

**HUMAN RIGHTS VIOLATIONS IN UGANDA PRISONS
CASE STUDY: JINJA GOVERNMENT PRISONS:**

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**ADSSERTATION SUBMITTED IN PARTIAL FULFILL-
MENT OF THE REQUIREMENTS FOR THE AWARD OF
A DIPLOMA IN LAWS AT KAMPALA
INTERNATIONAL UNIVERSITY.**

OCTOBER 2011.

DECLARATION:

I Kyegheka Rabison, reg. no. LLD/31386 declares that the content in this dissertation is purely my original work.

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Date 16.10.2011

Sign Rabison

APPROVAL

I certify that this dissertation has been submitted for examination with my approval as University supervisor.

Name

Date

Sign

DEDICATION

I dedicate this work to all the prisoners across Uganda who continues to live in miserable conditions yet most people turn a deaf ear. This poem is dedicated to all prisoners – may their suffering and prayers be heard.

Prisoners-the unheard;

They shout but no one hears
They speak but no one listens
They cry but no one pities
They turn but have no where to go.

Four perimeter walls surround them
What can they offer but mockery?
No friendship, no comfort
No shoulder to cry and lean on.

Haunting, taunting and abuse is all they get
Insults and violations have become part of them
Who will hear, listen, pity
The unheard.

When will they be heard?
How will they be shown the light?
Who will help them?
When will we recognize them?
They are just like us.

ACKNOWLEDGEMENT

My warmest thanks go to my supervisor, Counsel Caroline Muchuma who tirelessly helped me to accomplish this task.

My deep and heartfelt gratitude goes to my dear wife, Khakusuma Night Betty, who offered me all unending ample support that saw me through this hectic period.

I would like to thank and acknowledge all my friends and colleagues who encouraged me to see it through.

I would like to acknowledge all those people who have and are still in one way or another fighting for prisoners' rights and all those organizations and institutions that willingly provided me with information to expose the violations of prisoners' rights and freedoms.

May the Almighty God reward you all.

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LIST OF ABBREVIATIONS/ACRONYMS.

FHRI.	Foundation of Human Rights Initiative.
ACTV.	African Centre for Tortured Victims.
CMI.	Chieftaincy of Military Intelligence.
RRU.	Rapid Response Unit.
JATF.	Joint Anti-Terrorism Task Force.
UPDF.	Uganda Peoples' Defense Force.
UPF.	Uganda Police Force.
UDHR.	Universal Declaration of Human Rights.
NRM.	National Resistance Movement.
UN.	United Nations.
ICCPR.	International Covenant on Civil and Political Rights.
NGO.	Non Government Organization.
UHRC.	Uganda Human Rights Commission.
ACHPR.	Africa Charter on Human and People's Rights.
CAT.	United Nations Convention against Torture and other Cruel or Inhuman or Degrading Treatment or Punishment.
JDL.	United Nations Rules for the protection of Juveniles Deprived of Liberty.
UNMSR.	United Nations Minimum Standard Rules.
ACRWC.	African Charter on the Rights and Welfare of the Child.
DPP.	Director of Public Prosecutions.
ISO.	Internal Security Organization.
PCDIA.	Parliamentary Committee on Defense and Internal Affairs.
VCCU.	Violent Crimes Crack Unit (currently named RRU).

LIST OF NATIONAL AND INTERNATIONAL INSTRUMENTS

The Constitution of Uganda, 1995.

The Prisons Act, cap. 313 Laws of Uganda.

The Police Act cap. 303 Laws of Uganda.

The Uganda People's Defense Forces Act, 2005.

The United Nations Minimum Standard Rules.

The Universal Declaration of Human Rights.

The International Covenant on Civil and Political Rights.

The United Nations Covenant against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The United Nations Rules for the Protection of Juveniles Deprived of Liberty.

The African Charter on Human and People's Rights.

The Robben Island Guidelines.

The African Charter on the Rights and Welfare of the Child.

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CHAPTER ONE:

1.0 INTRODUCTION:

The need for effective protection of human rights at international, regional and national levels has been increasingly recognized over the last fifty years, particularly since the creation of the United Nations and adoption of the Universal Declaration of Human Rights.

Human rights are the rights that every one has by virtue of their humanity¹. They are intrinsic and are said to be natured because of nature. They are to protect, preserve and promote the intrinsic value inherent in human nature. They are universal for every human being and are not gifts or privileges. They can not be denied or forfeited there inherent and inalienable to every human being².

The idea that human beings have rights as humans is a staple of contemporary world politics³. The language of human rights is one of the most spoken by all categories of people.

Human rights acquired international recognition after the 2nd world war due to the events of the 1930s and 1940s which contained the worst violations of human rights in the history of mankind. The most celebrated statement of human rights is the universal declaration of human rights adopted by the general assembly of the United Nations in 1948⁴.

¹ R.J. Vincent, human Rights and international Relations Cambridge, Cambridge University press, the Royal institute of International affairs 1986, and pg.13

² African Commission on Human and People's Rights, prison conditions in Africa, Paris, Pri, 1997, Pg 35.

³ R.J.Vincent, OP. CIT: PG. 7.

⁴ Peter Jones, Rights, London, Macmillan, pg. 82.

According to the United Nations, half of the world's population experience human rights abuse⁵. Africa is a continent believed to be with fragrant violations of human rights. The 1970s and 80s can be seen in Africa to be the dark ages where millions of people were killed, tortured, unlawfully and illegally detained and silenced even when African states knew and had accepted human rights provisions to be incorporated in their domestic constitutions⁶.

Uganda is a land locked country found in east Africa and is a state party to most of the United Nations instruments such as the Universal Declaration of Human Rights, 1948, United Nations Minimum Standard Rules for the Treatment of Prisoners, the most popular Africa's human and rights document; The African Charter on African Human and People's Rights, 1981, International Covenant on Civil and Political Rights, United Nation Convention Against Torture and other Cruel or Inhuman or Degrading Treatment (CAT). However, it is one of the many African states that have suffered the most violations of human rights in one way or another⁷.

Prisoners are one of the major categories of people who suffer from these violations in Uganda. These violations encroach on their fundamental rights and freedoms which include the right to life, the right to a clean and healthy environment and the right to a fair hearing among others.

⁵ Waima G. Baker (ed), *pearl of Blood: Pamphlet summary of the report of the Uganda Commission of Inquiry into the report of the Uganda Commission of inquiry into the violation of Human Rights*, Kampala, and UPPC. 1994, pg.1

⁶.Living stone Sewanyana, "Human Rights Origins, tools and Enforcement", Kampala, FHRI, 1993, PG 12

⁷ Waiama G. Baker (Ed). *OP.CIT*; pg. 1.

They are imprisoned, supposedly for the purpose of custody, correction and rehabilitation. However, this does not call for their rights being violated in an attempted to make them repentant.

The Uganda Prisons Service is a department of the Ministry of Internal Affairs established under Article 215 of the 1995 Constitution of Uganda. It is founded by the Prisons Act, cap 313, Laws of Uganda. It is the overall body in charge of all prisons⁸. The types of prisons referred to in this research are those confined by the Uganda prisons as gazetted either for the holding of convicts or remandees.

1.1 DEFINITIONS OF COMMON TERMS:

SUSPECT: Refers to someone whom the law enforcement authorities would like to speak with or investigate further in connection with a crime which is alleged to have been committed by him or her⁹,

A suspect may also be defined as a person whom a constable suspects on reasonable grounds has committed an indictable offence; or a person charged with the indictable offence; or a person who has been summoned to appear before a court in relation to an indictable offence¹⁰.

PRISONER: Is a person in any prison whether convicted or not¹¹.

The same term also refers to a person who has pleaded guilty to a charge before Court or a person who has been proved guilty of committing an offence by being proved guilty or pleading guilty him or herself. There are rights which he /she will be entitled to under both national and international laws¹² Prisoners have rights and duties while serving the sentence administered to them as required by the law, including a

⁸ The Uganda prisons service fact sheet, pg 1.

⁹ Common wealth Consolidated acts of 1914.

¹⁰ Crimes Act Cap 69 of the UK.

¹¹ Section.2 of prisons acts cap.313 of Uganda 1967

¹² Article 5 of American Convention on Human Rights

prohibition on being tortured or being treated in the way which is inhuman and degrading¹³.

PRISON: Refers to institutions for the treatment of convicted offenders by Courts of law as well as those institutions for suspects¹⁴. It can also be defined as an institution for the confinement of persons convicted of major crimes or felonies¹⁵.

CONSTITUTION: Defined as the body of doctrines and practices that form the fundamental organizing principle of a political state¹⁶.

TORTURE: According to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.¹⁷

¹³ Article 3 of European Convention for Human Rights.

¹⁴ Prison Conditions in Africa, Joseph M.N. Kakooza.

¹⁵ New Encyclopedia Britannica, vol. 9.

¹⁶ New Encyclopedia Britannica, vol. 3.

¹⁷ Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Article 1. Uganda ratified the CAT in 1986.

INHUMAN TREATMENT: is defined as an act which causes physical or mental suffering for example rape. This was adopted in the case of **CHANAL V CLK**¹⁸. Also in **IRELAND VS UK**¹⁹, detainees in Northern Ireland were obliged to stand against a wall for hours. They were interrogated wearing dark goods and deprived of sleep and adequate food and drinks, and subjected to noise. This was held by the European Human Rights Commission to amount to inhuman treatment.

DEGRADING TREATMENT: Means to debase or dominate another human being where the victim feels fear or anguish and inferiority and possibly breaking his physical or moral resistance as was stated in **IRELAND V UK** ²⁰

HUMAN RIGHT OR FREEDOM: The former is a statutory entitlement provided by the laws of a given country where in case of any infringement then such person can claim such rights since it is a creature of the statutes²¹

The later is defined as being free to a number of aspects of life such as freedom of speech, freedom of movement, freedom of worship, freedom of choice etc²².

1.2 BACKGROUND:

Human rights violations are a phenomenon that has been in existence for a long period of time.

¹⁸ 15TH Nov. 1996-URJD 1831

¹⁹ 1979 REPORT

²⁰ 1979 Comm. No. 76

²¹ Lord Dinnin, the Loyal Commission on capital punishment

²² Black's law dictionary 8th Edition pg 152

Our country Uganda has been characterized by human rights violations since time immemorial. These violations became rampant during colonialism. They include torture and inhuman or cruel or degrading treatment, lack of medication, overcrowding, poor and unhealthy environment, and abuse of the right to a fair hearing. Today, violations of these rights, which are against the Constitution of Uganda, 1995, have mainly been in the places of detention or confinement including army cells "**mabusu**", police cells, safe houses and prisons.

Prisoners are a vulnerable group. They are supposed to give up some of their rights and freedoms. It is often believed that because they have committed crimes, they do not deserve to have their rights protected. Contrary to this, prisoners, just like other members of society in different circumstances have rights²³. These are the rights and freedoms which are fundamental to human existence such as the right to life, freedom from torture and inhuman or degrading treatment, right to a clean and healthy environment, right to education, right to information and a fair hearing. Violation of such rights is illegal and reduces the prisoners' humanity and dignity.

To understand these violations better, a brief background of prisons should be borne in mind.

Prisons did not exist before colonialism. Pre-colonial African societies focused mainly on the victim rather than the offence. The elders and community settled all cases of wrong doing and crime at large through traditional forms of punishments such as payment of fines, compensation, banishment and public executions at worst. All these punishments, except executions were given with the hope of reconciling the offender with the rest of the community including the victim.

²³ Chibita Wa Duallo, "prisoners have right too", in the New vision 5th Sep; 1996, pg. col. 3

According to TIBAMANYA; the payment of the victim involved an element of an apology and atonement for the harm done to him. This helped to some extent, to calm the ill feelings between the two parties ²⁴

Prisons were a colonial creation meant to maintain "the king's peace" or government authority. Prisons pay little attention or do very little for the victim whose rights may have been or are being grossly violated. Prison institutions in Uganda were established by the Prisons Act (cap 313, revised edition 1964) and the Prison Rules (1958) which are pursuant to the former²⁵.

The problem that I am looking at in this research is the **violation of human rights in Uganda prisons.**

This is because there is a need to make people especially prisoners, ex-prisoners aware of their rights and how to enjoy them. There is also need to find out if the public is aware of these violations and to find an effective way of preventing them.

There have been a lot of human rights violations in prisons through out the years and I feel through this research, more people will be aware and motivated to put a stop to these violations. There is also a need to find out if the Constitution, 1995, can really be put to practice especially as regards rights and freedoms.

To successfully carry out this research I have used a case study of Jinja District prisons that are found in the South Eastern part of Uganda and

²⁴ Tibamanya Mwene mushanga, *Criminology in Africa*, Rome, United Nations Inter-Regional Crime and Justice Research Institute, 1992, pg. 23.

²⁵ Richard Mukasa , et al, "A human rights critique and piece centre thesis, of prison laws in Uganda", Human Rights in piece centre thesis, Makerere University, Kampala page 3

there are three District prisons, that is, Kirinya main prison, Kirinya Remand prison and Bugungu youth prison.

The study is limited to human rights violations in prisons. However, to give shape to the study as far as the violations are concerned, I tried to find out who a prisoner is, and then I considered the types of violations, the effects of the violations and possible solutions to these violations. The study was not limited to a particular age group or sex. It included both male and female prisoners of all ages.

1.3 STATEMENT OF THE PROBLEM:

The rights and freedoms of prisoners have been violated in Uganda for a number of years like there is no any law in Uganda protecting such category of people in the community.

The right to a fair hearing, freedom against torture, cruel or inhuman or degrading treatment or punishment, right to a clean and healthy environment and medical or health services are some of the fundamental rights and entitlements of the prisoners and suspects/detainees despite the fact that they have been ignored and abused over time.

Therefore, the study was meant to enlighten the suspects and prisoners about their rights and freedoms and the society at large on the right of being presumed innocent until proved or pleads guilty but not the reverse presumption as it is in practice where suspects and prisoners are exposed to be persons of bad character "criminals" even before being proved or until the remandees plead guilty.

1.4 OBJECTIVES OF THE STUDY:

To identify who a prisoner is and why people or prisoners are imprisoned.

To find out if prisoners have rights, if they are aware of them and what the prisoners are doing about them.

To find out and expose the various ways in which these rights are violated that is, analysis of the various types of human rights violations, their perpetrators and effects on the prisoners and the public at large.

To find out the government's contribution to stopping these violations.

To come up with some practical solutions and recommendations to these violations.

1.5 HYPOTHESIS OF THE STUDY:

The torture of prisoners contributes to their human rights violation.

Lack of access to legal representation and counseling for prisoners leads to injustice and amounts to abuse of right to a fair hearing.

Lack of awareness of prisoners' rights and freedoms, leads to more violations of their human rights.

Deprivation of medical and health services is violation of human rights of prisoners.

Poor sanitation and detention conditions are a contributor of human rights violations.

Government's reluctance on the enforcement of the rights of prisoners and suspects promotes human rights violations in prisons and other places of detention.

1.6 SIGNIFICANCE OF THE STUDY

Prisoners' rights and freedoms have been neglected a lot and I believe, it is time they deserve recognition and protection for they too are human. This study was launched so as to study and establish the types and causes of violations of prisoners' rights. For as long as these violations exist, human rights and our Constitution, 1995, will always be a myth. Respect for constitutionally guaranteed rights shall go a long way in establishing a culture of constitutionalism and rule of law. I believe these can only be made practical if the problem of violation is tackled from its roots.

The significance of this research is to show the importance and value of human rights protection to everyone especially the disadvantaged such as prisoners. Through this research, I also wish to encourage everyone to take part in the fight against human rights violations.

1.7 SCOPE OF THE STUDY:

This study covers how the rights of prisoners and suspects for example right against torture, cruel or degrading or inhuman treatment or punishment, right to education, right to a fair hearing accorded by the Constitution and other International Conventions and charters are being violated. The case study being the Jinja district prisons that is Kirinya main prison, Kirinya remand prison and Bugungu Youth prison in South Eastern Uganda where majority of prisoners and suspects have been subjected to human rights violations particularly between the period of the year 1995 to date.

1.8 LIMITATIONS OF THE STUDY

Time factor. I am a student and at the same time a government employee. I work as I pursue my studies thus getting ample time to concentrate on the research was impossible. This limited the beauty of my study.

Restriction of information. Libraries with relevant information such as the Law Development Centre and High Court libraries are restricted to the public especially students. I was therefore unable to access relevant and necessary information for the study.

Inadequate research knowledge and skills. The university lecturer for research taught us less, as she only taught for three weeks and that was all in the whole semester and whenever she came, she taught for less than an hour. Therefore less was gained from her. This is one of the hindrances or limitations of my study.

Language barrier. This was indeed a big problem. Most prisoners could only afford to speak Lusoga, Gishu, Lunyole and lugwere languages all of which I could not understand. A few could afford to speak English and luganda thus obtaining the necessary and sufficient information was a problem.

Financial constraints: There were numerous costs involved in the research study which included among others payment of the respondents for their answers, travel expenses, costs of printing and typing my work, and making the necessary corrections.

Lack of co-operation by respondents: Respondents were reluctant to come for interviews especially the prisoners after realizing that I was a student and would not help them in any way. Likewise some prison officers were hostile as they thought I was trying to interrogate and

investigate them. This was an obstacle to the beautification of my research study.

CHAPTER TWO:

2.0 LITERATURE REVIEW:

The human rights violations of prisoners and detainees in Uganda prisons were assessed by conducting a research on literature on how different authors covered the subject. However, more literature addressed violations of these rights internationally and did not cover Uganda specifically. The Uganda Human Rights commission and other non governmental human rights organizations for example Foundation for Human Rights Initiative (FHRI) have continued to conduct annual surveys on the conditions of prisoners and detainees where they have time and again discovered that they are still being denied majority of their basic human rights for example the right to education, to access information, to a fair hearing, health and medical services interalia.

Manfred Nowak, 'UN. Covenant on Civil and Political Rights (ICCPR) commentary²⁶ discusses at length the rights as provided for in Article 10 (on the right of detainees and prisoners to be treated with humanity and dignity), Article 14 (on the procedural guarantees in civil and criminal trials), Article 17 (on the right to privacy) and Article 19 (on freedom of opinion, expression and information).

Prof. Nowak's work is very useful in as far as it discusses these rights in detail as provided for in the international human rights framework; which of course was very influential in determining the inclusion of these rights in the national perspective in Uganda as evidenced in the Bill of Rights in the Constitution. Though very relevant for the international regime on civil and political rights including the right to privacy and fair hearing, it does not discuss these rights basing on the position in Uganda. This paper shall review these rights as provided for in the

²⁶ 2ND Revised Edition NP Engel. Publisher, 2005.

international perspective and how the national perspective tries to fit within the international domain of the human rights regime.

Raimo Lahti, 'Commentary on Article 11 of the UDHR'²⁷;

Argues that the presumption of innocence has been considered a universally recognized rule of natural justice: the presumption of innocence means that all public authorities have a duty to refrain from prejudging the outcome of a trial. More pertinent about this article is the powerful argument by the author that in international practice and judicial literature, there is wide support for a broad definition of the presumption of innocence. Thus, the presumption of innocence is so broad as to include even treatment not befitting of a suspect such as public exposure which negates and completely erodes the presumption of innocence which such suspects must enjoy. This work has been very relevant to the paper as it discusses the travail preparatory of Article 11 of the UDHR which is the precursor to all other articles relating to the presumption of innocence in both the domestic and international perspective. This work though not written based on the Constitution of Uganda will be informative on the evolution of the rights of suspects and prisoners from the international to the domestic perspective in Uganda.

Manfred Nowak, in 'Introduction to International Human Rights Regime'²⁸, argues that all human rights are for all: under the principles of universality, equality and interdependence of human rights. He further argues that there is now a need to move from merely the promotion of human rights to protection and prevention of abuse of human rights. This work is very vital if contextualized within the situation in Uganda where the State only seems to be merely promoting human rights

²⁷ In G. Alfredson and A. Eide, the Universal declaration of Human Rights: A common standard of achievement, Martinus Nijhoff publishers 1999 pp. 239-250 at p244

²⁸ Martinus Nijhoff publishers 1999 atp 244,

without making concrete policies for the protection and prevention of human rights abuses.

The government of Uganda has almost always failed to ensure that perpetrators of human rights violations in prisons and other places of detention are brought to justice. Victims of the violations are rarely granted access to justice and legal remedies. Up to 71% of the Uganda Human Rights Commission's compensation awards since 2001 have remained unpaid by the government. Prof. Nowak's work is mostly on the international human rights perspective and does not address the situation in Uganda as such. This paper is however, intended to relate his work to the situation on the ground for comparative purposes.

Tumwine Mukubwa, in an article entitled, "The promotion and Protection of Human Rights in East Africa"²⁹, argues that lack of respect for the rights of suspects and prisoners is a major set back in the quest for the promotion and protection of human rights in East Africa and Uganda in Particular. Tumwine Suggests that with the removal of barriers such as the now liberalized media and the right to access information as is the position in the Constitution, the concept of presumption of innocence is very vital for purposes of promotion of human rights (including the right to a fair trial) has been bolstered. However, it is important to note that, both studies conducted by different scholars fail to highlight the major limits to the enjoyment of the basic rights as enshrined under Article 27 and 28 (3) (a) and are general on all the rights as enshrined in chapter 4 of the Constitution of the Republic of Uganda, 1995. There is therefore the need to integrate their ideas into the wide scope of prisoner's rights.

²⁹, (2000)6(2) East Africa peace and Human Rights 130

Telespher R. Magobe in his Article on Human Rights in Tanzania³⁰, argued that respect for the rule of law, protection and promotion of human rights and fundamental freedoms are the primary function of a democratic government. This is because human rights are inalienable entitlements.

They are for establishing and guaranteeing conditions necessary for the development and wellbeing of people. I fundamentally know that they are meant to protect civilians against abuse, exploitation, oppression or any discrimination by the state and its agents.

He states in his work that human rights violations occur when state agencies such as the police, the field force unit, members of the armed forces, prison officers and any one acting with the state authority, behave arbitrarily towards civilians. This is what happens to ordinary people, yet the country has often been praised by donors as one of the human rights' advocates and an example of good governance. One wonders, whether such reports reflect the actual life of the people.

The ground of his argument comes as a result of the police in Serengeti Manyara where the illegal migrants were beaten, tortured, and his comment was that Tanzania as the democratic country need not to subject the prisoners to torture.

Mallya, ET 2009, "promoting the effectiveness of Democracy protection in institutions in South Africa"³¹, argued the issue of death penalty as being inhuman and degrading punishment and the delay of its execution amounts to torture since all the time after judgment the prisoner remains in fear and some even fail to eat any food because of the penalty.

³⁰ 2005) International Journal pg. 1

³¹ EISA Report no. 40

Ted Dagne, specialist in African Affairs³², stated that there was a problem of disappearance of the prisoners and suspects sometime back where it was found that the prison officers were the ones killing them. Thus in his argument, he raised a point of concern to the governments to provide adequate protection to the suspects and prisoners.

In August 2010, the president of Kenya committed to life imprisonment the death sentences of more than 4000 prisoners³³.

He stated that an "extended stay on death row causes undue mental anguish and suffering, psychological trauma, anxiety, while it may as well constitute inhuman treatment". He ordered a government study on whether; the death penalty had an impact on the fight against crime. It was unclear whether this study was undertaken and no findings were published. Courts continued to impose the death penalty; no executions were reported.

The Amnesty International Report on the state of the world's human rights³⁴ published that hundreds of individuals were arrested in connection with the demonstrations and riots which occurred on 10-13 September 2010 in Kampala and elsewhere over the government's decision to stop a delegation from Uganda's Buganda kingdom from visiting the Eastern District of Kayunga to join the National youth Day Celebrations on 12th September 2010, the report provides that dozens of people were charged with serious offences including terrorism, and faced possible death penalties. They were detained for days and weeks without being charged or brought before a judge—well beyond the limit prescribed by the Constitution. Many of them testified that they had

³² www. Tanganyika law society go tz....Accessed 10th 08 2011.

³³ Amnesty International Report 2010 pg.195-197

³⁴ Amnesty International Report 2010 pg 333 -335

been tortured or otherwise ill-treated in detention by the prison officers and other security agencies.

The same report, about the death penalty shows that in January, 2010, Uganda's highest Court; the Supreme Court:- upheld a 2005 judgment of the Constitutional Court that the mandatory application of the death penalty is unconstitutional. The Court also decided that death sentences applied to the vast majority of the appellants who had spent more than three years on death row after confirmation of their sentences by the Supreme Court should have their cases commuted to life imprisonment. However, the Supreme Court also ruled that the death penalty remains constitutional in Uganda.

Civilian and military courts continued to impose the death penalty which according to the current world trend would amount to human rights violations of prisoners.

The FDC and IPC leader Dr. Kiiza Besigye while addressing the public and journalists in Kasangati, Kampala after being acquitted by court on allegations of inciting violence and disobedience of lawful orders of the police on the 9th Aug 2011³⁵, argued that bail is a fundamental right and that the proposed amendment of the Constitution to scrap bail is a violation of the rights of the suspects and prisoners (remandees). He went a head to argue that eliminating the possibility of bail for non violent crimes is inconsistent with human rights standards under which pre trial detentions must be consistent with the rights to liberty and fair hearing (presumption of innocence). He went a head to quote article 9 and 14 of the ICCPR.

³⁵ NTV, AKAWUNGEZI, "Agatalikonfunfu" on Bukede TV of Uganda, 09, August 2011.

Mr. James Sebugenyi, the president of the Uganda law society, Cleary outlined the effects of the proposed amendment on the law relating to bail in Uganda³⁶. But it is vital to focus on the issue usually ignored by politicians- prisons conditions. According to Uganda prisons service, 54.4% of the prisoners in Uganda are pre trial detainees (accused persons who are refused bail and put in prison even though no crime has been proved against them). An absolute number of 16,658 prisoners, convicted prisoners comprise of 45.4% or 13,823 prisoners; and civil debtors Comprise of 0.5 % or 168 prisoners. Thus, the overall prison population in Uganda is currently in the region of 30,649 prisoners. All these individuals are housed in 222 units country wide, which altogether have a detention capacity of 14,334 prisoners only.

There is therefore, an excess capacity of 16315 prisoners (114%) official statistics on prison morbidity and mortality are hard to come by , but that does not mean that our prisons are free of needless suffering sickness and death.

In accordance with Section 64 of the Prisons Act, the government of Uganda has failed to a large extent to provide separate wards, uniforms and other facilities for pre trial and convicted prisoners.

Many prisons do not have any means of delivering prisoners to Courts, and where prison buses exist, there is no fuel or Court sessions are not held for over one year

Where courts occasionally operate, courts and prison officials misplace vital documents regarding prisoners' welfare and other affairs. The majority of prisoners in Uganda do not have access to the services of a lawyer. Constitutional limits or maximum detention periods for pretrial detainees are flouted with impunity. From a health and safety perspective, prison conditions in Uganda are generally appalling, if not life threatening. In the absence of adequate budgetary support for

³⁶ Mr. James Sebugenyi, the president of the Uganda law society in the new vision of may 23rd 2011

progressive prison reform, the implementation of the proposed bail law will obviously cause persistent, severe overcrowding of our prisons with pretrial detainees and subsequently bring about needless suffering and death, which violates the Constitution's ban on cruel, inhuman or degrading treatment and unusual punishment.

Against this background, the proposed amendment is premature and misconceived. Premature because the government does not have safe, secure and humane remand centers or hostels to accommodate pretrial detainees in accordance with universally accepted standards.

Many convicted prisoners will have to be released in order to make room for people who will be refused bail. The amendment is misconceived because it makes no provisions for compensation of any accused person even though they may have lost job or business or family relations or suffered from mental and notional distresses during his or her long stay in prison without trial.

The same person goes a head to say that the Amendment is unnecessary. There is no credible research to support this "fundamental change" in our legal system. He further argues that the president's allegations that the Courts are too soft on criminals in granting bail are unfounded and misleading:- official Prison statistics show that the number of people who are refused bail every year is already much higher than the number of people granted bail, this means that the courts demonstrably enforce the existing bail laws in so strict a manner that only a very small number of bail applications are successful.

Indeed in the case of **DPP V Dr. Kiiza Besigye (2006)** the constitutional court held that the right to bail is not "automatic". The proposed amendment may give the state broader scope to oppose bail applications

but it will by no means stop criminal defense lawyers and their rich clients from fashioning countervailing strategies for seeking bail.

Mr. Med S.k Kaggwa, chairperson HRC of Uganda and Ms. Roselyn Kerugonjo Sejewa – Director monitoring and inspections, in the 2010 annual report on status of human rights of detainees and prisons in prisons and other places of detention report that apart from luzira government prison, the rights of prisoners and suspects to education, access to information, medical and health services, against torture, cruel or inhuman or degrading treatment or punishment, right to nutritious food are still being seriously violated though there is some improvements being registered for example the removal of the “bucket” system (provision of buckets for toilets) for prisoners and suspects.

CHAPTER THREE:

3.0 METHODOLOGY:

Methodology covered the ways through which data was collected, and analyzed and presented.

The researcher used both primary and secondary data collection methods where secondary data is the data which was obtained from past research literature and while the primary data was collected by use of interviews and observation to create an array of balanced opinions and to avoid biased interpretations that would have not served the purpose of this research in balanced proportions.

The research concentrated on the detainees and prisoners in Uganda, their relationship with the police and prison officers during arrest and while in prison.

Interviewing: This was the most commonly used data collection technique. I found it necessary to conduct face to face interviews with various persons who have dealt with or have been affected by the operation of maltreatment in prisons and other places of detention. This was so vital with the prisoners, since most respondents did not understand human rights concepts, hence explanations were necessary. Some writers of the literature that I examined might not have had the experience of human rights violations in prisons hence the need to interview ex-prisoners who have experienced these violations first hand.

Observation: interviewing was complemented with observation since not all the information could be obtained through interviewing of prisoners for prison officers were present. Some prisoners were not very free when answering questions. So, personal observation was carried out while inside the prison.

Group discussion: These discussions on prisoners and their rights and how they are violated and by who were relevant and provided vital information necessary for the research.

Desk research: it was also used where various institutions gave me permission to use their materials for further references. The libraries visited include Foundation for Human Rights Initiative (FHRI), Foundation of Human Rights Centre in Kampala, Kampala International University library, the Human Rights Commission located on Buganda Road, Kampala.

Media: This was used to gather information necessary for the accomplishment of the research, among them were broadcasts of various Television stations such as NTV Uganda, Bukede TV “Agatalikonfufu” and some radio stations like KFM, Central Broadcasting Station (CBS).

Internet: Among the resources which were explored to gather information and literature include **www.googlelibrary.com**.

Sampling: Sampling was also used. This involved randomly selecting a group of respondents from the prisoners. The table below shows the number of prisoners sampled as compared to the total population. This sampling was between 19th and 25th July 2011.

Table 1: sample of prisoners interviewed		
Prison	Sample	Population
Youth prison	20	290
Remand prison	25	711
Main prison	35	822

Source: field Data.

3.1 INSTRUMENTS THAT GUARANTEE PRISONER'S RIGHTS:

These instruments range from international, regional and national.

3.1.1 International Instruments:

United Nations Minimum Standard Rules (UNMSR). This generally provide for the handling of prisoners and management of places of detention. The UNMSR provide for among others the standards relating to separation of categories of prisoners, accommodation, personal hygiene, clothing, bedding, food, exercise and sport, medical services, instruments restraint and visitation of prisoners.

Other international instruments protecting the rights of prisoners include the International **Covenant on Civil and Political Rights (ICCPR)**, United Nations Convention against Torture and other Cruel or Inhuman or Degrading Treatment or Punishment (**CAT**), United Nations Rules for the Protection of Juveniles Deprived of Liberty (**JDL**) and the Universal Declaration of Human Rights (**UDHR**).

3.1.2 Regional Instruments:

At the regional level, the standards are provided for in the African Charter on Human and People's Rights (**ACHPR**), African Charter on the Rights and welfare of the Child (ACRWC) as well as the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines).

3.1.3 National Instruments:

At the National level, **Article 23(1) of the Constitution of the Republic of Uganda, 1995**, provides for the protection of persons deprived of their personal liberty and circumstances under which one's personal liberty may be suspended.

Article 23(5) of the same Constitution also allows the detained to access next of kin, services of a lawyer and doctor.

Prisons Act Cap 313, which provide for the code of conduct of prison officers and how to handle and manage prisoners. The Prisons Act for example provides for the rights of the prisoners on admission, enjoyment of freedom of worship whenever conditions permit, participation in cultural activities and education aimed at full development of human dignity, undertaking meaningful remunerated employment and access to health care services available in the country without discrimination among others³⁷. The Act also requires that inmates have access to well prepare wholesome nutritious food³⁸.

The Uganda People's Defense Force Act (UPDF ACT)' 2005, and the Police Act, Cap 303 also guarantee in specific terms the rights of detained persons and provide for the management, treatment and care of inmates in detention places.

3.2 DECIDED CASES ABOUT PRISON CONDITIONS.

Prison conditions in Africa have been considered tantamount to degrading treatment or punishments. In **KRISHNA ACHUTAN**³⁹ prisoners were mistreated by prison officials. The African Commission on Human and People's rights considered the issue of prison conditions as presented in the communication as degrading. The complaints also described the general prison condition in Malawi, and these included, overcrowding such that cells of 70 people were occupied by up to 200 prisoners. Such condition was said to offend dignity of prisoners and

³⁷ Section 57(F) Prisons Act of Uganda.

³⁸ Ibid Section 69 prisons Act of Uganda

³⁹ Comm. No. 64/92

violating Article 5 of the African Charter on Human and People's rights which provides for the right to the respect of the dignity inherent in human beings and to recognition of his legal status. In addition, the inability of prisoners to leave their cells for 14 hours at a time. Lack of organized sports, lack of medical treatment, poor sanitary conditions or lack of access to visitors, lack of reading materials were held to be violation of Article 15 of the African Charter on Human and People's Rights. The Commission further criticized the conditions of African prisons and consequently appointed special rapporteurs on prisons and conditions of detention in Africa to visit and report on prison conditions on the state parties.

In DELAZARUS V UK⁴⁰, a prisoner was segregated for over four months as a disciplinary measure.

He was not allowed to communicate or associate with other prisoners and locked in a cockroach infested cell for 23 hours a day with two and half breaks in a pen, the size of a tennis court.

The court held that the act was degrading and inhuman and all were a violation of the fundamental rights of the prisoners.

Racial discrimination is also a form of degrading treatment. This was stated in **Halton v UK⁴¹**. The commission held that the racial discrimination to which the applicants had been publicly subjected by the application of immigration legislation constitutes an interference with their human dignity; this amounted to degrading treatment in violation of Article 3. It was further stated that for a violation of Article 3, the State must first intend to degrade some one as stated in the case of **Abdulaziz Cabales and Backadhali V UK⁴²**.

⁴⁰ 1993 report

⁴¹ Comm. 1976

⁴² Com. 1973

CHAPTER FOUR:

ANALYSIS AND FINDINGS:

4.0 INTRODUCTION.

This study is focused on the problem of violations of human rights in Uganda prisons. As already mentioned in chapter one, this problem has been in existence for a long period of time. For as long as the violations are not exposed, this problem will never be solved effectively.

When carrying out this research, I held the view that all the fundamental human rights of prisoners have been grossly violated time and again. However, in the process of the research, it was discovered and acknowledged that some rights are no longer grossly abused as they used to be for example in Amin's regime (1971-1980), which I would call the "Uganda's reign of terror", Uganda suffered its worst violations and the right to life was rarely respected, the violation of this right was an everyday occurrence. Today, the denial of this right is a limited reality. Generally, leaving other factors constant, some great improvement has been registered.

In this chapter, the findings of the research will be analyzed with the aim of exposing the various ways in which prisoners' rights are violated. Basing on the findings, I will establish who a prison is, the reasons for imprisonment, whether prisoners have and are aware of their human rights, the different ways in which these rights are violated, their causes and effects, and finally the role played by the NGO's and the government in the promotion, protection and observance of the same rights.

For purposes of simplicity, I have categorized the respondents as follows.

- ❖ Remand Inmates -**A**.
- ❖ Convict inmates - **B**.
- ❖ Political inmates - **C**

- ❖ Female inmates_ **D**
- ❖ EX- Prisoners _ **E**
- ❖ Prison officials _ **F**
- ❖ Government /NGO officials – **G**
- ❖ Public – H.

4.1 PRISONERS AND REASONS FOR IMPRISONMENT OR THE ROLE OF PRISONS.

A prisoner is one kept in safe custody either as a convict or remandee. Of all the ten group **F** respondents, eight gave this definition. The findings show that one is kept in safe custody after committing or after he/she has been suspected of having committed a crime. Findings goes ahead to show that a prisoner who is pending trial is commonly known as a remandee, and one whose case has been heard by a competent, impartial and public Court of law as a convict and that such person is in prison as a punishment.

Respondents from **F** to **G** provided that the roles of the Uganda prison service are retribution, Deterrence and rehabilitation /reformation and protection. Some argue that they are meant for confining prisoners and Keeping them safe.

Respondents from **A** and **B** say they were imprisoned for committing capital offences for example burglary and theft, defilement and robbery. However, others especially from **C** say that they were falsely and maliciously imprisoned.

4.2 PRISONERS AWARENESS OF THEIR RIGHTS.

Prisoners by virtue of being human have rights. Findings show that a few of the prisoners are aware of their rights. Out of **80** respondents, only fifteen know their rights. The rest had clues or were completely unaware of their rights. Prisoners however, generally said that knowing or not knowing them is all the same. The few who were well aware of their rights especially from **C** and **A** and had tried to speak out about the violations, were reportedly mistreated and beaten up, and had resigned their fate. One respondent from Group **B** said, "When an appeal is made on human rights, the officers harass whoever has made the appeal such that the others loose morale and fear".

4.3 HUMAN RIGHTS ANALYSIS:

A "violation" of human rights is represented by breaking or acting contrary to the minimum standard rules, and "gross" violation of human rights is represented by an obvious and serious breach of the rules of human rights⁴³.

The results of the study indicate that violations of some rights such as the right to life have greatly reduced since the campaign against the Death penalty. This campaign intensified in the last decade prompting the government to halt executions. Since 2002, the execution has reportedly been carried out in Uganda. As far as general human rights are concerned, the Constitution of Uganda, 1995, has to a greater extent improved the observation, respect and realization of these rights.

Looking at Uganda's vicious cycle of violence, 1962-1986, as written in the summary of the report of Uganda Commission of Inquiry into the violations of human rights, the violations of these rights have

⁴³ African center for the treatment and Rehabilitation of Torture victims, Report on the workshop held for soldiers of the Uganda People's Defense force, Nov. 1996, p.3. (unpublished).

enormously reduced though violation of human rights have continued to be reported.

There are various attributes that contribute to the violations of these rights as explained below.

4.3.1 RIGHTS TO LIFE

The findings show that this right was grossly violated between 1962 and 1986. The number of prisoners whose rights to life was arbitrary denied during this period can not be established.

They were massacred and the brutal methods of killing involved the use of bayonets and harmers, freezing and boiling them to death. This violation has reasonably reduced since 1986 when the NRM government took over power. However, the same has not been completely abolished.

During the study, the i found out that there have been incidences of extra judicial killings during this regime as it came to my notice that one **Mukembo Isaac** and **Kassada Geoffrey** were shot to death in year 2007 by a prisons officer whose names were not established when the dual were trying to escape. The dual were on a charge of theft of a motor vehicle and were on remand. The officer (killer) was arrested and detained at Jinja central police station and later released on bond and finally not produced in court after which he was re-instated on his work and given a transfer else where . This is a violation of a right to life which is God given.

In as far as the Death Penalty is concerned; there are arguments that have been advanced to the effect that the death penalty is a violation of the right to life.

In **Susan Kigula and 417 others V AG of Uganda, Constitutional Appeal no.3 of 2006**, the Supreme Court of Uganda declared mandatory sentences unconstitutional though held that death sentence is Constitutional since it's provided for under Article 22 of constitution, 1995.

Although International law does not prohibit the imposition of the death penalty on offenders who commit the worst of crimes, it has been argued from a human rights perspective that the imposition and execution of this sentence constitutes a violation of the right to life.

Though the death penalty is provided for under the Constitution and Penal Code Act as a lawful punishment, the government has not been carrying out executions since 2002 irrespective of Courts of law sentencing offenders to suffer death. This is seen as a move to curb the violation of the above right and could be an initial step towards the progressive abolition of the death penalty in Uganda.

4.3.2 RIGHT TO INFORM THE NEXT OF KIN IMMEDIATELY AFTER ARREST AND DETENTION:

According to the findings, this right has increasingly been violated and is still being violated. It was most violated from 1962 to 1986 where there were many “mysterious” arrests and disappearances. Inmates were not allowed to contact their next of kin. Whoever attempted to visit a prisoner would be also arrested and detained. Results of the study indicate that the same violation still exists. During the September 2010 riots and demonstrations which occurred on 10-13 September in Kampala and elsewhere over the government’s decision to stop a delegation from Uganda’s Buganda Kingdom from visiting the eastern district of Kayunga to join celebration of National youth day on 12 September, hundreds of individuals were arrested in connection with the rights . Dozens were charged with serious offences including terrorism and faced mistreatment. They were detained in different prisons and other places unknown without being produced in court and informing their relatives. This is a violation of the rights of the prisoners.

4.3.3 RIGHT TO HEALTH SERVICES:

Everyone has a right to medical treatment and services. The requirements of this right include:-

The availability of basic medical utensils or instruments, drugs, and medical personnel. Because of the unhygienic conditions that prisoners live in, they are usually weak and vulnerable to diseases yet medical facilities are inadequate⁴⁴. Majority of the prisons in Uganda lack proper and basic medical services, facilities and qualified personnel.

The results of the study show that Jinja government prison is no exception. Worse still, there are only a few beds in the sick bay which are not always available. When the beds are available, they lack mattresses and bedding. Sick inmates are not isolated from healthy ones which usually lead to the spreading of various contagious diseases such as skin and air born diseases.

Medical checkups are as rare as eating meat in the prison and where medical checkups are conducted, usually qualified medical personnel are not even present. Medical treatment in prisons is always inadequate. Prisoners do not receive adequate care for serious physical and mental health problems. Inmates with deadly diseases for example T.B and Hernia suffer most for doctors are brought in once in a while neither are they frequently taken to the referral government hospital. One inmate for instance had this to say "my right is violated because of sharing injections, long term convicts are rarely taken to the main hospital for fear of escaping and if they must go, they must be hand cuffed. Drugs and other medical facilities in the sickbay are almost all expired which is too dangerous to the prisoners' lives⁴⁵. All these amount

⁴⁴ Human Rights Commission Report on visits to and local government administration prisons 1997 (un published), Annual report of 2009 and 2010.

⁴⁵ Interview with an inmate from group B.

to the violation of the above right and the same is a great threat to their lives. It is only God who saves their lives.

The researcher further more learnt that the toilets are not enough. One of the respondents brought it out to the researcher that during night time if a prisoner wants to ease him or herself, they use the bucket system which makes the smell to concentrate within the ward. All these amount to the violation of the rights of prisoners.

4.3.4 RIGHT TO RESPECT OF HUMAN DIGNITY AND PROTECTION FROM INHUMAN, CRUEL OR DEGRADING TREATMENT:

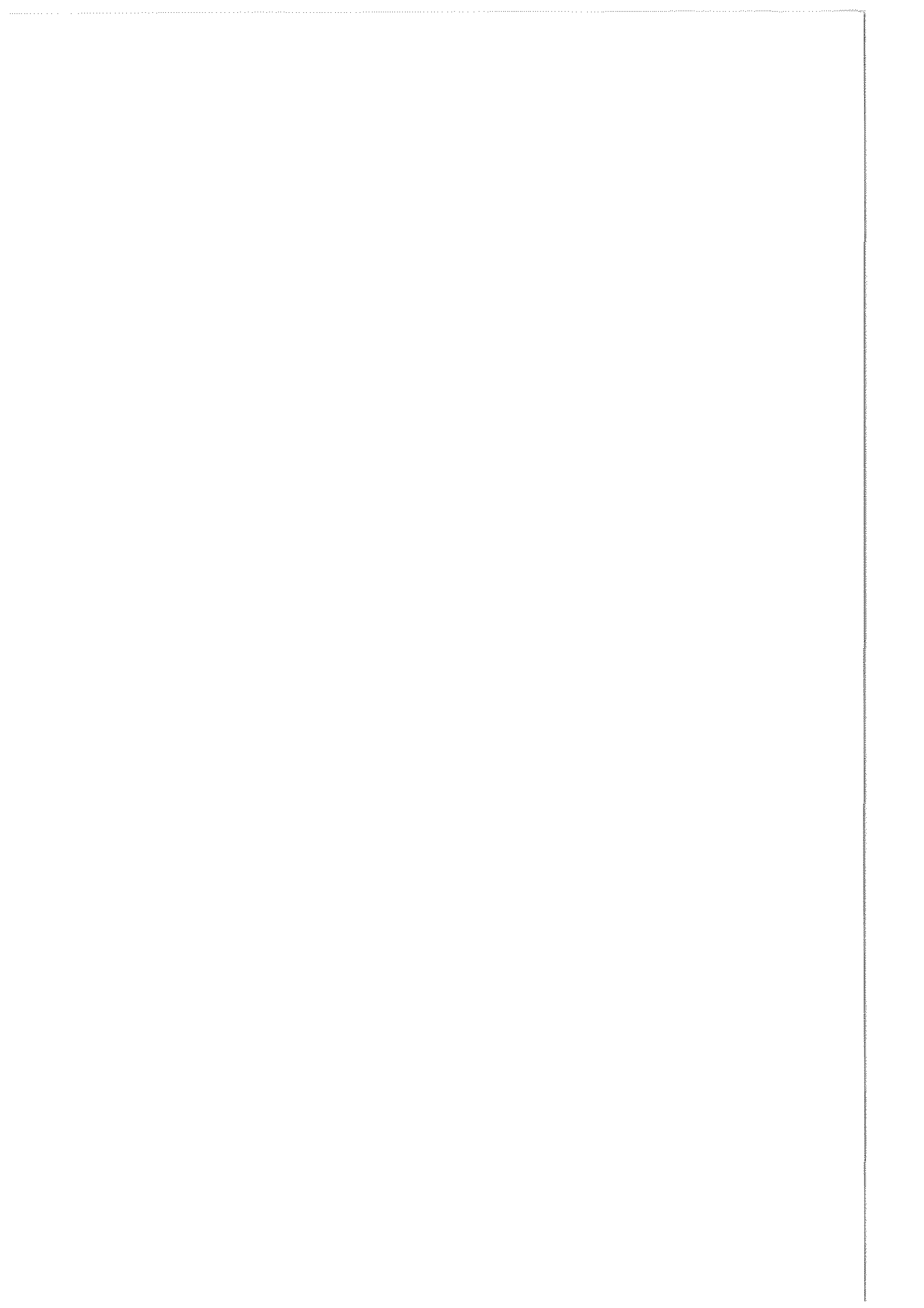
Prisoners by virtue of being human and regardless of their social status deserve to be respected and treated in a human manner. According to the results of the study, this is the most grossly violated right within prisons. Different aspects as will be seen below contribute to its violations.

(i) Torture:

Torture continues to occur on a world wide basis despite enhanced efforts by government and non government organizations in keeping with the provisions contained in national, regional and international human rights law whose objectives is its total eradication⁴⁶. Torture in prisons is not only done to get information/confessions from the inmates. It is also done to punish the inmates and in the long run injuring the inmates' dignity.

The results of the study show that the deadly methods of torture for example stabbing and piercing body parts, cutting off body parts of inmates, forcing inmates to eat inedible objects such as soap, slippers,

⁴⁶ ACTV, op. Cit; page5



uncooked food, burning intimates with plastics or polythene extra are no longer used today. The common methods applied today include:-

Beating. The results of the field study show that this is the most used torture method which degrades prisoners in Jinja government prison especially in Kirinya remand section. The prison officers have excelled in arbitrary battering and administering corporal punishments for any slight mistake a prisoner may commit⁴⁷. This is commonly happens in prison sambas and farms to force prisoners to work harder and faster. One respondent told the researcher that one inmate by names of Kasozi had been kicked on his chest by a prison officer in a prison farm and eventually died. The researcher observed and found that some inmates have as a result got permanent bodily harms. One of the remandees was seen lacking three fingers on his right hand which were cut off by the door of the lorry while the prison officer was pushing him into the prison lorry when taking them to or from Court. The others had wounds and scar which resulted from assaults. It was to that effect that it was concluded that there were grave violations of inmate's right to human dignity.

Isolation in punishment cells. This is another form of torture. The findings show that confinement is a method used in place of caning which was declared unconstitutional in **Simon Kyamanywa V AG** and is prohibited by **Section 1 of Penal Code Act no.8 of 2007**. When an inmate does something wrong he or she is confined naked in a dark cell with water poured in it and is expected to stand through out the duration especially those charged with treason and other related offences. This cell only has a small hole at the door and small ventilation

⁴⁷ The prisoner, op cit page 11

which is so high. This kind of situation causes severe discomfort and amounts to both psychological and physical torture.

This type of confinement can be placed in two categories of torture; **Deprivation torture**, where a victim is deprived of sensory stimuli such as light, and **cold torture** where the victim is subjected to various forms of coldness such as sleeping on the damp floor or staying naked in cold places.

Analysis of this confinement shows that it grossly violates this right. Stripping one naked is equivalent to stripping one of his/her dignity; locking one up in a dark cell with water is equating that inmate to an animal for example frog and fish. This is too humiliating and amounts to human degrading and inhuman treatment.

A paradoxical application of laws does contribute to the violation of prisoners' rights. For instance **section 53(3) (b) of the Prison Act of Uganda Cap 313** provides:-

That "the commissioner may award a prisoner one or more of the following punishments.... Confinement in a separate cell for such period as may be prescribed, and **section 56:-** whenever it appears to the Officer in charge that it is desirable for the good order; it shall be lawful for such officer to order segregation of such a prisoner for such period as may be considered necessary.

The actual practice of this form of punishment greatly contradicts human rights documents such as the Basic Principle for the Treatment of Prisoners, 1990, Article 7 which provides that "efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged," and the Minimum Standard Rules for the Treatment of Prisoners, Article 31 which provides, "corporal punishments, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishment shall be completely prohibited as a punishment for disciplinary offences". This

contradiction is perhaps, the cause for the use of solitary confinement in many prisons in Uganda.

Over working. Working in itself is not a form of torture but the minute it becomes afflictive, then it becomes torture. The findings show that in prisons, inmates are overworked some times from 0800hrs – 1700hrs without lunch. This kind of working is equivalent to slave labour. They only eat a single Poor meal a day. It was found by the researcher that an inmate who had only spend a week in Kirinya remand prison died in 1999 while performing hard labour on the prison farm. Sick inmates are also taken to dig despite the sick parades conducted every morning. This kind of slave driving is inhuman, cruel and degrading and amounts to torture which violates the above right.

(ii) Feeding:

A human being's basic survival is food. The quality and quantity of food eaten determines the health and life duration of an individual. The Minimum Standard Rules for Treatment of Prisoners, Article 20 provide that "every prisoner shall be provided by the administration at the usual hours with food.... Drinking water shall be available to every prisoner whenever he or she needs it"

The findings of the field study show that posho and beans is the daily and nutritious meal consumed ever. The posho and beans themselves are worse in appearance and usually half cooked all of which are below the minimum standards of human consumption. Prisoners drink untreated water. Whenever visitors of inmates bring for them food, a third of that food is eaten by the prison officers and "Katikiros" meaning prefects. Inmates only change diet on public holidays especially Christmas, Independence days and some few others. This has led some of them to develop diseases like ulcers. The amount of food and its

quality compared to the work load and rate, one discovers that not only is the right to food violated but also this dietary inadequacy amounts to cruel and degrading treatment.

(iii) Beddings and Clothing:

These are two essential elements in human life. Analysis has shown that these are seriously lacking in Uganda prisons. The Minimum Standard Rules for the Treatment of Prisoners, Article 17 offers that every prisoner shall be provided with suitable clothing which shall in no manner be degrading or humiliating.

In reality, the situation in prisons is not only pathetic and wanting but appalling especially to the ordinary inmates.

Most inmates are in torn clothes and they do not have uniforms. Sometimes inmates obtain items of clothing from their relatives. One inmate and another ex-prisoner narrated to the researcher the alarming situation of how some inmates use polythene as clothing and beddings. The blankets used as beddings are full of lice and bedbugs. The alarming state of sleeping, due to lack of beddings, as one inmate rightly called it, is worrying. Inmates sleep on the floor. Those who are lucky especially the prefects commonly known as "Katikiro" have tiny mattresses. It is only well-off persons and politicians who sleep on mattresses and feed on good food which is not even provided by prisons but by their relatives. This degrades one's dignity and humanity.

(iv) Indecent language.

Findings of the study show that some prison officers use indecent language on the inmates. The use of this kind of language by prison officers towards inmates and at times also by inmates especially "Katikiros" demean the inmates' dignity and belittles them as human beings. Words like "Kasasiro, Kazambi" meaning rubbish are used which

are of course abusive. This amounts to the violation of the rights of inmates.

4.3.5 RIGHT TO A FAIR HEARING:

This requires a person accused of a crime or cause or a suit to be heard in an independent, open, competent and impartial court of law. In Uganda, constitutionally under Article 28(3) (a) of the Constitution, 1995, every one charged with a crime is presumed innocent until proved or pleads guilty. It concerns fairness, equality and emphasizes the principles of natural justice and this is covered under Article 28 and 42 of the Constitution of the Republic of Uganda, 1995. The guarantees to the right to a fair hearing are pertinent to the criminal justice system and since 1995 some of these guarantees have been upheld or infringed in criminal trials.

The right to presumption of innocence:

The right to presumption of innocence is a key feature of the criminal justice system in most common law jurisdictions. It is part of the criminal doctrine that places the burden of proof on the prosecution to prove the guilt of the accused person. The right is guaranteed as a human right in Article 28(3)(a) of the Constitution, although the shifting of the burden of proof as a fact of the right is also recognized in Article 28(4). This presumption has enjoyed long standing recognition at common law and has gained wide spread acceptance as evidenced from its inclusion in major international human rights documents. In light of these sources, the right to be presumed innocent until proven guilty requires at a minimum that;

- (a) An individual be proven guilty beyond reasonable doubt,
- (b) The state must bear the burden of proof and
- (c) Criminal prosecutions must be carried out in accordance with lawful procedures and fairness.

Findings show that whoever is charged of a crime is arrested, mistreated, tortured before they are even produced before Court. They are called criminals even before they are proven or they plead guilty. An example afforded by the political opposition leaders and supporters for example Dr. Kiiza Besigye who have been arrested arbitrarily, beaten up on many occasions and forced to confess and detained for more than the constitutionally prescribed period in jail.

The right also provides for a right to bail, legal representation, a trial before an independent public and an impartial court of law, a right against double jeopardy, a right to a copy of the proceedings on a payment of a prescribed fee, a right to be afforded facilities to examine prosecution witnesses, right to an interpreter, right to adequate time and facilities for the preparation of his/her defense. Results of the study show that prisons and its officers play a limited role to the violation of the inmates' right to a fair hearing. Much of the violation is done by other government agencies and bodies and the media.

The researcher found out that the right to a fair hearing has been violated with impunity by the **State and its agencies such as the army, Police and Courts in the exercise of their discretionary powers and above all, the media takes centre stage**. From the research, it was discovered that the state and its organs such as CMI, operation wembley now called R.R.U have arrested suspects and detained them unlawfully denying them access to their lawyers and to trial before an impartial court in time. Some of the suspects are arrested and detained in un gazetted places and what is further worrying is the fact that some of their relatives do not know about their whereabouts. One Obbo, a lecturer at Kampala International University, faculty of law, when interviewed quoted an example of Byamukama Deogratius from kawempe whom the mother confessed that he had been picked up at night by unknown

personnel and she did not know where he had been taken. Such an arrest and detention is by all means a violation of the right to a fair hearing.

One Court official in Jinja also informed the researcher that when they are always hearing a case of a political leader especially from opposition side, the army and many other security officers and agencies the surround the court and that suspects have always feared to apply for bail for fear of being re-arrested. This act was witnessed in **Kizza Besgye and 10 others V AG Constitutional Petition no 07 of 2007** in which agencies of the State termed 'Black mambas' armed with guns stormed the High Court and prevented the processing of bail applications by among others intimidating the PRA suspects' sureties and officers of Court

Courts Martial. Secondly, the courts martial have also had an upper hand in the violation of the right to a fair hearing. It has time and again tried civilian suspects. On carrying out the research, the researcher discovered that the court martial has been sentencing prisoners without giving them a fair trial. This has especially affected soldiers. They are denied their rights to defend themselves, to mitigate, legal representation and others. Such a practice has left the accused persons at the mercy of the Court martial which has violated their right to a fair hearing with impunity.

Media. The media has also out rightly been seen as an avenue for violating the right to a fair trial. The results of the research has shown that the media for example newspapers, TV stations, radio stations have published information tending to point to the fact that the accused persons (remandees) are guilty of the crimes charged against them. A prison officer at a rank of superintendent attached to Jinja main prison quoted a clear example of a case of **UGANDA V KIYINGI** and said the

newspapers and the rest of the media ran a series of articles showing that kiyingi was guilty for the murder of his wife before court could hear his case and pass its judgment. Such articles were a clear violation of the right to presumption of innocence of doctor kiyingi as a suspect. In summary, the media has been instrumental in the violation of the right to a fair hearing.

The researcher also found out that the State has either directly interfered with the decisions of Courts in deciding on whether the suspects (remandees) should be given fair trial especially to political opponents. A case in point was that of Dr. Kiiza Besigye and the 22 co-accused whose right to appear before an independent, transparent and impartial court was openly violated in a broad day light where the military personnel surrounded the High court in November 2009 in the much publicized black mamba day prompting the accused persons not to take up bail granted by the court for fear of being re-arrested and detained in unknown places.

In summary, the prisons have played a limited role in violating the right of suspects to a fair trial. Where they can only be blamed is unnecessary transferring of suspects especially for example **Norbert Mao**, the Democratic party president was transferred from Luzira to Nakasongola during the walk to work arrests and denied the right to access his relatives, personal doctor and counsel. Much as courts have tried to protect the right to a fair trial, the researcher found out that the manner in which this is done sometimes leaves a lot to be desired. He further observed that the state and its agencies such as RRU and CMI have greatly violated this right. It was further observed that although the Courts have in certain cases stated that prolonged detention without trial is a violation of the right to fair hearing what is evident, is that this is

just a cluster of the various ways through which the right has been protected.

On the whole, the right to fair hearing as observed and analyzed by the researcher has been so much violated with a lot of impunity, and that the state and the courts are largely responsible for this violation not the prisons.

4.3.6 RIGHT TO EDUCATION:

Education in the prison context does not stop at training in schools or classrooms. It goes further to include vocational training.

Findings of the study show that this right was highly respected during and immediately after colonialism where there was training and leather works, tailoring, and handcrafts. However, as the machines broke down, so did the training itself. Presently the study shows that the training in most prisons is digging which in the long run seems to be a punishment for it is forced and is carried out for a long duration. In Jinja prisons majority of the inmates are found idle and with no form of training at all. Looking at Uganda's economy today, this kind of life style is irrelevant and unproductive. It is only in Luzira prison where some vocational training and some class room education like entrepreneurship classes, is done⁴⁸. The absence of such a scheme in other Prisons is a violation of the right to education of inmates for they would have learnt nothing constructive to help them in their future lives when they leave prison. This right which would have helped in the rehabilitation of offenders by teaching them alternative creative and constructive skills of employment and wellbeing such as carpentry, construction, entrepreneurship is therefore unfulfilled. This has made inmates to continue committing crimes like burglary and theft, robbery, even after being released from prison for failure to secure gainful employment while unskilled.

⁴⁸ Human Rights Commission, annual report 2010

4.3.7 RIGHTS TO ACCESS INFORMATION:

This right involves the availability of news papers, magazines, wireless radios, lectures, internet or any other kind of material that can avail prisoners with information going on in the outside world. A prisoner being an intellectual being requires knowing what goes on around him/her.

Results of the study show that information is very scarce and inaccessible in prisons. Only government newspapers like the New vision are allowed into the Prison facility and they are always outdated and very few in number and for special prisoners. Magazines and lectures are as scarce as changing diet in prison. Wireless radios are non-existent in Jinja government prison and they are even considered illegal although some, prisons like Luzira government prison have and allow them for inmates. This leaves prisoners ignorant about the current affairs around and about them and this tantamount to the violation of this right.

4.3.8 RIGHT TO A CLEAN AND HEALTHY ENVIRONMENT:

Sanitation and hygiene are the key elements to a healthy environment. The causes of poor sanitation and hygiene are what violate this right. Over congestion is an obvious violation of the right to a clean and healthy environment.

TABLE 2: OVER CONGESTION AS PER SEP. 2010.

Prison	Planned capacity	Actual capacity.
Youth prison	189	300
Remand prison	630	300
Main prison	696	400

The above table shows that the two of the three government prisons are abnormally congested. A ward of 25 inmates is occupied by about 45 inmates, almost doubling the actual number. In a ward meant for 50, there are 75 inmates. This kind of congestion leads to the spread of diseases especially air borne and skin diseases which contradict the guarantees of this right. The ever increasing presence of vermin in the prisons leads to filthy environment. Worse still, inmates are restricted on foot wear such that they spend most of the time bare footed exposing them to all sorts of diseases. There are inadequate toilets and bathrooms since each ward has only one. These are inside the wards bringing about a stench in the wards where the inmates spend most of their time. The facilities are also over used causing an unhygienic atmosphere which violates the right to a clean and healthy environment. One inmate in the remand ward complained that they use a small jerrican for drinking water, washing and going to the toilet. This situation is pathetically unhygienic and definitely violates the right in question. There is availability of untreated water in all the three prisons. Basic requirements such as soap, toilet papers are non-existent and most of the inmates voiced the lack of soap as a violation of their right as most of them had contracted diseases such as diarrhea.

Human beings also comprise of the social environment, so to have a healthy environment, prisoners too should be healthy. On the contrary, they are the unhealthiest beings. Not only is their diet poor, their recreational activities are also almost non-existent. Apart from football for a few and basking in the sun for all, they have a few indoor games like playing cards "matatu" which do nothing to promote and enhance their health. This kind of life only leads to the deterioration of their health leading to the violation of their rights.

4.3.9 RIGHT TO BELONG TO AND PRACTICE CULTURE, RELIGION AND LANGUAGE:

This is one of the least violated rights in prisons. Inmates are allowed to speak their local languages and any other. This however, is limited when it comes to communicating to visitors for security reasons; it is said, all inmates are ordered to use Kiswahili or English hence infringing on their right to practice their culture and speak their mother tongue languages especially if their relatives/visitors do not know Swahili.

The right to practice culture is what is infringed most for inmates are not allowed to practice their culture like carrying out cultural rituals. Local medicine/talisman which supposedly guards an individual is removed from him/her. An inmate from group **A** narrated how a certain inmate called Kabalasi ran mad because his medicine was removed from him. If this medicine is not being used for sorcery or any other evil practices then its removal is a violation of this right. The compulsory cutting of hair in prison also violates this right especially for those whose culture does not permit the act.

Fortunately, religion in prisons is respected. Inmates are allowed to practice their religion. This helps in the rehabilitation process for inmates develop spiritually and may become repentant.

4.4 CAUSES OF HUMAN RIGHTS VIOLATION IN PRISONS:

There are various ideologies on the causes of the violations of prisons' human rights. The causes have their roots in the general assumption that Prisons are meant for punishment of criminals.

4.4.1 Belief that prisons are meant for punishment:

The findings of the study tend to show that there is a strong general belief that prisoners deserve the punishments and treatment they get. The general public holds a hostile attitude towards a criminal that the

criminal be made to suffer. The article, "Give prisoners a beating for Breakfast"⁴⁹ further proves this point. This attitude is further adopted by prison warders who believe that since inmates are in prison for wrong doing then they should pay for it by being made to suffer.

4.4.2 Poor administration

Senior officers and concerned government officials do not bother to regularly check and monitor the activities of prisoners or prison warders. This kind of negligence has led thousands of prisoners to suffer violations of their rights due to maltreatment in and mismanagement of the prisons. Poor administration of prisons has led to employment of untrained and illiterate wardens/officers; the training given in the prisons is insufficient and inadequate such that most officers do not know that prisoners have rights and what these rights are. They also lack managerial skills in handling inmates. In the long run, they violate prisoners' rights. There is lack of awareness on prisoners' right by both prisoners and prison officers due to the maladministration of prisoners.

Due to poor administration, inmates are mixed up leading to the violation of the vulnerable inmates' rights. The prison administration has failed to devise effective means of managing inmates according to their different categories.

4.4.3 Poor government system

The government does not look at prisons as a priority hence does not provide adequate necessities such as medical instruments, drugs, maternity services for female prisoners, soap, uniforms and food for inmates. Prison officers are paid low salary. A person of the lowest rank earns a monthly salary of **260,000ugx** only⁵⁰ with no allowances which

⁴⁹ "Give prisoners a beating for breakfast" In the monitor, 18/September 1996 page 4

⁵⁰ Interview with prison officer Adong Susan of Luzira government prison.

is really not enough to afford them a descent living where the standard of living is abnormally high.

Insufficient government funding does not even manage to fulfill a 1/3 of the prisons' requirements. Worse still, there is a high degree of corruption in government institutions and personnel leading to the diversion of prisons' supplies. The pathetic conditions of the prisoners are not improved so they continue violating the prisoners' rights. It has been established that most prisons and prison farms were built between 1927 and 1946 for a small Ugandan population which had less than six million people during the colonial era. Today, these prisons and prison farms cannot meet the ever increasing number of inmates and the government has done nothing about it in terms of enlarging them. They have only tried to renovate them which changes very little. Violations of prisoners' human rights are also politically caused. The Walk to Walk suspects most of whom were opposition politicians while incarcerated at Luzira prison, Nakasongolo prison and Jinja prison had their human rights violated. These rights were for instance the right to access information, next of kin and personal doctor. These violations to a large extent were politically motivated.

A case in point is Norbert Mao, the Democratic Party president who was remanded and transferred to Nakasongola from Luzira prison in June 2011 and denied the right to access his next of kin and colleagues. The lack of concern by the government on matters concerning prisons enhances violations in prisons.

4.4.4 Judicial System:

The Judicial system in Uganda is rigid, not always independent and has insufficient Judges and magistrates. This system has stringent conditions for granting bail; thus leading to prisoners staying longer in prisons unnecessarily. Due to the insufficient number of judicial officials,

there is a backlog of cases which causes excessive delays in bringing inmates to Court for their cases to be heard and determined.

There is also little use of non-custodial sentencing options such as community service for petty criminals; this leads to every wrong doer being placed in jail causing congestion that precipitates the violations of some of their rights.

There is also a high degree of corruption in the Judiciary especially magistrates and judges as **Peter Walusimbi** says in his book **“Constitutionalism at Cross Roads”**. This causes delays in the hearing of inmates’ cases. There is also limited discretion given to the magistrates.

Apart from the judiciary, there have been complaints raised by prisoners regarding the competence of counsel especially State appointed lawyers who represent these inmates. At times, the lawyers are compromised or do not take adequate time to consult the client and prepare their defenses, which obviously interferes with conduct of a proper defense and the ultimate price is borne by the convict/prisoner.

4.5 EFFECTS OF HUMAN RIGHTS VIOLATIONS:

4.5.1 ON PRISONERS:

Due to lack of medical care, prisoners have become prone to diseases because of a very low immunity. This has also been enhanced due to lack of proper recreational activities.

Due to the constant abuse and violation of human rights of prisoners, prisoners have become hardened (hard core criminals), so reformation is hard and they turn into recidivists.

Psychologically, prisoners are affected by these violations such that when they leave prison, they are never the same. They often find it hard to adjust and fit in the ordinary social life and assimilate its culture.

Due to their poor reputation, prisoners are always shunned and rejected by society when they are released. The stigmatization of prisoners is so great to the extent of destroying their very humanity.

Due to isolation from the public and constant abuse in prison, they lose their sense of self dependence and identity such that they become dependent firstly on the prison officials then later their relatives. They also lose their sense of expression mainly because of the ignorance they encounter from the public when in prison. This tends to make them more aggressive and brutal to the public.

Long periods in prison tend to weaken bonds with relatives usually leading to break up of families and homes. This is especially so when family members hear about the various violations in the prisons for example homosexuality. Married partners some times have separated because of the same as one tends to find a new partner/wife/husband for sexual satisfaction.

4.5.2 ON THE PUBLIC

The effect of these violations on the public is not all that great since they mostly take place in prison. The public that hears about these violations instead develops a negative attitude. They alienate the prisoners, treating them like out casts.

The increased costs to maintain the ever increasing number of prisoners is a burden to the public for it is the one that meets these costs through the payment of taxes.

4.6 GOVERNMENT'S CONTRIBUTION:

The government's initiative in creating a Commission of Inquiry into the violations of human rights in 1986 helped a lot in exposing the different types of gross violations of Human rights which in turn has led to the reduction of these violations. This Commission investigated the violations done from 1986 and published them. Those who were responsible for the various violations were brought to book. This created a fear in some people who could have initiated and participated in the violations.

The Uganda Human Rights Commission has its establishment under Article 51 of the Constitution of Uganda, 1995.

This institution is a permanent Human Rights Commission set up by government. Its mandate is provided under Article 52(1)(b) which requires the commission to visit jails, prisons and all places of detention or related facilities with the view of assessing and inspecting conditions of the inmates and make recommendations by making an annual report to parliament every year.

The Commission has tried to fulfill this function for it visits the prisons, inspects the conditions and tried to fulfill its third function of establishing a continuing program of research, education and information to enhance respect of human rights. It has done this by creating public awareness of human rights through the media e.g. on Radio Uganda every Saturday morning.

CHAPTER FIVE

RECOMMENDATIONS AND CONCLUSION.

5.0 INTRODUCTION:

The study was intended to survey the violations of human rights in Uganda prisons. The specific concern involves exposing the various continuous violations of the prisoners' rights. This chapter offers a Conclusion to the whole study and results of the findings and also suggests possible recommendations /measures/solutions to the problem of the violation of human rights in our prisons.

5.1 RECOMMENDATIONS:

In respect to the findings of this study it is essential to advance the following recommendations to help fight and reduce the rampant and continuous violations of human rights in prisons although it is impossible to prescribe a permanent solution for prevention of abuses of human rights in Uganda⁵¹, some of the recommendations advanced to curb these violations are;

The **HRC** and all the related human rights advocating Organizations especially NGOs for example **African Centre for Tortured Victims**, **FHRI** should create effective awareness of human rights for all. This can be done through the media, public talks, seminars, workshops and lectures. This kind of human rights education is very helpful in reducing violations. If possible, this education should be introduced in schools and all prisons, police and army training academies.

The challenges within the judicial system should be rectified to try and accommodate the large number of remandees⁵². This can be done by

⁵¹ Wairama G. Baker, *Op.Cit* page 64

⁵² His worship Muhumuza, magistrate grade 1., Nakawa chief magistrate court, when interviewed On 25th July 2011

recruiting and increasing on the current number of Judges and magistrates and state prosecutors. It should also try to promote the use of non-custodial punishments to substitute imprisonment especially for petty criminals. Some of these custodial punishments include:-

Admonition: This is very good for first time offenders of petty crimes. It is a system that existed in traditional Africa and was in most cases fruitful.

Courts in U.S.A are using this method much more frequently now, probably because of recognition of the futility of short sentences in prison⁵³. In many cases such official remonstrance serves to express to the offender the opposition of the group to his behavior. In most cases it fulfils the objectives of reformation more effectively than imprisonment.

Fines: These should be used in relatively trivial offences instead of imprisonment. Fines can easily be remitted once a person is later found innocent unlike imprisonment. The fine is also the most economical penalty which hardly violates anyone's rights. It costs the state practically nothing as compared to imprisonment where the state has to care for the inmates. The fine can also be adjusted to the enormity of the offence, the character and wealth of the offender, the state of public opinion, and other conditions more easily than imprisonment. It does not carry with it the public stigma and disgrace that imprisonment does. Therefore it does not hamper the re-adjustment of the offender. It also provides an income to the State which can be used to renovate prisons for hardcore criminals.

Restitution and reparation for minor offences for instance affray, stealing should be encouraged. This is because in most cases, the Victims or complainants are always so much interested in regaining their stolen property and meeting their expenses and costs than in the actual imprisonment. This method would have much better reformatory effect

⁵³ Edwin H. Sutherland Op cit; page 582

on the offenders than imprisonment, for the convict would have been given a second chance. It would relieve the state of the already great burden of supporting those guilty of minor offences. This also helps in changing the negative attitude of the public towards the offenders.

Community service: This is cheap and reduces on the violations in prisons. The general public benefits from the labour offered by the offender since it is done in and for the good of the community. It helps to reduce on the congestion in prisons and the offender is accepted to stay in close contact with his or her family and the public reducing on the hostility towards the offenders. All the above methods existed in traditional Africa and were actually producing positive results.

A permanent and regular Commission of Inquiry into the violations of human rights should be set up to regularly investigate into the violations and expose them.

The Ministry of finance should increase the budget allocation to Uganda prisons. The prisons services and government should allocate the resources to all prisons based on clear guidelines such as the capacity of the inmates etc. In addition to this, the prison Service should be periodically accounting for the money so allocated.

Medical conditions in prisons should be urgently addressed. All the prison objectives can only be fulfilled if inmates are both physically and mentally healthy. So, The Ministry of Health should apportion its drugs to hospitals as well as the prison health centers and clinics. At least every prison should have over twenty healthy workers who are qualified and these workers should be paid well to ensure improvement in the medical state in prisons.

The prison service should also devise effective means of separating inmates that is, juveniles from adults, remandees from convicts, petty criminals from capital offenders, first-time criminals from serial or habitual criminals, sick prisoners from healthy ones. This can be done by restructuring the existing prisons or releasing petty offenders and giving them some of the above alternatives to imprisonment, constructing more wards and prisons, and renovating the available prison facilities that are currently in a wanting condition.

If the government has failed to run prisons efficiently, then I recommend that it privatizes them to humanitarian groups which can turn them into modern correctional and policing studies centers. This will help improve the conditions in as far as feeding; health, sanitation, clothing and bedding are concerned. Prisoners also will be given a chance to reform through programs like counseling without being made to feel like an outcast. When in private hands, the government will have to pay if it wants to imprison offenders. This will encourage the government to use alternatives to imprisonment more regularly hence doing away with congestion.

A policy of individual liability against staff who torture inmates in prisons should be passed. The policy should effectively require that staff found guilty of torture compensate and meet the victims' hospital bills and be imprisoned before being dismissed from the prisons service. This will create fear in prison officers to torture inmates.

Prison farms should be revitalized in terms of technology and production methods.

Reform especially in procedures and qualifications for bail, warrants, and appeals should be sped up.

There is need to adopt human rights policy within the Uganda prisons service and inclusion of human rights issues in their curriculum.

Education in prison should be enhanced. Schools especially technical and vocational schools and colleges should be constructed in prisons and be availed with adequate and necessary facilities and resources.

The death penalty should be abolished and substituted with other modern forms of punishment such as life imprisonment.

5.2 CONCLUSION:

The foregoing discussion which was based on the analysis, interpretation and presentation of data revealed, in the opinions of the various respondents whose views varied from each others and fortified by my personal opinion is that indeed human rights violations still exist in the Uganda prisons. Important to note is that looking at the pathetic lifestyle of prisoners, which violates most of their rights; human rights are just an illusion to them. They can never be called a reality but a myth until something more practical is done. It should also be noted that lack of funds is no excuse for the serious violations which hinder establishing the culture of respecting, promoting and protecting the fundamental rights of prisoners. So long as the provisions of the Constitution, 1995, and other statutes (Acts) for instance the Prisons Act can not effectively be respected, protected and promoted, human rights and democracy in Uganda will always be a myth.

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APPENDICES

APPENDIX I

INTERVIEW SCHEDULES

1. FOR PRISONERS:

1. How long have you been in prison?
2. What crime are you charged with; Petty or capital?
3. Are you remanded or convicted?
4. What are human rights to you?
5. Do you think you have human rights?
6. What are they?
7. Are you made aware of your human rights here in the prison?
8. Are you aware of any human rights violations in the prison?
 - (a) If so, which ones?
9. What do you think are the causes?
- 10 Who- do you think are the violations the prisoners' right?
11. What effects do the violations have on you as a prisoner?
12. Is there anything that is being done to reduce these violations?
13. What do you think should be done to reduce these violations?
14. How effective are the following facilities in the prison:-
 - a. Medical facilities and attention?

- b. Recreational activities (exercise and sports)?
 - c. Education or training facilities?
 - d. Social (visitors) and religious facilities?
 - e. Information (newspapers and radios)?
 - f. Discipline (punishment and torture)?
 - g. Bedding and clothing (uniforms)?
 - h. Food and clean water?
 - i. Toilets and bathrooms?
 - j. General hygiene?
 - k. Congestion in wards?
15. Are you allowed to give complaints?
16. For female prisoners only, are you given any sort of sanitary towels and maternity services for the pregnant female inmates?

APPENDIX II

2. FOR PRISON OFFICIALS (WARDERS).

1. Who is a prisoner and when does a person become a prisoner?
2. Do you think prisoners have rights in prison?
 - (a) If yes, name the rights. (b) If no, why is it so?
3. Are there any right deliberately derived of a prisoner?
 - (a) If yes, list them (b) If no why?
4. Are prisoners aware of their rights?
 - (a) If yes, how has it been done?
 - b).If no, why is it so and what is being done about it?
5. Do human right violations exist in prisons?
 - a) If yes, what are the various violations?
6. What has been done or is being done about it?
7. Who violates the prisoners' right and how?

Fellow prisoners, prison officials, government or public.
8. What do you think are the causes of these violations?
9. What effects do these violations have on the prisoners?
10. What programs have been or are being implemented as far as awareness of prisoners' rights is concerned?
 - (a) For prisoners, (b) for prison officials.
11. Have you noted any positive effects or results these programs on either group?
 - (a) If so, which group? (b) If yes, how have they been successful?
 - (c) If no, what do you think has caused the failure?

12. What could be the obstacles in implementing such programs in prisons?

13. What possible solutions would you suggest to end this problem of violations?

14. Do you think imprisonment is the only solution to wrong doing? Please give reasons.

15. Prisons Act, article 36(1) provides for prisoners to make request or complaints each weekday. Does this happen?

16. Prisoners are entitled to a wholesome nutritious food a clean and healthy environment, and medical attention. Do they access these entitlements?

(a) If they do, how after? and (b) if no, why?

APPENDIX III

FOR GEVERNMENT OFFICERS /NGOs

DATE **NAME:** **POST HELD IN GOVERNMENT:**
NAME OF NGO: **POST HELD IN NGO:**

1. Do you think prisoners have right?

A. If yes, what right?

b. If no, why?

2. Do you think prisoners' rights are being violated?

a. If yes, how?

b. If no, why?

c. Who do you think violates these rights and how?

Prison officials, fellow prisoners, Government or public.

3. What are the causes of these violations?

4. What is the most serious violation?

5. What are effects do these violations have an you as ammeter of the government or NGO?

6. What are the government /NGO doing about them?

7. Is it succeeding? If yes, how? If no, why?

8. What recommendations would you offer to curls these violations?

9. Do you think imprisonment is the only solution to wrong doing?
Please give reason.

APPENDIX IV

4. FOR THE PUBLIC:

DATE	NAME	ADDRESS	OCCUPATION
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1. Who do you think a prisoner is?
2. Do you think a prisoner deserve human rights?
 - a. If yes, what are these rights?
 - b. If no, why do they have no rights?
3. Are you aware of violations of prisoners' rights?
 - A. If yes, how did you become aware of them?
4. What do you see as the major violations of human rights of prisoners?
5. Which of these violations seem to you the most serious?
6. What do you think might be the root causes of the problem?
7. What do you think violates the prisoners' rights, and how? Prison officials; fellow prisoners, government or public.
8. Do you think prison officials are lacking a promising effort to solve this problem?
 - a. If yes, indicate how or the ways they are using.
 - b. If no, indicate why they are not doing it.
9. Do you think the public is interested in helping solve the problem?

APPENDIX V

5. FOR EX- PRISONERS.

1. How long were you in prison?
2. Which prison were you in?
3. Were human rights promoted and protected during you time in prison and if so, how were they promoted and protected?
4. Were you a ware of the violations of human rights by the?
 - a. If yes, which ones were they?
5. Did you experience any violations when in prison?
 - a. If yes, which ones were they?
6. What did you see as the major violations inn prison?
7. Who violated the prisoners' rights and how?
8. What were the root causes of these violations?
9. What effects did the violations have on you as a prisoner?
10. Were the officials doing anything a bout the violations in your time?
 - a. If yes, what were they doing?
 - b. If no, why was it so?
11. What would you recommend as ways to curls these violations?
12. Do you think imprisonment is the only solution to wrong doing, please give reasons?