gay, bisexual and transgender) rights. For example, in February, Minister for Ethics and Integrity Simon Lokodo led a police raid on a capacity-building workshop run by LGBT activists in Entebbe. Meanwhile, other NGOs that focus on issues such as service delivery were largely allowed to operate freely.⁵⁸

3.17.20 Human Rights Watch stated in August 2012 that "In the last two years government officials at both the national and local levels have deployed an array of tactics to intimidate and obstruct the work of NGOs in certain sectors. The methods used range from closing meetings, reprimanding NGOs for their work, and demanding retractions or apologies, as well as occasional resort to threats, harassment, physical violence and heavy-handed bureaucratic interference to impede the registration and operations of NGOs. Recently, the increasing use of these tactics is obstructing the work and impact of NGOs and, more broadly, obstructs Ugandans' rights to free expression, association, and assembly".⁵⁹ The report further notes that "Civil society actors working on governance, human rights, land, oil, and other sensitive issues are the main targets of these attacks, apparently because they are viewed as threatening to undermine the regime's political and financial interests. At the same time the government's hostility to, and harassment of, Uganda's lesbian, gay, bisexual, and transgender (LGBT) community and its leadership continues unabated".⁶⁰

[africa-23587166](#)

⁵⁶ All Africa, Uganda: Police Vow to Block Even Home Meetings, 20 August 2013,

<http://allafrica.com/stories/201308210080.html>

⁵⁷ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, 19 April 2013,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁵⁸ Freedom House, Freedom in the World 2013:Uganda, 6 June 2013, <http://www.freedomhouse.org/report/freedom-world/2013/uganda>

⁵⁹ Human Rights Watch, Curtailing Criticism : Intimidation and Obstruction of Civil Society in Uganda, Summary, August 2012, <http://www.hrw.org/sites/default/files/reports/uganda0812ForUpload.pdf>

⁶⁰ Human Rights Watch, Curtailing Criticism : Intimidation and Obstruction of Civil Society in Uganda, Summary, August 2012, <http://www.hrw.org/sites/default/files/reports/uganda0812ForUpload.pdf>

Treatment of journalists

- 3.17.21** Freedom House reported that “The constitution provides for freedom of speech, and the media sector has flourished in the last decade, with more than 275 radio stations and dozens of television stations and print outlets. Independent journalists are often critical of the government, but in recent years they have faced substantial, escalating government restrictions and intimidation, which encourage self-censorship. Continuing a pattern from the previous year, throughout 2012 journalists were prevented from covering opposition-related events or attacked while doing so, summoned for questioning about content they had produced, and verbally threatened by officials. Despite an apology in June 2012 by the head of the police force for numerous attacks on journalists by the police—as well as a pledge to create a unit to probe press freedom violations—police continue to be the main perpetrators of attacks on journalists”.⁶¹
- 3.17.22** The Committee to Protect Journalists also reported that “Police assaulted and obstructed numerous journalists covering opposition demonstrations, repeating an abusive pattern set during the previous year’s presidential campaign. Police officials repeatedly professed determination to investigate the attacks but ultimately held no officer publicly accountable. Several journalists began to seek redress in the courts, although no cases had been resolved by the end of 2012. President Yoweri Museveni signed the Uganda Communications Act in September. The measure ostensibly merged two regulatory bodies, but it also imposed vague new requirements that broadcasters respect “public morality” and “ethical broadcasting standards.” Press freedom organizations said the law also granted the Information Ministry broad powers to modify broadcast licenses at will”.⁶²
- 3.17.23** The U.S. Department of State noted in 2013 that “The UPF’s Media Crimes Unit closely monitored all radio, television, and print media, and the SSF subjected numerous journalists to harassment, intimidation, and arrest [...] Local authorities and the SSF prevented journalists from covering public events they considered sensitive, and in some cases arrested and interrogated journalists [...] The SSF arrested, assaulted, harassed, and intimidated journalists, and confiscated and maliciously damaged equipment”.⁶³
- 3.17.24** Amnesty International similarly reported that “Journalists, opposition leaders and activists critical of the authorities continued to face intimidation, harassment, arbitrary arrest and trumped-up charges. At least 70 journalists reported physical attacks and arbitrary detention during the year”.⁶⁴
- 3.17.25** In May 2013, Reporters Without Borders stated that raids had taken place by police on two Kampala-based newspapers, Pepper Publications and Monitor Publications Limited (MPL), forcing the closure of their printing presses, newspapers ‘Red Pepper’ and ‘Daily Monitor’ and two weekly magazines, and the closure of two radio stations. According to the same report “The raid on MPL

⁶¹ Freedom House, Freedom in the World 2013: Uganda, January 2013, <http://www.freedomhouse.org/report/freedom-world/2013/uganda>

⁶² Committee to Protect Journalists, Attacks on the Press in 2012: Uganda, 14 February 2013, <http://www.cpj.org/2013/02/attacks-on-the-press-in-2012-uganda.php#more>

⁶³ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 2a, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁶⁴ Amnesty International, Annual Report 2013: Uganda, Freedom of expression, 23 May 2013, <http://www.amnesty.org/en/region/uganda/report-2013>

headquarters was carried out by police armed with Kalashnikovs, who were acting on orders from the Criminal Investigations and Intelligence Directorate (CIID) with the aim of identifying the sources for a 7 May report in the Daily Monitor.⁶⁵ Amnesty International reported that the report focused on “an alleged government plot to assassinate politicians opposed to President Yoweri Museveni’s son taking over when his father steps down”.⁶⁶

3.17.26 At the end of June 2013, Reporters Without Borders highlighted the murder of Thomas Pere, a reporter for the state-owned New Vision media group in Kampala, noting that Pere “was the fifth journalist to be killed in Uganda in the past three years.”⁶⁷

See also: [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

3.17.27 Conclusion. Despite Uganda allowing the registration of opposition political parties, some opposition political groups continued to face restriction on their ability to assemble and some of their supporters have reportedly been subjected to political violence, harassment, intimidation, arbitrary arrests and ill treatment by the authorities, which in some cases amounted to torture. Politically motivated disappearances were also reported. These threats and violence were also experienced by persons perceived to be in opposition to the government, including NGO workers and journalists, whose rights to freedom of assembly, freedom of association and freedom of speech were increasingly restricted and curtailed. Civil society in general experienced intimidation and obstruction to their work if deemed critical of the government and journalists were prevented from covering opposition events, summoned for questioning about content they produced, verbally threatened, arbitrarily arrested, assaulted, intimidated and harassed.

3.17.28 Some applicants may be able to demonstrate that due to their profile and/or actions they are likely to come to the adverse attention of the authorities and therefore they may be at real risk of ill-treatment due to their perceived opposition to the government. Where an individual applicant is able to demonstrate that they are at a real risk of such treatment a grant of asylum may be appropriate but each case should be looked at on its individual merits.

3.18 Gay men and lesbians

3.18.1 Some applicants may make an asylum and/or human rights claim based on ill-treatment amounting to persecution as gay men or lesbians in Uganda

3.18.2 Treatment. LGBT persons faced discrimination and legal restrictions. Consensual same-sex sexual conduct is illegal according to a law from the colonial era that

⁶⁵ Reporters Without Borders, Police raids on two Kampala newspapers, 29 May 2013, <http://en.rsf.org/uganda-police-raids-on-two-kampala-21-05-2013,44637.html>

⁶⁶ Amnesty International Uganda: Activists arrested as disturbing crackdown on media continues, 24 May 2013, <http://www.amnesty.org/en/news/uganda-crackdown-newspapers-continues-2013-05-24>

⁶⁷ Reporters Without Borders, Kampala-based reporter killed, motive still unclear, 21 June 2013, <http://en.rsf.org/uganda-kampala-based-reporter-killed-17-06-2013,44812.html>

criminalizes “carnal knowledge of any person against the order of nature” and provides a penalty up to life imprisonment. While authorities did not convict any persons under the law, the government arrested persons for related offenses.⁶⁸

- 3.18.3** Uganda’s society and government remain exceptionally prejudiced against gays and lesbians, creating a climate of fear and insecurity.⁶⁹ LGBT persons were subject to societal harassment, discrimination, intimidation, and threats to their well-being, and were denied access to health services.⁷⁰ A Lesbian interviewed by Pink News told of having to hide her sexuality to protect herself from being abused, as well as not letting her wider friends and relatives know about her sexuality since she is afraid that they would turn their back on her. She stated that “If my lesbian friends visit me at home, the rumours will quickly spread in the neighbourhood. When they find out that I am a lesbian, they will immediately kick me out of my apartment, and maybe they will beat me up”. She therefore moves to a new area of Kampala every six months to avoid her neighbours from finding out about her sexuality, as well as being afraid of losing her job should her colleagues find out.⁷¹
- 3.18.4** International controversy has surrounded the Anti-Homosexuality Bill that would make some sex acts capital crimes (under existing law, consensual sex between same-sex couples was already punishable by up to life in prison).⁷² On 25 September 2009, David Bahati MP introduced the “anti-homosexuality” bill to Parliament. The bill fell from the legislative agenda following international pressure but returned in February 2012.⁷³ The anti-homosexuality remains on parliament’s order paper and could be debated and passed at any time.⁷⁴
- 3.18.5** The bill was first dubbed the “kill the gays bill”, due to its inclusion of the death penalty for various forms of sexual conduct between consenting adults of the same sex. The penalty for this offence has now reportedly been substituted with custodial sentences of up to life. Also of concern but far less publicised is that the bill additionally prohibits the “promotion of homosexuality”, with sentences of up to 7 years imprisonment and the cancellation of certificates of registration for legal entities including NGOs. The prohibition extends to any involvement in the making or distribution of information materials, the use of electronic devices for promotion, or funding others engaged in promotion. Failure to report offences within 24 hours of becoming aware of the commission of an offence is also punishable by fines or imprisonment of up to three years.⁷⁵
- 3.18.6** The bill claims to be in response to “the attempts of sexual rights activists seeking

⁶⁸ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁶⁹ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁷⁰ US State Department, Human Rights Report 2012: Uganda, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁷¹ Pink News, Uganda: LGBT activists bravely stage pride parade in Kampala, 5 August 2013

<http://www.pinknews.co.uk/2013/08/05/uganda-lgbt-activists-bravely-stage-pride-parade-in-kampala/>

⁷² Freedom House, Freedom in the World 2013: Uganda, 6 June 2013 <http://www.freedomhouse.org/report/freedom-world/2013/uganda>

⁷³ Article 19, *Traditional values? Attempts to censor sexuality. Homosexual propaganda bans, freedom of expression and equality*, Prohibitions on “homosexual propaganda”, Uganda, 7 March 2013, <http://www.refworld.org/docid/513da4692.html>

⁷⁴ The Guardian, Uganda: no country for gay men, 23 November 2013

<http://www.theguardian.com/world/2013/nov/23/uganda-no-country-gay-men>

⁷⁵ Article 19, *Traditional values? Attempts to censor sexuality. Homosexual propaganda bans, freedom of expression and equality*, Prohibitions on “homosexual propaganda”, Uganda, 7 March 2013, <http://www.refworld.org/docid/513da4692.html>

to impose their values of sexual promiscuity on the people of Uganda” and the “uncensored information technologies”. The bill claims to protect the “culture of the people of Uganda” and the “traditional family”. The bill has received international condemnation, including from the UN High Commissioner for Human Rights, UN special rapporteurs on human rights defenders and the right to freedom of opinion and expression and the European Parliament.⁷⁶

- 3.18.7** Restrictions on the right to freedom of association by lesbian, gay, bisexual, transgender and intersex (LGBTI) groups increased⁷⁷ and discriminatory practices prevented local LGBT NGOs from registering with the NGO Board and obtaining official status.⁷⁸ The Ministry of Internal Affairs threatened to deregister 38 NGOs, accusing them of promoting homosexuality.⁷⁹ The government blocked meetings organized by LGBT groups. For example, on 18 June 2012, police closed a skills-building workshop for LGBT human rights defenders organized by the East and Horn of African Human Rights Defenders Project (EHAHRDP) in Kampala. Police detained workshop participants, guests, and hotel staff for more than three hours. Two EHAHRDP staff and two workshop participants also were briefly detained but later released.⁸⁰
- 3.18.8** The following non-exhaustive examples of harassment and threats against individuals have been reported during 2012: On 3 April 2012, a court in Iganga District remanded Richard Nyeusi Mulwo, deputy head teacher of Bulumwaki Primary School, for trial in the High Court for engaging in homosexual activities. At the end of 2012 the trial was pending.⁸¹
- 3.18.9** On 13 September 2012, police in Kampala arrested British theatre producer David Edwards Cecil for staging a play police alleged promoted homosexual activity. The play was reportedly performed in several venues around Kampala in August, despite an injunction by the Media Council, the government media regulatory body. On 17 September, a court charged Cecil with violating lawful orders issued under section 117 of the penal code and for staging a play while it was under review by the Media Council. Cecil was released on bail⁸² and the charges against him were subsequently dropped. However he was rearrested in February 2013 and deported back to the UK on the grounds he was an “undesirable person”.⁸³
- 3.18.10** On 1 October 2012, a local news station broadcast a video of a transgender individual being harassed and humiliated at a local police station in Kisenye District. The video showed police officers aggressively touching, taunting, and forcibly undressing the individual, whom the police subsequently paraded before a crowd of onlookers. Authorities did not file charges against the police officers; they

⁷⁶ Article 19, *Traditional values? Attempts to censor sexuality. Homosexual propaganda bans, freedom of expression and equality*, Prohibitions on “homosexual propaganda”, Uganda, 7 March 2013, <http://www.refworld.org/docid/513da4692.html>

⁷⁷ Amnesty International, Annual Report 2013: Uganda, Rights of lesbian, gay, bisexual, transgender and intersex people, 23 May 2013 <http://www.amnesty.org/en/region/uganda/report-2013>

⁷⁸ US State Department, Human Rights Report 2012: Uganda, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁷⁹ Amnesty International, Annual Report 2013: Uganda, Rights of lesbian, gay, bisexual, transgender and intersex people, 23 May 2013 <http://www.amnesty.org/en/region/uganda/report-2013>

⁸⁰ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁸¹ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁸² US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁸³ BBC News, Uganda ‘deports’ David Cecil, producer of gay play, 12 February 2013, <http://www.bbc.co.uk/news/world-africa-21423496>

released the transgender individual without charge.⁸⁴

- 3.18.11** Amnesty International reported on the impact of laws criminalizing consensual same-sex conduct and interviewed an LGBTI activist and Director of 'Sexual Minorities Uganda' and recipient of the Robert F. Kennedy Human Rights Award 2011, Frank Mugisha, who said "before the initial introduction of the Anti-Homosexuality Bill in 2009, people were not reporting friends and family members [to the police], whereas now they do".⁸⁵ Amnesty International's report also highlighted that evictions of LGBTI people by their private landlords occur regularly, that many activists stated that "there was an increase in incidents of harassment and violence against LGBTI individuals, as well as more sensationalist coverage of homosexuality in the press", and that "Some pastors in Uganda preach that 100 percent of HIV infections are caused by LGBTI people, and that LGBTI people are actively involved in 'recruiting' children to become LGBTI. They also frequently equate homosexuality with paedophilia".⁸⁶
- 3.18.12** With regards to police abuse, Amnesty International "received several reports of police abuse of LGBTI people in Cameroon, Uganda and South Africa. These were in addition to reports of arrests of activists under criminal provisions targeting sexual behaviour and gender non-conformity, or on other spurious grounds such as 'promoting' homosexuality. The reported abuse ranged from extortion and corruption, to beating LGBTI people whilst in detention, to intimidating LGBTI people by detaining them without charge".⁸⁷ Amnesty International further reported that politicians in Uganda incite their citizens to discrimination and hatred towards LGBT people: "In Uganda [...] there is a widespread belief that LGBTI people are 'recruited' and funded by the West, and political leaders fuel this misperception to justify legislation criminalizing same-sex conduct".⁸⁸ In addition, the various re-introductions of the Anti-Homosexuality Bill have "coincided with periods of widespread unrest about rising fuel and food prices, and have occurred in the broader context of clampdowns on civil society".⁸⁹
- 3.18.13** The daily tabloid the Red Pepper continued its tradition of putting gay and lesbian Ugandans at risk in February 2013. As reported by the New Civil Rights Movement, the newspaper published an article called 'Top Uganda Gay Recruiters Busted.' The story included photos of individuals who are allegedly gay. The tabloid's history with this type of journalism is well documented. In December 2012 it printed graphic photos allegedly depicting the head of the country's prime

⁸⁴ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

⁸⁵ Amnesty International, Making Love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa, 4.3 The impact of laws criminalizing consensual same sex conduct, April 2013, <http://www.amnesty.org/en/library/asset/AFR01/001/2013/en/9f2d91b7-bc0e-4ea7-adae-7e51ae0ce36f/afr010012013en.pdf>

⁸⁶ Amnesty International, Making Love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa, 6.1 Violence, harassment, intimidation and discrimination, April 2013, <http://www.amnesty.org/en/library/asset/AFR01/001/2013/en/9f2d91b7-bc0e-4ea7-adae-7e51ae0ce36f/afr010012013en.pdf>

⁸⁷ Amnesty International, Making Love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa, 5.2 Police abuse, April 2013, <http://www.amnesty.org/en/library/asset/AFR01/001/2013/en/9f2d91b7-bc0e-4ea7-adae-7e51ae0ce36f/afr010012013en.pdf>

⁸⁸ Amnesty International, Making Love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa, 5.4 Incitement to discrimination and hatred, April 2013, <http://www.amnesty.org/en/library/asset/AFR01/001/2013/en/9f2d91b7-bc0e-4ea7-adae-7e51ae0ce36f/afr010012013en.pdf>

⁸⁹ Amnesty International, Making Love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa, 5.4 Incitement to discrimination and hatred, April 2013, <http://www.amnesty.org/en/library/asset/AFR01/001/2013/en/9f2d91b7-bc0e-4ea7-adae-7e51ae0ce36f/afr010012013en.pdf>

football team, Chris Mubiru, 'sodomizing' a young team player. In a 2009 May interview, Ben Byarabaha, Red Pepper's news editor, promised the tabloid would continue its campaign against alleged LGBT citizens by publishing names, photographs and addresses.⁹⁰

3.18.14 In August 2013 LGBT campaigners staged a Pride parade in Uganda– despite the country being known for its widespread and violent homophobic and trans-phobic persecution. It is the second time several Ugandan organisations for the country's LGBT community have collaborated to arrange the Pride parade in the strongly homophobic country. A study by Pew Research shows 96% of the population think that homosexuality should not be accepted in Ugandan society. To avoid confrontations with the rest of the population the parade takes place in a more sparsely populated area about 30 kilometres from Kampala. The parade is watched closely by six police officers, who shortened this year's route to make sure LGBT participants would not come too close to the locals.⁹¹

See also: [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

3.18.15 Conclusion. Homosexual acts are illegal in Uganda and can carry a penalty of life imprisonment. The 2008 country guidance case of [JM \(homosexuality: risk\) Uganda CG \[2008\] UKIAT 00065](#) found that at that time there was little, if any evidence, that such legal provisions were in fact enforced; and that notwithstanding a prevailing traditional and cultural disapproval of homosexuality, the evidence did not establish that in general there is persecution of LGBT persons in Uganda. The current country evidence is that LGBT persons continue to be subjected to government and societal harassment, discrimination, intimidation, and threats to their well being, as well as denial of access to health services, which has been exacerbated by the Anti-Homosexuality Bill and the rhetoric surrounding it. Given these developments in the treatment of LGBT persons in Uganda since the caselaw of [JM](#) was handed down, it can no longer be relied upon. The situation has been described as producing a "climate of fear and insecurity". Given the level of governmental and societal hostility towards LGBT people, this treatment can in individual cases amount to persecution and in general the Ugandan authorities do not provide gay men, lesbians and bisexuals or those perceived as such with effective protection.

3.18.16 Where gay men and lesbians do encounter social hostility they are unlikely to be able to avoid this by moving elsewhere in Uganda. This is because homophobic attitudes are prevalent throughout the country. The Supreme Court in the case of [HJ \(Iran\)](#) made the point that internal relocation is not the answer if it depends on the person concealing their sexual orientation in the proposed new location for fear of persecution.

3.18.17 Each case must however be examined on its own merits. Where caseowners

⁹⁰ Gay Star News, Uganda newspaper publishing names and photos of people alleged to be gay, 25 February 2013, <http://www.gaystarnews.com/article/uganda-newspaper-publishing-names-and-photos-people-alleged-be-gay250213>

⁹¹ Pink News, Uganda: LGBT activists bravely stage pride parade in Kampala, 5 August 2013 <http://www.pinknews.co.uk/2013/08/05/uganda-lgbt-activists-bravely-stage-pride-parade-in-kampala/>

conclude that a claimant is at real risk of persecution in Uganda on account of their sexual orientation then they should be granted asylum because gay men, lesbians and bisexuals in Uganda may be considered to be members of a particular social group.

- 3.18.18** If an individual chooses to live discreetly because he/she wants to avoid embarrassment or distress to her or his family and friends he/she will not be deemed to have a well founded fear of persecution and will not qualify for asylum. This is because he/she has adopted a lifestyle to cope with social pressures and not because he/she fears persecution due to her or his sexual orientation.
- 3.18.19** If an individual chooses to live discreetly because he/she fears persecution if he/she were to live as openly gay, lesbian or bisexual then he/she will have a well founded fear and should be granted asylum. It is important that gay, lesbian and bisexual people enjoy the right to live openly without fear of persecution. They should not be asked or be expected to live discreetly because of their well founded fear of persecution due to their sexual orientation.

3.19 Women

- 3.19.1** Some applicants may make an asylum and/or a human rights claim based on sexual or gender based violence
- 3.19.2 Treatment.** The Constitution of Uganda contains several provisions on the principle of nondiscrimination and equal rights of women and men, but “discriminatory statutory, customary and religious laws remain in force, in particular in the areas of family law and property law”.⁹² Freedom House reported that “Although the constitution enshrines the principle of gender equality, discrimination against women remains pronounced, particularly in rural areas”⁹³ and that “discrimination against women remains virulent, especially physical assault and sexual violence, and is often ignored by the authorities”.⁹⁴
- 3.19.3** The International Federation for Human Rights (FIDH) noted in February 2012 that “the adoption of legislation to regulate marriage and divorce, has been pending for over 14 years. In the absence of such a law, protection is piecemeal and fractured and significant gaps exist. For example, although the Ugandan Constitution provides that the minimum legal age for marriage for both men and women is fixed at 18 years, according to customary laws marriages are frequently arranged for minors, especially in rural areas. Furthermore, polygamy is authorised under customary and Islamic laws and women in polygamous relationships have no protection in the event of dissolution of the union. In some ethnic groups, custom also provides for men to “inherit” the widows of their deceased brothers (levirat), which is not prohibited by law”.⁹⁵ Moreover, the Divorce Act requires stricter evidentiary requirements to apply to women than those that apply to men: “women are required to show not only that their husbands committed adultery, but also provide evidence for additional grounds for divorce such as bigamy, sodomy, rape

⁹² International Federation for Human Rights (FIDH), Women’s Rights in Uganda: Gaps between policy and practice, 1.2.2.2 Statutory, customary and religious laws, February 2012, <http://www.fidh.org/IMG/pdf/uganda582afinal.pdf>

⁹³ Freedom House, Freedom in the World 2013: Uganda, January 2013, <http://www.freedomhouse.org/report/freedom-world/2013/uganda>

⁹⁴ Freedom House, Countries at the Crossroads: Uganda, Civil Liberties, 20 September 2012, <http://www.freedomhouse.org/report/countries-crossroads/2012/uganda>

⁹⁵ International Federation for Human Rights (FIDH), Women’s Rights in Uganda: Gaps between policy and practice, Summary, February 2012, <http://www.fidh.org/IMG/pdf/uganda582afinal.pdf>

and desertion”.⁹⁶

Sexual and domestic violence

- 3.19.4** The FIDH notes that “Sexual and gender based violence is widespread in Uganda. The most common type of abuse is intimate partner violence and other forms of domestic violence”.⁹⁷ Freedom House noted that “According to police statistics, both murders of women resulting from domestic quarrels and sexual violence against female children rose between 2009 and 2011”.⁹⁸
- 3.19.5** The U.S. Department of State states in 2013 that “Rape remained a serious problem throughout the country, and the government did not consistently enforce the law”. It further noted that “Although the government arrested, prosecuted, and convicted persons for rape, the crime was seriously underreported, and authorities did not investigate most cases.”⁹⁹
- 3.19.6** With regards to domestic violence, the same report stated that “The law criminalizes domestic violence and provides penalties for abusers ranging from fines to two year’s imprisonment.” However, it also stressed that domestic violence “remained widespread” and that “Many law enforcement officials viewed wife beating as a husband’s prerogative, as did the majority of the population, and police rarely intervened in cases of domestic violence”.¹⁰⁰ Similarly, FIDH reported that “the very notion of domestic violence is not generally recognised in Ugandan society at large.”¹⁰¹
- 3.19.7** FIDH also noted in 2012 that “It is unheard of in most communities in Uganda to report a husband to the police over domestic violence issues, let alone for the courts to issue and enforce restraining orders, particularly in rural areas where property generally belongs to men and is usually located within his family compound”. The FIDH report further notes that women face additional barriers in seeking access to justice, including, awareness, stigmatization, and the lack of interest and responsiveness of mostly male police and judicial officials.¹⁰²

Female Genital Mutilation (FGM)

- 3.19.8** The U.S. Department of State noted in its 2012 report that “The law and constitution prohibit FGM/C and establish a maximum penalty of life imprisonment”, but “the Sabinu ethnic group in rural Kapchorwa District and the Pokot ethnic group along the northeastern border with Kenya continued to practice FGM/C”.¹⁰³ A major study by UNICEF published in July 2013 found that “While

⁹⁶ International Federation for Human Rights (FIDH), Women’s Rights in Uganda: Gaps between policy and practice, 2. Discriminatory family laws: towards the adoption of the Marriage and Divorce Bill?, February 2012, <http://www.fidh.org/IMG/pdf/uganda582afinal.pdf>

⁹⁷ International Federation for Human Rights (FIDH), Women’s Rights in Uganda: Gaps between policy and practice, 3. Eliminating Sexual and Gender-Based Violence, February 2012, <http://www.fidh.org/IMG/pdf/uganda582afinal.pdf>

⁹⁸ Freedom House, Countries at the Crossroads: Uganda, Civil Liberties, 20 September 2012, <http://www.freedomhouse.org/report/countries-crossroads/2012/uganda>

⁹⁹ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 6, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

¹⁰⁰ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 6, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

¹⁰¹ International Federation for Human Rights (FIDH), Women’s Rights in Uganda: Gaps between policy and practice, 3. Eliminating Sexual and Gender-Based Violence, February 2012, <http://www.fidh.org/IMG/pdf/uganda582afinal.pdf>

¹⁰² International Federation for Human Rights (FIDH), Women’s Rights in Uganda: Gaps between policy and practice, 3.1 Implementation of the Domestic Violence Act, February 2012, <http://www.fidh.org/IMG/pdf/uganda582afinal.pdf>

¹⁰³ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 6, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

FGM/C is nearly universal in Somalia, Guinea, Djibouti and Egypt, it affects only 1 per cent of girls and women in Cameroon and Uganda. In countries where FGM/C is not widespread, it tends to be concentrated in specific regions of a country and is not constrained by national borders. FGM/C is closely associated with certain ethnic groups, suggesting that social norms and expectations within communities of like-minded individuals play a strong role in the perpetuation of the practice”.¹⁰⁴

Trafficking

3.19.9 The U.S. Department of State 2013 Trafficking in Persons report notes that women and children from Uganda’s remote and underdeveloped Karamoja region are particularly vulnerable to trafficking for domestic servitude, commercial sexual exploitation, and forced begging, including to countries such as India, Afghanistan, Indonesia and the United Arab Emirates.¹⁰⁵

3.19.10 According to the same report, the Ugandan government “prosecuted an increased number of trafficking offenders during 2012; however, for the third consecutive year, the government failed to convict a forced labour or sex trafficking offender under Uganda’s 2009 Prevention of Trafficking in Persons (PTIP) Act.” It also stated that the government “did not devote sufficient resources or attention to victims of internal trafficking crimes, which constitute a significant portion of Ugandan victims.” With regards to assistance to trafficking victims the report notes that “although the government provided modest assistance to a small number of internal trafficking victims and partnered with international organizations in the repatriation of Ugandan victims exploited in foreign countries, overall protection services offered to victims of trafficking remained modest”.¹⁰⁶

3.19.11 Conclusion. There is widespread discrimination against women in Uganda, especially in rural areas with discriminatory statutory, customary and religious laws remaining in force. Sexual and gender based violence is widespread, especially domestic violence, but since it is regarded as a domestic matter the crime is seriously underreported and authorities do not investigate most cases. Women are subjected to internal and international human trafficking and whilst the government’s prosecution numbers have increased, convictions have not and the government does not devote sufficient resources or attention to victims of internal trafficking.

3.19.12 The unwillingness of the police to act on reports of domestic violence suggests that many women applicants may not be able to obtain effective state protection. Applicants may be able to escape persecution by internally relocating to another area of Uganda, but it needs to be noted that women, and especially single vulnerable women, may, in some cases, be subjected to destitution. The reasonableness of internal relocation must be assessed on a case by case basis taking full account of the individual circumstances of the particular claimant.

3.20 Prison conditions

3.20.1 Applicants may claim that they cannot return to Uganda due to the fact that there

¹⁰⁴ UNICEF, Female Genital Mutilation/Cutting: A statistical overview and exploration of the dynamics of change, 9. Moving forward, Key findings, July 2013, http://www.unicef.org/media/files/FGCM_Lo_res.pdf

¹⁰⁵ U.S. Department of State, Trafficking in Persons Report 2013: Uganda, 19 June 2013, <http://www.state.gov/documents/organization/210742.pdf>

¹⁰⁶ U.S. Department of State, Trafficking in Persons Report 2013: Uganda, 19 June 2013, <http://www.state.gov/documents/organization/210742.pdf>

is a serious risk that they will be imprisoned on return and that prison conditions in Uganda are so poor as to amount to torture or inhuman treatment or punishment.

- 3.20.2** The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason or in cases where for a Convention reason a prison sentence is extended above the norm, the asylum claim should be considered first before going on to consider whether prison conditions breach Article 3 if the asylum claim is refused.
- 3.20.3 Consideration.** Prison conditions remained poor and, in some cases, life threatening. Serious problems included long periods of pretrial custody, overcrowding, and inadequate staff. There were reports the State Security Forces (SSF) tortured inmates, particularly in military facilities and unregistered detention centres. There were isolated reports of forced labour. The U.S. Department of State further notes that one of the “three most serious human rights problems” affecting Uganda were “a lack of respect for the integrity of the person (including unlawful killings, torture, and other abuse of suspects and detainees)”. The report further states that “There were numerous reports of torture and abuse in detention facilities operated by the CMI’s [Chieftaincy of Military Intelligence] Joint Antiterrorism Taskforce (JATT), and the SIU [Special Investigations Unit]”.¹⁰⁷
- 3.20.4** Human Rights Watch reported that the “police have failed to investigate abuses committed by RRU officers or ad hoc operatives, some of whom continue to work with the SIU. In September, four members of the opposition Forum for Democratic Change (FDC) appeared before court charged with treason. They complained of torture in detention after having been detained by the SIU for 14 days”.¹⁰⁸ Freedom House similarly reported that “torture and abuse of suspects and detainees by security forces remain problems” especially by the JATT, which is “expanding the scope of the law to crack down on the political opposition”.¹⁰⁹ The African Centre for Treatment and Rehabilitation of Torture Victims (ACTV) reported in 2013 that “The issue of inmate abuse by other prisoners also came up among the prisons visited with Katikkiros mentioned more often than not. Corporal punishments and harassment, excessive manual labor (inmates in Sembabule mentioned being taken to work till 8pm on farms by some unscrupulous warders) are among the common abuses registered”.¹¹⁰
- 3.20.5** Prisons in Kampala included provisions for medical care, running water, and adequate sanitation, ventilation, and lighting; however, according to a Bureau of Statistics’ 2012 Abstract, Kampala prisons were among the most overcrowded. Prison authorities blamed this on the criminal justice system, which did not process cases in a timely manner. Prisons outside Kampala lacked food, water, medical care, means to transport inmates to court, and bedding, while also suffering from inadequate and poorly designed physical infrastructure and poor sanitation conditions. In April 2012 the media reported an increase in communicable diseases among inmates due to congestion and lack of proper

¹⁰⁷ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1c, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

¹⁰⁸ Human Rights Watch, World Report 2013, Torture, Extrajudicial Killings, and Lack of Accountability, 31 January 2013, <http://www.hrw.org/world-report/2013/country-chapters/uganda>

¹⁰⁹ Freedom House, Freedom in the World 2013: Uganda, January 2013, <http://www.freedomhouse.org/report/freedom-world/2013/uganda>

¹¹⁰ African Centre for Treatment and Rehabilitation of Torture Victims (ACTV), Annual Report 2012, Prison visits, Undated [Last accessed: 03/09/2013], <http://www.actvuganda.org/sites/default/files/2012%20ACTV%20Annual%20Report%20for%20website.pdf>

isolation facilities.¹¹¹ The African Centre for Treatment and Rehabilitation of Torture Victims (ACTV) noted that “there is a lot of room for improvement” in relation to areas such as hygiene and that in some of the prisons this “was way below the acceptable standards for human habitation notably Sembabule where water inadequacy resulted into many days without a bath and mopping of the wards for the inmates. Kampala Remand had an outbreak of Scabies with Mityana visibly dirty”.¹¹²

- 3.20.6** Freedom House reported that the prison system is reportedly operating at “nearly three times its intended capacity, with pretrial detainees constituting more than half of the prison population”.¹¹³ In a system with an approved capacity of 15,000, at the end of November 2012 the Uganda Prisons Service (UPS) reported 34,940 prisoners, of whom 33,552 were males and 1,388 were females. Severe overcrowding was also a problem at juvenile detention facilities and in female wings of prisons. The Kampala Remand Home, designed for 45 children, held 148. The Naguru Reception Center, designed for 30 children, held 174.¹¹⁴
- 3.20.7** Although there were separate facilities for female prisoners in central prisons, services and facilities for female prisoners in local prisons, including separate cells, were lacking in some areas. The UPS had no budget for accommodating pregnant women or mothers with infants, and the number of infants in women’s prisons increased during 2012. Due to lack of space in juvenile facilities, the UPS held minors in prisons with adults. The UPS separated pretrial detainees in Kampala prisons from convicted prisoners. Elsewhere they were held together due to lack of space.¹¹⁵
- 3.20.8** The UPS recorded 84 prisoner deaths from January to September from overcrowding, malnutrition, poor sanitation, disease, overwork, or lack of medical care.¹¹⁶
- 3.20.9** The prison ombudsman is responsible for ensuring that when complaints, disputes, or deaths occur, they are resolved and verified. Prisoners have five channels through which to submit complaints including through their leaders, regular staff meetings, prisoner’s application book, meetings with top management to raise complaints, and via human rights agencies that visit the prisons.
- 3.20.10** Information was limited on conditions in unregistered and illegal detention facilities, although the SSF allowed the UHRC and some international NGOs access to selected unregistered facilities. Observers reported poor conditions and numerous cases of abuse in illegal detention facilities or unregistered detention facilities, known also as safe houses. The U.S. Department of State reported that “Incommunicado detention remained a problem, particularly with regard to the CMI, JATT, and the SIU. Local and international human rights groups reported the

¹¹¹ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

¹¹² African Centre for Treatment and Rehabilitation of Torture Victims (ACTV), Annual Report 2012, Prison visits, Undated [Last accessed: 03/09/2013],

<http://www.actvuganda.org/sites/default/files/2012%20ACTV%20Annual%20Report%20for%20website.pdf>

¹¹³ Freedom House, Freedom in the World 2013: Uganda, January 2013, <http://www.freedomhouse.org/report/freedom-world/2013/uganda>

¹¹⁴ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

¹¹⁵ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1c, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

¹¹⁶ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1c, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

government detained civilians in military facilities and safe houses, where they often held detainees incommunicado and abused them". Authorities allowed international NGOs, including the International Committee of the Red Cross (ICRC), foreign diplomats, and local NGOs, to conduct prison visits but required advance notification.¹¹⁷

3.20.11 Conclusion Prison conditions in Uganda are in general poor and at times life threatening with overcrowding, inadequate facilities, torture and other forms of abuse, contributing to deaths in custody. There are also unregistered and illegal detention facilities where numerous cases of abuse have been reported. In view of the above, prison conditions are likely to reach the Article 3 threshold. The individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention the likely type of detention facility and the individual's age, gender and state of health. Where an individual applicant is able to demonstrate a real risk of significant period of detention or imprisonment on return to Uganda, and exclusion under Article 1F is not justified, a grant of Humanitarian Protection will be appropriate but the individual factors of each case should be considered.

4. Unaccompanied minors claiming in their own right

- 4.1** Unaccompanied minors claiming in their own right who have not been granted asylum or HP can only be returned where the Secretary of State is satisfied that safe and adequate reception arrangements are in place in the country to which the child is to be returned.
- 4.2** At present the Home Office does not have pre-approved arrangements in place with NGOs or other organisations in Uganda to provide alternative adequate reception arrangements in cases where the minor cannot be returned to their family. Those who cannot be returned should be considered for leave as an Unaccompanied Asylum Seeking Children (UASC).
- 4.3** Regulation 6 of the Asylum Seekers (Reception Conditions) Regulations 2005 imposes a duty on the Secretary of State to endeavour to trace the families of UASC as soon as possible after the claim for asylum is made, while ensuring that those endeavours do not jeopardise the child's and/or their family's safety.
- 4.4** Information on the infrastructure within Uganda which may potentially be utilised to assist in endeavouring to trace the families of UASC, can be obtained from the Country of Origin Information Service (COIS).
- 4.5** Caseworkers should refer to the AI: [Processing an Asylum Application from a Child](#), for further information on assessing the availability of safe and adequate reception arrangements, UASC Leave and family tracing. Additional information on family tracing can be obtained from the [interim guidance](#) on Court of Appeal judgment in [KA \(Afghanistan\) & Others \[2012\] EWCA civ1014](#).

5. Medical treatment

¹¹⁷ US Department of State, Country Reports on Human Rights Practices for 2012: Uganda, Section 1c, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204180>

- 5.1** Individuals whose asylum claims have been refused and who seek to remain on the grounds that they require medical treatment which is either unavailable or difficult to access in their countries of origin, will not be removed to those countries if this would be inconsistent with our obligations under the ECHR.
- 5.2** Caseworkers should give due consideration to the individual factors of each case and refer to the latest available country of origin information concerning the availability of medical treatment in the country concerned. If the information is not readily available, an information request should be submitted to the COI Service (COIS).
- 5.3** The threshold set by Article 3 ECHR is a high one. It is not simply a question of whether the treatment required is unavailable or not easily accessible in the country of origin. According to the House of Lords' judgment in the case of [N \(FC\) v SSHD \[2005\] UKHL31](#), it is "whether the applicant's illness has reached such a critical stage (i.e. he is dying) that it would be inhuman treatment to deprive him of the care which he is currently receiving and send him home to an early death unless there is care available there to enable him to meet that fate with dignity". That judgment was upheld in May 2008 by the European Court of Human Rights.
- 5.4** That standard continues to be followed in the Upper Tribunal (UT) where, in the case of [GS and EO \(Article 3 – health cases\) India \[2012\] UKUT 00397\(IAC\)](#) the UT held that a dramatic shortening of life expectancy by the withdrawal of medical treatment as a result of removal cannot amount to the highly exceptional case that engages the Article 3 duty. But the UT also accepted that there are recognised departures from the high threshold approach in cases concerning children, discriminatory denial of treatment, and the absence of resources through civil war or similar human agency.
- 5.5** The improvement or stabilisation in an applicant's medical condition resulting from treatment in the UK and the prospect of serious or fatal relapse on expulsion will therefore not in itself render expulsion inhuman treatment contrary to Article 3 ECHR.
- 5.6** All cases must be considered individually, in the light of the conditions in the country of origin, but an applicant will normally need to show exceptional circumstances that prevent return, namely that there are compelling humanitarian considerations, such as the applicant being in the final stages of a terminal illness without prospect of medical care or family support on return.
- 5.7** Where a caseworker considers that the circumstances of the individual applicant and the situation in the country would make removal contrary to Article 3 or 8 a grant of discretionary leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of discretionary leave. Caseworkers must refer to the AI on [Discretionary Leave](#) for the appropriate period of leave to grant.
- 6. Returns**
- 6.1** There is no policy which precludes the enforced return to Uganda of failed asylum seekers who have no legal basis of stay in the United Kingdom.
- 6.2** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering

the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules.

- 6.3** Any medical conditions put forward by the person as a reason not to remove them and which have not previously been considered, must be fully investigated against the background of the latest available country of origin information and the specific facts of the case. A decision should then be made as to whether removal remains the correct course of action, in accordance with [chapter 53.8 of the Enforcement Instructions and Guidance](#).
- 6.4** Individuals can return voluntarily to their country of origin / place of habitual residence at any time in one of three ways:
- leaving the UK by themselves, where the applicant makes their own arrangements to leave the UK
 - leaving the UK through the voluntary departure procedure, arranged through the UK Immigration service, or
 - leaving the UK under one of the [Assisted Voluntary Return \(AVR\) schemes](#).

**Country Specific Litigation Team
Immigration and Border Policy Directorate
Home Office**

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