

**CRITICAL ANALYSIS OF ENFORCEMENT OF PRE-TRIAL RIGHTS OF SUSPECTS  
UNDER UGANDA'S LEGAL REGIME. CASE STUDY: KASESE DISTRICT**

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**A DISSERTATION SUBMITTED TO THE FACULTY OF LAW IN PARTIAL  
FULFILLMENT OF THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF  
BACHELOR OF LAWS OF KAMPALA INTERNATIONAL UNIVERSITY.**

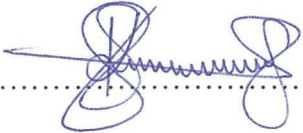
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**OCTOBER 2017**

### DECLARATION

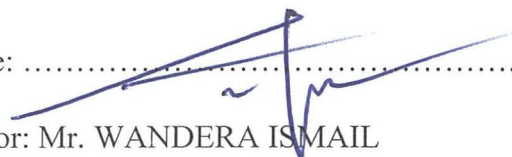
I declare that this dissertation which I submit in accordance with the requirements for the degree of Bachelor of Laws (LLB) at Kampala international university is my original work and has not previously been submitted by me for a degree at another university. All primary and secondary sources used have been duly acknowledged.

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## **ABSTRACT**

This research paper is a critique of how the rights of suspects are violated. It handles the way police violates rights of suspects from the events of arrest, detention and investigation, that is to say its limited to suspects not the accused. The research proposal contains an introduction, background of the study, statement problem, objective of the study, research questions, scope of the study, limitations, methodology, synopsis and literature review, the domestic and international legal frame work of how arrest, detention and investigations are supposed to be conducted, cases violation of rights of suspects, challenges causing violation of rights of suspects, recommendations and conclusions.

## **DEDICATION**

I dedicate this piece of work first and foremost to the Lord almighty who has given me wisdom and

### **ACKNOWLEDGEMENTS**

I hereby acknowledge the support of my supervisor, Mr. WANDERA ISMAIL for having guided me through this work.

I extend my sincere gratitude to Counsel Dennis Bugaya and the Tulabiddaawo family for the love and support they have rendered through this course. I also acknowledge the efforts of my lovely parents, Mr. Nathan Kisakye and Mrs. Victoria Kisakye for the endless sacrifices they have made for my life and for believing in me. To my brothers Grace Nkangi Cephas, Senteza Tremendous and my little sister Joy Deborah Kukiriza, I love you so much.

Finally to the 'BATABANGUFU FAMILY', Patricia, Jonathan, Yasin, Opondo, Moses, Allan and Isaac, for all the motivation to move forward in this journey, I appreciate you guys so much.

May the almighty God bless you abundantly

## ACRONYMS

UDHR	Universal Declaration of Human Rights.
ICCPR	International Covenant on Civil and Political Rights.
EACJ	East African Court of justice
J	Justice
CPC	Criminal Procedure Code Cap 116
UN	United Nations
UPF	The Uganda Police Force
UPDF	Uganda Peoples Defense Force
CAP	Chapter

## TABLE OF CONTENTS

DECLARATION .....	ii
Abstract.....	iii
DEDICATION.....	iv
ACKNOWLEDGEMENTS.....	v
ACRONYMS.....	vi
CHAPTER ONE .....	1
INTRODUCTION OF THE STUDY .....	1
1.0 Introduction.....	1
1.1 Background of the study .....	2
1.2 Statement problem .....	4
1.3 Objectives of the study.....	5
1.3.1 General objective of the study .....	5
1.3.2 Specific Objectives of the study.....	5
1.4 Research questions .....	5
1.5 Scope of the study .....	5
1.5.1 Content scope.....	5
1.5.2Time scope .....	5
1.5.3 Geographical scope .....	6
1.6 Significance of the study .....	6
1.7 Conceptual framework of the study .....	6
1.8 Methodology .....	6
1.9 Chapter Synopsis.....	7
1.10 Literature review .....	7
CHAPTER TWO .....	11
ENFORCEMENT OF RIGHTS OF SUSPECTS .....	11
2.0 Introduction.....	11
2.1 THE RIGHTS OF SUSPECTED INDIVIDUALS .....	11
2.1.1 The right to be informed of the reason of the arrest.....	11
2.1.2 The right to be presumed innocent.....	12
2.1.3 Taking the arrested person to court.....	12
2.1.4 The right to legal representation .....	12
2.1.5 The right to freedom from unfair treatment.....	13

2.1.6 Right to adequate standard of living .....	13
2.2 ARREST AND DETENTION OF SUSPECTS.....	14
2.3 JUSTIFICATION FOR ARREST .....	14
2.4 POWERS OF ARREST .....	15
2.5 FORMS OF ARREST .....	15
2.5.1 Arrest with a warrant.....	15
2.5.2 Arrest without a warrant .....	17
2.6 USE OF FORCE IN ARREST.....	20
2.6.1 Reasonable grounds .....	20
2.7 Conclusion .....	22
CHAPTER THREE.....	23
3.0 INTERNATIONAL PROTECTION OF RIGHTS OF SUSPECTS .....	23
3.1 Introduction.....	23
3.2 Universal Statutes .....	23
3.2.1 The Universal Declaration of Human Rights (UDHR) 1948.....	23
3.2.3 The Rome statute of the International Criminal Court, 2002 .....	24
3.3 REGIONAL INSTRUMENT .....	25
3.3.1 The African Charter on Human and Peoples' Rights, 1998 .....	25
3.3.2 The Treaty Establishing the East African Community, 1999 .....	25
3.4 Conclusion .....	27
CHAPTER FOUR.....	28
DATA PRESENTATION AND INTERPRETATION OF FINDINGS .....	28
4.0 Introduction.....	28
4.1 CASES WHERE RIGHTS OF SUSPECTS HAVE BEEN ABUSED.....	28
4.2 CHALLENGES CAUSING POLICE TO VIOLATE RIGHTS OF SUSPECTS .....	32
CHAPTER FIVE.....	34
5.0 RECOMMENDATIONS AND CONCLUSIONS .....	34
5.1 RECOMMENDATIONS .....	34
5.2 CONCLUSION.....	36
BIBLIOGRAPHY .....	37



## CHAPTER ONE

### INTRODUCTION OF THE STUDY

#### 1.0 Introduction

Suspected persons enjoy the rights under the 1995 Constitution of the Republic of Uganda. Such rights are enshrined mainly under *Articles 23 and 28* and they should not be derogated from. However in breach of such rights, the aggrieved can institute an action in the courts of law for redress<sup>1</sup>. Such rights are based on constitutional provision that provide for the presumption of innocence to a suspect until proven guilty<sup>2</sup>. The principle of presumption of innocence lasts until someone is proven guilty and the onus of doing so lies on the prosecution and the accused has a benefit of doubt<sup>3</sup>. The presumption of innocence of a suspect implies that a right to be treated in accordance with the principle, it is therefore a duty for all public authorities, to restrain from prejudicing the outcome the rights of the suspect as per *article 14* of the *UN covenant*<sup>4</sup>. The following are other constitutional rights of the suspects; *Article 28* provides for the rights to a fair, Speedy and public hearing and the accused must be produced before courts of law within 24 hours, the trial must be held in open court, *Article 23* also provides for protection of personal liberty among others.

Police under the ministry of internal affairs is supposed to ensure enforcement of law and order and the police Act provides for the powers and duties and other matters related to it. This makes it the body to enforce arrests, detention and investigations as provided by the Police Act cap 303 The Evidence Act, Magistrates Court Act Cap 16, Criminal Procedure Code Act Cap 116 among other statutes which regulate the way in which police is to perform its roles and case law. Enlighten on the role expected of police, *Benjamin Odoki*, in his book, **A Guide to Criminal procedure in Uganda**<sup>5</sup> stated that the law of arrests attempts to harmonies the competing social interests based on the need to enforce the law on one hand and the need to respect social liberty on the other. While the need to enforce the law takes precedence over respect for individual liberty, the law of arrests attempts to balance this precedence by laying provisions aimed at preventing abuse of power to take into custody and keeping the desirability.

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<sup>1</sup> Article 50, The constitution of the Republic of Uganda, 1995

<sup>2</sup> Ibid article 28. The Constitution of the Republic of Uganda

<sup>3</sup> Woolmington Vs DPP 1935 AC 462

<sup>4</sup> [www.hrweb.org/legal/cpr.html](http://www.hrweb.org/legal/cpr.html)

<sup>5</sup> Benjamin Odoki, A Guide to Criminal procedure in Uganda, Third edition page 55, Law Africa publishing (k) ltd.

### 1.1 Background of the study

In the early 20<sup>th</sup> century, human justice history witnessed the custodial detention of persons who were found of transgressing the norm of the society. They could be put in custody as a measure of maintaining order in society.

Uganda was declared a British protectorate in 1894 and in 1902 *order in council* adopted the foreign jurisdiction Act, which incorporated the British laws to be adopted in foreign jurisdiction Act<sup>6</sup>. Pre independence saw the colonialists introduce the impact of police force in the observation of human rights in Uganda.

In 1962 when Uganda was declared an independent state from the British rule, the country had a small, effective and motivated police and had high serving professionals. Officer's men and women of police were proud of serving and being identified as the police force and the public worked with them effectively.

The period of colonialism and post colonialism did not receive a lot of attention and evidence of inhuman treatment of suspects by the police. However, it is important to note that the 1962 constitution lacked sufficient provisions to guide police on human rights and issues of arrests and detention were never in particular as a fundamental right or freedom.

The period that followed the 1962 constitution had the performance of police in relation to the observance of human rights of suspects varying according to regimes. A thread of violation of rights of suspects has been experienced in the history of law and the practice of police in effecting criminal procedure.

Decline of police begun with the 1966 Constitutional crisis that led to the abrogation of the 1962 Constitution and declaration of the 1967 Republic Constitution. Culminating into a state of emergency and breakdown of rule of law and human rights, *Article 10(5) of the 1967 constitution* allowed a person to be arrested and detained for 48 hours without being informed of the reason for his arrest or detention.

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<sup>6</sup> G. W. Kanyeihamba constitutional and political history of Uganda, centenary publishing house ltd, Kampala, 2002, page 33

Furthermore this was followed by the enactment of the *Public Order and Security Act 1967* that emphasized the arresting of a person and detaining him or her without the informing him or her of the reason of the arrest. This was manifested in **Ibigira and others v Uganda**<sup>7</sup> where several cabinet ministers were arrested and detained without reasonable cause for their arrest. After a successful application for habeas corpus, they were released and re-arrested and taken to a part in Uganda where emergence regulations were being enforced amounting to illegal arrest and detentions.

In trying to justify the illegal arrest and detention after the government activities of arrest and detention to be illegal and court order for habeas corpus, the government reacted by enacting laws to outlaw the order of habeas corpus in 1967. *G.W kanyeihamba*<sup>8</sup> considered such arrest and detentions and stated " The government has been disappointed to see that some of the people instead of joining in the work of national reconstruction have been engaged in activities that are intended to endanger the security and lives of citizens. In order to provide security for the citizens the government has found it necessary to amend the detention (prevention of time limit) decree to detain persons engaged in guerilla activities and other similar acts"

In January 1971, the Uganda army led by Idi Amin Dada overthrew the government of Milton Obote and for eight years, between 1971 to 1979, Idi Amin presided over dictatorial regime. The enactment of *Decree No. 13, of 1971* gave the army power to arrest and detain people, consequently many people were arrested, tortured, detained and others murdered. In 1972, the chief justice was taken from High court and killed<sup>9</sup>.

In 1986 the National Resistance movement led by Yoweri Museveni took over power and started enacting statutes and the promulgation of the 1995 constitution which incorporated many provisions of the Universal Declaration of Human Rights.<sup>10</sup>

The *Police Act Cap 303*, under section 4 provides for the function of police to protection of rights of individuals, the act under section 10 establishes the police council charged with functions under

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<sup>7</sup> Ibigira and others v Uganda [1966] EA 306

<sup>8</sup> kanyeihamba: political and constitutional history of Uganda 1894 to present, central publishers, honess June 2002 page 237

<sup>9</sup> <http://www.moreorless.au.com/killer/amin.html> (checked on 2<sup>nd</sup>/2017)

<sup>10</sup> kanyeihamba: political and constitutional history of Uganda 1894 to present, central publishers, honess June 2002 page 221

section 11 which include exercising disciplinary control over all police officer through police courts. Police is required under section 44 of the Act to exercise its functions according to the code.

However the 1995 constitution incorporated the fundamental human rights for instance *article 1* provides for the sovereignty of the people and also provides for government authorities to rule according to the will of the people and chapter 4 which provides for various rights among which are rights associated to protection of rights of suspects in the process of arrest and detention conducted by police.

Statutes following 1995 Constitution embody in them protection of rights of suspects. In 2013, *The Public Order Management Act, 2013* was enacted. It gives power to police to manage public meetings and a responsibility for preserving the law and order before a public meeting. However an authorized officer exercising orders under the act shall have regard to the rights and freedoms of the persons in respect of whom the order has been issued and the rights and freedoms of other persons.

It is clearly shown from the above background that the promulgation of the 1995 constitution and the current law regime was intended to cure the human rights violations caused prior their enactment. However the question that still remains is that has the constitution and the laws in general achieved the purpose for their enactment in relation to protecting rights of suspects?

Basing on the above therefore, this research is intended to address the question and put into consideration whether rights of suspects are applicable in their strict senses, the causes of violation of such rights and possible recommendations to cure the illegitimate acts in the enforcement of rights of suspected persons.

## **1.2 Statement problem**

Despite the fact that the Constitution of the Republic of Uganda and other legislations under both local and international on human rights have laid down a minimum standard of rights of suspects to be administered while dealing with suspects in investigating, arrest and detentions, in some circumstances these rights have been violated that one is left to wonder if there is any avenue of protecting rights of suspects. Center to this violation is the police using the biased practices against the rights of suspects and technicalities among others.

It therefore, has been the purpose of this research to highlight such gross violations against rights of criminal suspects and recommend solutions to address the situation.

### **1.3 Objectives of the study**

#### **1.3.1 General objective of the study**

The main objective of the study was to critically examine violations of rights of suspects by police during pretrial period in relation to the law relating to the protection of these rights.

#### **1.3.2 Specific Objectives of the study**

This study was guided by the following objectives:

1. To appreciate what is entailed in the rights of suspects.
2. To examine ways of abuse of rights of suspects by police in executing arrest and detention.
3. To determine the best practices in the protection of the rights of suspects.
4. To recommend to relevant authorities on how to reduce violation of the rights of suspects.

### **1.4 Research questions**

1. What causes police to violate rights of suspects?
2. Are the laws providing for rights of suspects adequate?
3. Are suspects aware of their rights?
4. How are rights of suspects supposed to be enforced?
5. What are the solutions to the causes of violation of rights of suspects?

### **1.5 Scope of the study**

#### **1.5.1 Content scope**

The study has covered among others places; police stations, police officers, detention units, ex suspects whose rights were abused. Lawyers and experts in the fields of investigation, detention, arrest, human rights, human rights agencies, lecturers handling the subjects relevant to my study, published and un published work

#### **1.5.2 Time scope**

The time scope is the period between 2013- 2016. Data for this study was collected in four months.

### **1.5.3 Geographical scope**

The study was carried in Uganda, Kasese District in south western Uganda

### **1.6 Significance of the study**

Several pressing issues have been handled which will make the research significant that;

It will increase the available literature on the subject matter (enforcement of rights of accused persons)

It will recommend to the various agencies on possible ways how suspects can be handled by the police.

This research will also be used by other researchers like students researching on the topic of enforcement of rights of suspects.

### **1.7 Conceptual framework of the study**

The study critically analyses the enforcement of rights of suspected persons with specific interests in police through the ways it conducts arrests detention and investigation and matters incident to it. It also covers available remedies to victims of the poor enforcement of such rights human rights violation.

The independent variables which show the cause of the violation of the rights of suspects include the following;

Corruption of police officers, militarization of police, Inadequate training of police officers, poor facilitation for example investigating equipment, inefficient supervision and poor remuneration of personnel and political interference among others.

The dependent variables show the effect of those causes which are; people loose trust in law enforcing institution, poor investigation leading to inadmissible incidence which is not allowed in court, low motivation resulting in police officers working for other people at the expense of suspects, employment of rigid means for investigation, Insufficient victim participation in aiding police find evidence activists.

### **1.8 Methodology**

The research design used is qualitative research and the research method used at achieving the aims of the study are; desk work and library research, text books, journals, statutes, cases and

internet

Interviewing method was employed during research. It was in form of a conversation between me and the respondents and use of questionnaires. These were with people who have ever been suspected, detained, investigated by police and the police in charge of enforcing such duties.

### **1.9 Chapter Synopsis**

**Chapter one** deals with the introduction, background of the study, statement problem, objective of the study, scope of the study, methodology, research questions, significance of the study, conceptual framework of the study and literature review.

**Chapter two** deal with what the rights of suspects entail and how such rights are supposed to be effected by police in the performance of its duties.

**Chapter three** entails the examination of the regulatory legal framework I.e on the international, regional and domestic level as per the violation of rights of the suspects. Case law provisions have also given a pronouncement on the same matter especially during the execution of affairs of suspects through arrest detention and investigation.

**Chapter four** entails the interpretation and presentation of data collected from the field of study, An analysis of cases where rights of suspects have been violated and causes of such violations: .

**Chapter five** deals with the remedies of victims of abuse of rights examined in chapter three during the period of arrest detection and investigation; it will also include drawing a conclusion and recommendations.

### **1.10 Literature review**

Much substantial but unexhausted literature has been written on the subject matter. However, a lot of questions have been left unanswered and others not clearly answered at all leaving gaps on the subject matter.

However the availed literature generally traces a gross violation of the rights of accused. The available literature may be obtained in books, statutes, unwritten work and internet among others. Some of the literatures reviewed include;

**Thomas Hobbes**<sup>11</sup> argued that the ruler was the absolute repository of rights of people, and that a leader is not bound to take into account the people because he is absolute as a result of the social contract where people give away their power, he also argued that the only way in which an individual can escape such is when he dies.

However, this argument is opposed to *Article 20(2)* to the constitution which states that fundamental human rights and freedoms are inherent and not granted by the state and shall be upheld and promoted by all persons, organs and agencies of government. Hobbes therefore neglects the fundamental rights under the constitution.

**Benjamin Odoki**<sup>12</sup> A guide to criminal procedure in Uganda, the author discloses the necessary process of conducting criminal investigations of offences, that it is necessary to conduct investigations to ascertain the person who has committed the crime and the circumstances involved and its after such an inquiry has been made carried out that it is possible to decide, whether any offence has been committed, whether any person has committed it, under what circumstances the offence was committed, and whether the suspected person should be charged or prosecuted.

He however omitted how different crimes can be investigated, challenges faced in investigation or loopholes in the law relating to criminal investigations, furthermore he omitted pointing out skills or knowledge necessary for investigating officers while conducting investigations, this research intends to address that.

**Lilian Ekirikubiza**<sup>13</sup> in her book *Offences against Persons*, states and lists all possible offences against the person such as murder, assault, robbery among others, the burden of proof required for offences is that beyond reasonable doubt, and the possible defenses can be raised.

However, she does not address how such crimes should be investigated by police detectives so as to collect evidence to be used in criminal proceedings.

Therefore the research will not only show how crimes will be investigated against the offenders but also how investigations are conducted and any other challenges associated.

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<sup>11</sup> Omony j Paul, *Key Issues in Jurisprudence*, 1st Edition 2006, Law Africa publishing (k) ltd page 40

<sup>12</sup> Benjamin Odoki, *Criminal Investigation and Prosecution*, Third Edition, LDC publishers, 1999

<sup>13</sup> Lilian Eirikubiza, *offences against persons (homicide and non-fatal assaults in Uganda fountain publishers 2005)*



**J. F Ayume**<sup>14</sup> in his book stated that, arresting a person means interfering with person liberty. He added that a person liberty should not be restrained unless the restraint is authorized by law, He further stated that it is unnecessary to handcuff if he believes himself and intends to cause no trouble. According to him a suspect should not be subjected to more restraint than it is necessary and that once an offender has been arrested any assault on him is unlawful. However he does not provide for the types of restraint nor the point of restraint beyond which it becomes unnecessary, according to him some restraints are lawful some are not though he does not mention them in his discussion. So the question remains as to what amounts to necessary restraint and whether or not it violates a suspects rights, it should be further noted that there is no clear mechanism on how to supervising violation of rights of suspects especially in police cells.

According to **Blackstone**<sup>15</sup>, arrest is the beginning of imprisonment. Its purpose may be classified as: preventive, punitive and protective. That there is no necessary assumption that arrest will be followed by a charge; a constable who reasonably suspects a person a person of involvement in an offence may arrest that that person. The author did not provide the degree to which a police officer should rely on to effect and arrest; he also did not bring out the aspect of when and how an accused person can be released if the evidence is weak.

According to **Raymond**<sup>16</sup>, he assumes detainees have no right, detainees are outcasts whose living conditions are deliberately kept out of step with outside world who must obey, remain silent and above all have no claim on the rights enjoyed by the decent.

The authors argument on this position cannot be accepted because it's unconstitutional as it violates the rights to liberty and contravenes the presumption of innocence because one suffers the punishment even when is not yet guilty by subjecting him or her to the harsh conditions in prison and has to live a life of a convict even when court has not found him guilty or when he has not been charged.

**Vivien stern**<sup>17</sup> says that, if suspects are not detained they can interfere and frustrate the investigation. He goes ahead and says that detention can be used to punish criminals, to deter those who are in prison from committing crime when they are released as those who may be inclined to

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<sup>14</sup> Criminal procedure and law in Uganda, Law Africa publishing (u) ltd, 2010, page 33.

<sup>15</sup> Criminal practice, Blackstone press limited, London, sixth edition, 1996, pg. 874

<sup>16</sup> Strasburg Human rights In prison Canadian institute of international affairs, 1986 page 21.

<sup>17</sup> Vivien Stern, Human rights trainer common wealth sectarians, 2004 page 63.

commit crime again. The people are set to prison to be informed or for rehabilitation. Thus during the time they are in prison, they come to realize that committing a crime is wrong and they learn skills which can help them to lead a law abiding life when they are released.

However the author did not visualize the fact that a suspect is an innocent person and as per that time he needs no punishment and that a suspect has a right to be taken to court within 24 hours.

As observed in **Uganda Human Rights Report**<sup>18</sup> the 48 hour rule has been violated by police as suspects continue to be detained even after 48 hours. The commission also found that suspects are still tortured in detention. It is still common for suspects to be beaten to the extent of sustaining severe wounds this is usually done by leaders appointed in prisons known as the “katikiro” who torture suspects at the expense of their rights. According to the report this is a common practice in almost majority of the prisons in Uganda yet it is unconstitutional as it does not comply with article 44 of the constitution of the republic of Uganda. This shows how constables have negligently held the duty to protect detainee’s rights.

**According to The Uganda human rights commission annual report 2016,**<sup>19</sup> On 26-27, 2016, there were arbitrary or politically motivated killings by the Uganda Peoples Defense Force (UPDF) and Uganda Police Force (UPF) killed between 60 and 250 persons, including unarmed civilians, during clashes with supporters of His Highness Charles Wesley Mumbere, the Rwenzururu king. 139 royal guards were arrested some who had visible injuries resulting from torture. The report further reveals that Police cell conditions remained poor and, in some cases, life threatening. Serious problems included overcrowding, physical abuse of detainees, inadequate food, Local human rights groups, most police did not have accommodations for persons with disabilities. Police often arbitrarily arrested and detained persons, including opposition leaders, politicians, activists, demonstrators, and journalists, there were cases of disappearance of suspects from police . This exposes the hand of government in influencing police to target individuals and it did not expose the actual masterminds of the violations among the police.

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<sup>18</sup> Uganda Human Rights Report, 10<sup>th</sup> annual report page 31.

<sup>19</sup> <https://www.state.gov/documents/organization/265526.pdf>, (checked on 14<sup>th</sup>/5/2017 at 9:48 pm)

## CHAPTER TWO

### ENFORCEMENT OF RIGHTS OF SUSPECTS

#### 2.0 Introduction

This chapter entails the analysis of the domestic legal framework of rights of suspect and the nature in which police is supposed to effect such rights.

#### 2.1 THE RIGHTS OF SUSPECTED INDIVIDUALS

##### 2.1.1 The right to be informed of the reason of the arrest.

It is a constitutional right of the arrested person to be informed immediately in the language he or she understands of the reason of his arrest, restriction or detention.<sup>20</sup> The failure to comply with this requirement may invalidate the subsequent proceedings.

In **Christie V leachinsky**,<sup>21</sup> it was stated that in ordinary circumstances, the person arrested should be informed of the true grounds of arrest. The police officer is not entitled to keep the reason to himself or give a reason which is not true. If a suspect is not informed but seized, the police man apart from exceptions is liable to false Imprisonment.

Furthermore in the case of **Mwanje s/o Njoroge V R**,<sup>22</sup> the appellant was arrested and convicted of a homemade fire arm. He was taken to a police station and handed over to a police constable for questioning court held that at common law, it is a condition of lawful arrest that the party arrested should know the charge or on suspicion of what crime he or she is arrested and the police officer should tell a person who is arrested within reasonable time of the arrest with what offence he is charged, is not a mere irregularity and that there is nothing which abrogates or supersedes this rule in any of the local enactments given the police right to arrest without a warrant on suspicion.

*Article 23* of the Constitution of the Republic of Uganda 1995 states that failure to inform the arrested person of the arrest can amount to civil action.

However in order to claim the above right, the arrested person cannot complain if he has put himself in a situation that makes it impossible to inform him like running away or attacking police men on the duty of arresting him.

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<sup>20</sup> Article 23 (3), Constitution of Republic of Uganda, 1995

<sup>21</sup> *Christie V leachinsky*, [1947] AC. Page 573

<sup>22</sup> *Mwanje s/o Njoroge V R*, [1954] 21 E.A.C.A Pg. 373

### 2.1.2 The right to be presumed innocent

Every person who is charged with a criminal offence shall be presumed innocent until proved guilty or until that person has pleaded guilt.<sup>23</sup> The principle was emphasized in **Sekitoleko V Uganda**<sup>24</sup> where *sir uddo odoma* stated that “ as a general rule of the law that a burden of proving the guilt of a prisoner beyond reasonable doubt never shifts, that the burden lies on the prosecutor. Therefore the suspect, prisoner or detainee remains innocent until proven guilty or pleads so.

This is of the effect that one is always innocent until a person has been found guilty by court of competent jurisdiction, he should be afforded civil rights as against treatment of a convict. In the case of **US V Saiernio**<sup>25</sup> *Marshal J* stated that, it is a fundamental principle of justice that a person is innocent on the day of his trial as he is on the morning of his acquittal.

### 2.1.3 Taking the arrested person to court.

It is a constitutional right of the arrested person to be brought before a court of law without undue delay, not later than 48 hours from the time of her arrest.<sup>26</sup>

In **Dallison V Caffery**.<sup>27</sup> The plaintiff was taken around the city before he was taken to police and later to court. *Lord Denning* stated that “when a constable has taken into custody a person for reasonable suspicion of a felony, he can do what is reasonable to investigate the matter. For instance, he can take the person arrested to the place where the offence occurred from but should not restrain the suspect for longer hours.

### 2.1.4 The right to legal representation

A person arrested or detained shall be informed of his or her right to a lawyer of his or her choice.<sup>28</sup> In the case of **Mary Kamabati V Uganda**,<sup>29</sup> it was held that there is no legal requirement that an accused person must be represented by counsel but the constitution under *article 15 (2) (d) (now Article 23 (3))* gives one a right if he chooses to exercise it, to be represented by a counsel of his own choice once given he exercises that right then right should be given an opportunity to have his case conducted by his counsel.

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<sup>23</sup> Article 28(3), Constitution of Uganda, 1995

<sup>24</sup> Sekitoleko V Uganda, (1967) EA 53

<sup>25</sup> US V Saiernio 481 US 739 (1987)

<sup>26</sup> Article 23 (4) (b), Constitution of Uganda, 1995

<sup>27</sup> Dallison V Caffery [1964] ALL. ER

<sup>28</sup> Article 23 (3) Constitution of the republic of Uganda 1995 as amended at page 41

<sup>29</sup> Mary Kamabati V Uganda, (1975) HCB 208

It is a duty of the police to inform the arrested or detained person of his right, in the case of **AG of Trinidad and Tobago v Whiteman**,<sup>30</sup> court held that a person arrested or detained has a constitutional right to be informed of his rights to communicate with a legal adviser as soon as possible before interrogation. It is incumbent on the police officer to ensure that the person is informed of such rights in a way he understands.

The discretion by the suspect to exercise his right brings a likelihood of no counsel. Police tends to keep lawyers away to avoid complication in investigations and take advantage of suspects' ignorance.

#### **2.1.5 The right to freedom from unfair treatment.**

It is a right to suspected persons that no person shall be subjected to any form of torture or cruel, inhuman or degrading treatment or punishment.<sup>31</sup> In the case of **Kyamanywa Simon Vs Uganda**,<sup>32</sup> the issue in the case as whether a sentence of six canes was inconsistent with Article 24. Court held that torture/ inhuman degrading treatment means inflicting pain to a person by beating the body or part of the body. Therefore, inflicting six strokes would fall within the definition and hence inconsistent with article 24.

However, the stipulation has not been observed in its strict manner. In the case of **Tebyasa v AG**<sup>33</sup> the police officer saw simple of shield on the cover of a sweepstakes he angrily told the plaintiff to shout kabaka yekka the slogan of the Buganda royalist political party. The plaintiff reluctantly shouted the slogan , whereupon the officer slapped the plaintiff, grabbed him to the police station where he was further assaulted by other three police men and in the events got his cleavage broken and sustained severe head injuries. Court stated that the conduct of the policemen was illegal and the policemen were held liable for it.

#### **2.1.6 Right to adequate standard of living**

This right is derived from the constitution provision that every Ugandan has a right to clean and health environment<sup>34</sup>. Every person is entitled to a right of having a standard living, in this regard, adequate health and well being of him/herself including clothing, food, housing medical care and

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<sup>30</sup> AG of Trinidad and Tobago v Whiteman (1991) 2 WLR 1200 P,C

<sup>31</sup> Article 24 of the constitution of the republic of Uganda, 1995

<sup>32</sup> Kyamanywa Simon Vs Uganda Case no. 10/2000

<sup>33</sup> Tebyasa v AG H.C.C. Suit no. 539 of 1968 (unreported)

<sup>34</sup> Article 39, constitution of the Republic of Uganda, 1995

social services.

Congestion is the major problem most detention cells upon inspection were found to be accommodating more suspects than their capacity. There is also a problem of dilapidated structures which cause a risk of collapsing on the suspects.

More so poor hygiene in and around the cells, suspects use unsafe water such as ponds, unprotected springs which contribute to outbreaks of water borne diseases.

There are no clear arrangements to feed suspects by the police authorities, suspects depend on food brought in by their relatives and sometimes they be far away. It is a common practice for suspects to depend on food from relatives and friends or contribute to buy food and this may leave room for police officers to extort money.ss

## **2.2 ARREST AND DETENTION OF SUSPECTS**

Arrest is the seizure or forcible restraint or the taking or keeping of a person in custody by legal authority, esp. in response to a criminal charge; specif., the apprehension of someone for the purpose of securing the administration of the law, esp. of bringing that person before a court<sup>35</sup>. Failure to follow the procedural requirement may invalidate the arrest and possibly, even the subsequent proceedings.

It is the effect of section 2(1) of the Criminal procedure code Act, that in making an arrest, the police officer or other person making it shall actually touch or confine the body of the person to be arrested, unless if there is a submission to the custody by word or action.

Detention<sup>36</sup> means any person the act or fact of holding a person in custody; confinement or compulsory delay.

“Suspect” means a person believed to have committed a crime or offence. To suspect means to consider a person as having probably committed wrongful doing, but without certain truth.

## **2.3 JUSTIFICATION FOR ARREST**

The Constitution under *article 23(1)*<sup>37</sup> justifies arrest by providing that no person shall be deprived

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<sup>35</sup> Bryan. A. Garner. Black’s law Dictionary 8<sup>th</sup> edition Thomson west 1999. P. 333

<sup>36</sup> Bryan A. Garner, Black’s Law Dictionary, 8<sup>TH</sup> edition, 2004, page 1352

<sup>37</sup> Constitution of the Republic of Uganda as amended at 15<sup>th</sup> February 2006 P (40-41).

of personal liberty except in any of the following cases; In execution of the sentence or order of a court, whether established for Uganda or another country or of an international court or tribunal in respect of a criminal offence of which that person has been convicted, or of an order of a court punishing the person for contempt of court; In execution of the order of a court made to secure the fulfillment of any obligation imposed on that person by law; for the purpose of bringing that person before a court in execution of the order of a court or upon reasonable suspicion that that person has committed or is about to commit a criminal offence under the laws of Uganda; for the purpose of preventing the spread of an infectious or contagious disease; in the case of a person who has not attained the age of eighteen years, for the purpose of the education or welfare of that person; in the case of a person who is, or is reasonably suspected to be, of unsound mind or addicted to drugs or alcohol, for the purpose of the care or treatment of that person or the protection of the community; for the purpose of preventing the unlawful entry of that person into Uganda, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Uganda or for the purpose of restricting that person while being conveyed through Uganda in the course of the extradition or removal of that person as a convicted prisoner from one country to another; or as may be authorized by law, in any other circumstances similar to any of the cases specified in paragraphs (a) to (g) of this clause.”

It therefore observe that for one to be arrested or detained, grounds for doing so have to be derived from the constitutional reasons stated.

## **2.4 POWERS OF ARREST**

The *Criminal Procedure Code Act 116*<sup>38</sup> contains the major body of the law regulating powers of arrest. The Code gives powers of arrest to police officers, magistrates and private persons. The *Magistrates Court Act*<sup>39</sup> gives powers of arrest to chiefs. contains provisions regulating warrants of arrests and search warrants<sup>40</sup>.

## **2.5 FORMS OF ARREST**

### **2.5.1 Arrest with a warrant**

As a condition of conducting lawful arrests, the party arrested should be know on what charges or suspicion of crime he is arrested. The police officer arresting with a warrant should state such

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<sup>38</sup>Section 2, 9 and 10 of the Criminal Procedure code Act, Cap 116.

<sup>39</sup> Section 58 and 60 ,The Magistrates Court Act, Cap 16.

<sup>40</sup> Part VII of the Magistrates Court Act, Cap 16.

information to the suspect undergoing an arrest unless the party is already acquainted with it, on what charge the arrest is being made or at least inform him of the facts which constitute a crime on his part.<sup>41</sup>

The major authority for effecting an arrest is a warrant issued by the court under section 56 of the magistrates courts act<sup>42</sup>. A warrant of arrest must be in writing signed by the magistrate of the court issuing it, bearing the seal court, stating the offence and ordering the person to whom it directed to apprehend the person against whom it is issued and bring him or he before issuing court or some other court having jurisdiction in the case to answer the mentioned in it.

The court in **Mwangi s/o njoroge Vs R**<sup>43</sup>, observed that the omission to inform the person arrested of charge or the crime he is suspected is not a mere irregularity and there is nothing which abrogates or supersedes this rule.

In practice the police prosecutors fill in the standardized form which they take to the magistrate or judge for a signature. It is rare for a magistrate to refuse to sign the form, if the charge is accompanied by sworn evidence. Unlike a private citizen seeking a private warrant, the police man is not required to show that he has reasonable cause to believe that an offence has been committed by the suspect.” If however the magistrate or judge is satisfied with the evidence supporting the charge he may, for reasons which he records in writing, postpone the issuing of the warrant and may direct an investigation of further investigation to be made by the police into the charge.<sup>44</sup>

It is also important to note if a police officer does not have a warrant at the time of effecting an arrest, such arrest would be as invalid as if there had been no warrant issued at all. It should not be a defense that a valid warrant had been issued earlier. The individual should not be deprived of his liberty save on clear and unequivocal authority evidenced by a valid warrant. In **Codd Vs Cade**<sup>45</sup> Denman J pointedly stated that the general rule is that In felony cases, a police constable may arrest without a warrant, that in offences of a lesser degree he cannot; it follows therefore that when a warrant has been issued for an offence admissible on summary conviction, the officer executing the it ought to have it in his possession ready to produce it as if asked for.

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<sup>41</sup> Section 61 Magistrates Courts Act Cap 16

<sup>42</sup> Laws of Uganda, cap 16 at page 38

<sup>43</sup> Mwangi s/o njoroge Vs R (1954) 21 EACA 377

<sup>44</sup> Daniel. D. Nsereko, police powers and rights of the individual in Uganda. 1973 at Page 2

<sup>45</sup> Codd Vs Cade (1871) 12 coz C.C.4



Under *section 3* of the criminal procedure rules , the owner or occupier of any premises in Uganda is under the obligation to afford access to any person acting under a warrant of arrest, a police officer has authority to enter and search any place where the person to be arrested is hiding. If such entry is denied it is lawful for the officer to be react and enter therein; if he is denied exit it is lawful to breakout<sup>46</sup>

The magistrate's court act provides that a warrant of arrest may be directed to one or more police officers or chiefs named in it or generally to all police officers or chiefs. More so, any court issuing such issuing such a warrant may, if its immediate execution is necessary and no police or chief immediately available, direct it to any person, and that person, and that person shall execute the warrant. When a warrant is directed to more officers more than one, it may be executed by anyone or more of them.<sup>47</sup> It is also important to note the effect of section 62 that a warrant of arrest may be executed at any place in Uganda<sup>48</sup>.

### **2.5.2 Arrest without a warrant**

In regard to arrest without a warrant, based on probable cause of a felony or for a misdemeanor committed in a police officer's presence<sup>49</sup>

Contention arises on powers of police arresting without a warrant. The basis for this authority is expediency and need to prevent the escape of persons suspected of having committed serious offences. *Section 10* of the *criminal procedure code act*<sup>50</sup> is to the effect that any police officer may, without an order from a magistrate and without a warrant, effect an arrest. Such arrest takes can be effected in circumstances where;

Any person whom he or she suspects upon reasonable grounds of having committed a cognizable offence, an offence under any of the provisions of *Chapter XVI* of the *Penal Code Act 120* or any offence for which under any law provision is made for arrest without warrant<sup>51</sup> a "cognizable offence" means any offence which on conviction may be punished by a term of imprisonment for one year or more; or which on conviction may be punished by a fine exceeding four thousand

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<sup>46</sup> section 4, Criminal procedure Code Act Cap 116

<sup>47</sup> Section 58, laws of Uganda Cap 16 at page 39

<sup>48</sup> Magistrates court act, cap 16 at page 41

<sup>49</sup> Bryan. A. garner, Black's Law Dictionary 8<sup>th</sup> Edition, page 117

<sup>50</sup> Criminal procedure code act Cap 116 at page

<sup>51</sup> Criminal procedure code act Cap 116 at page 6

shillings<sup>52</sup>.

The existence of reasonable grounds always depends differs from case to case. It is possible that police may have reasonable grounds to believe that the person he has arrested committed a cognizable offence but then realize after that the suspect is innocent. In **Dallison V Caffery**<sup>53</sup>. *Lord Diplock, l.j* said that since arrest involve trespass to the person and any trespass to the person is prima facie tortuous, the onus lies on the arrester to justify the trespass by establishing reasonable and probable cause for the arrest. The trespass by the arrester continues so long as he retains custody of the arrested person and he must justify the continuance of his custody by showing that it was reasonable.

Arrest without a warrant may happen where any person commits a breach of the peace within the presence of a police officer<sup>54</sup>. This gives police officer authority to effect arrest without warrant even in connection with non-cognizable offences like common assault, provided that their commission may lead to a breach of peace. In **Kaddu V R**<sup>55</sup> where the appellant had merely threatened to cut down the complainant's coffee trees it was held the complaints coffee trees it was held that a treat to damage property unaccompanied by some form of disorderly or violent conduct does not amount to a breach of peace

Arrest without a warrant can also occur where any person who obstructs a police officer while in the execution of his or her duty, or who has escaped or attempts to escape from lawful custody any person whom he or she suspects upon reasonable grounds of being a deserter from the Uganda Peoples' Defense Forces;

Any person whom he or she finds in any highway, yard or other place during the night and whom he or she suspects upon reasonable grounds of having committed or being about to commit a felony;

Any person whom he or she suspects upon reasonable grounds of having been concerned in any act committed at any place out of Uganda which, if committed in Uganda, would have been punishable as an offence, and for which he or she is, under the provisions of any written law, liable

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<sup>52</sup> Criminal procedure code act Cap 116 at page 3

<sup>53</sup> *Dallison V Caffery* (1964) 2 ALLER 610 at page 619

<sup>54</sup> Section 10(b), Criminal Procedure Code Act, 116

<sup>55</sup> *Kaddu v R* H.C.C App. No. 241 of 1959 (unreported)

to be apprehended and detained in Uganda;

Any person having in his or her possession without lawful excuse, any implement of housebreaking.

Any person for whom he or she has reasonable cause to believe a warrant of arrest has been issued.

Any person in whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to that thing

*Section 33 of the Criminal Procedure Code (CPC)*<sup>56</sup> requires that a person arrested without a warrant be taken to a magistrate or person in charge of police station as soon as possible and thereafter to court.

*Section 3(b)* of the CPC when arrested person is taken to the police officer in charge of the Police Officer may inquire about the case and release of the person on bond unless he is suspected of having committed a capital offence or the offence is found to be serious in nature.

The officer in charge may set the suspect free altogether if he finds that there is insufficient evidence altogether.

The provision of the CPC are further entrenched by *section 73(3)* of the constitution which provides that the arrested person who is not released should be brought to the court as soon as is reasonable practicable. At any rate within 24 hours of his arrest in cases of offences other than those punishable by death e.g. burglary, theft and within 14 days of arrest for capital offences. *Section 73* is an inclusion in the constitution – before it was that the people should be brought to court within 24 hours. There is an amendment. It was found that it would be unfair if one would be arrested and charged immediately when they were innocent.

In **Imanyara V Nairobi**<sup>57</sup> it was stated that in situations here a person is arrested without a warrant, 3 statutory provisions are relevant. These are:

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<sup>56</sup> Section 33 of the Criminal Procedure Code Act Cap 116

<sup>57</sup> *Imanyara V Nairobi* App. No 125 of H.C. Misc 191

1. *Section 72* of the constitution – provision relating to the deprivation of property.
2. *section 3b* of the CPC – Provision relating to the production in court of a person arrested without a warrant.
3. *Section 29 – 39* of the constitution – provisions relating to arrest without warrant.
4. Also stated that the effect of a combination of the provision of the CPC is that the prisoner should be brought to court as soon as is reasonably practicable as soon as he ends up in police custody if he is not released on bail from the police station.

## **2.6 USE OF FORCE IN ARREST**

Despite the general modes of effecting arrests, there are special circumstances in which force may be used in support of powers of arrest by police in its duty to maintain public order through arresting suspects, such circumstances are shown hereunder.

When a power of entry exists, it does not automatically follow that there is a right to use force to make entry for the purposes of arresting or searching. There are circumstances in which force may be used to support powers of entry. This is exercised where permission has been sought and refused

The burden falls on the entrant to justify the use of force in the particular circumstances

- (a) There must be a request and refusal before force can be used except in an emergency
- (b) Where there is a statutory power, under warrant or otherwise does not refer to statutory to force, force may nevertheless be used as last resort.
- (c) Where a statutory power specifically refers to the use of force, no prior request or refusal is needed<sup>58</sup>

### **2.6.1 Reasonable grounds**

Reasonable grounds could occur in the following circumstances

- a. Court has to first ensure that the person seeking an arrest has reasonable grounds of doing so.

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<sup>58</sup> Musa Ssekana, *Criminal Procedure and Practice in Uganda, Law Africa*, 2010 at page 156

- b. A person executing a warrant, having gained entry to premises under it, may be required on reasoned grounds, before taking further action
- c. Where a police officer or other official takes action under power as which does not require a warrant, reasonable suspicion has to be taken.

While police is executing an arrest, If a person forcibly resists the endeavor to arrest him or her, or attempts to evade the arrest, the police officer or other person making the arrest may use all means necessary to effect the arrest. However nothing in this section shall be deemed to justify the use of greater force than was reasonable in the particular circumstances in which it was employed or was necessary for the apprehension of the offender<sup>59</sup>.

It is the law under section 5 of the criminal procedure code Act that one should not be subjected to more restraint that is necessary to prevent his escape. In considering whether the degree of force used is reasonable, the gravity of offence and the circumstances in which the offence was committed are considered.

However there should be reasonable force evaluated depending on circumstances.

*Section 28 of police act*<sup>60</sup> lays down circumstances under which a police officer may use firearm that “a police officer may use a firearm against a person charged with or convicted of a felony who escapes from lawful custody, a person who through force, prevents the lawful arrest of himself or herself or any other person”.

However such powers are limited for the police officer has to have reasonable grounds to believe that he cannot effect the arrest, he has to first issue a warning to the offender that he is going to resort to use of firearms and the offender did no heed that warning or where the officer or any other person is in danger of grievous harm if he or she does not resort to use of fire arms. Only that force which is reasonable can be used by police officer.

Force can also be used Where any person is charged with a criminal offence arising out of the arrest, or attempted arrest, by him or her of a person who forcibly resists the arrest or attempts to evade being arrested, the court shall, in considering whether the means used were necessary, or the

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<sup>59</sup> Section 2 (2) and (3), Criminal Procedure Code, Cap 116

<sup>60</sup> Police Act, Cap 303

degree of force used was reasonable, for the apprehension of that person, have regard to the gravity of the offence which had been or was being committed by the person and the circumstances in which the offence had been or was being committed by the person<sup>61</sup>.

In **Byaruhanga V Uganda**<sup>62</sup> the police officer was convicted of unlawful wounding of two men who had been arrested, handcuffed and unarmed. The court held that it was unreasonable to shot at them because the suspects were under arrest and there was no evidence of possible escape.

## 2.7 Conclusion

Uganda has good law and on concerning rights of suspects and a good frame work providing for the enforcement of such rights however the implementation is still lacking. It is very important to enforce the rights of suspects because it provides a good basis to obtain justice. However it is important to address the loopholes that limit the attainment of such rights in order for suspects to attain justice.

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<sup>61</sup> Section 6 p c page 16

<sup>62</sup> Byaruhanga V Uganda [1973] EA 234

## CHAPTER THREE

### 3.0 INTERNATIONAL PROTECTION OF RIGHTS OF SUSPECTS

#### 3.1 Introduction

Protection and enforcement of rights of suspects is widely recognized the world. There are several international instruments proving that embodies protection of such rights and Uganda is a signatory and has ratification some of the instruments. However such protection is as shown below:

#### 3.2 Universal Statutes

##### 3.2.1 The Universal Declaration of Human Rights (UDHR) 1948

In the Preamble, the declaration provides for the rationale of protection of human rights that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

The UDHR makes it a right of everyone have to life, liberty and security<sup>63</sup>. It also provides for freedom from torture or to cruel, inhuman or degrading treatment or punishment.<sup>64</sup> It also prohibits subjection to arbitrary arrest, detention or exile.<sup>65</sup> *Article 11 (1)* is of the effect that everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense. *Article 25 (1)* provides for the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services.

##### 3.2.2 International Covenant on Civil and Political Rights (ICCPR) 1976

The ICCPR prohibits subjection to torture or to cruel, inhuman or degrading treatment or punishment.<sup>66</sup> *Article 9* of the convention provides everyone the right to liberty and security of person that no one shall be subjected to arbitrary arrest or detention, It also provides that no one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. *Article 2* provides anyone who is arrested shall be informed, at the time of

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<sup>63</sup> Article 3, The Universal Declaration of Human Rights 1948

<sup>64</sup> Article 5, International Covenant on Civil and Political Rights 1976

<sup>65</sup> Article 9, International Covenant on Civil and Political Rights 1976

<sup>66</sup> Article 7 International Covenant on Civil and Political Rights 1976

arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. *Article 3* is of the effect that anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment. *Article 4* provides that Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. *Article 5* is also of the effect that anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

*Article 10* is of the effect that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

*Article 14* also provides that everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him<sup>67</sup>

### **3.2.3 The Rome statute of the International Criminal Court, 2002**

*Article 2* defines torture to mean the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody. *Article 53* requires the Prosecutor to evaluate the information made available to him or her, initiate an investigation and to consider whether: The information reasonable basis to believe that a crime within the jurisdiction of the Court has been or is being committed and whether the gravity of the crime and the interests of victims, the investigation would not serve the interests of justice.

Under *Article 54 1(c)*, requires the Prosecutor to fully respect the rights of persons arising under this Statute. *Article 55* provides for the rights of persons during an investigation that a person: Shall not be compelled to incriminate himself or herself or to confess guilt; Shall not be subjected

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<sup>67</sup> Article 14(3) 3 International Covenant on Civil and Political Rights 1976



to any form of coercion, duress or threat, to torture or to any other form of cruel, inhuman or degrading treatment or punishment; Shall, if questioned in a language other than a language the person fully understands and speaks, have, free of any cost, the assistance of a competent interpreter and such translations as are necessary to meet the requirements of fairness; and Shall not be subjected to arbitrary arrest or detention, and shall not be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established in this Statute. The statute also provides such arrested persons shall have to have legal assistance of the person's choosing, or, if the person does not have legal assistance, to have legal assistance assigned to him or her, in any case where the interests of justice so require, and without payment by the person in any such case if the person does not have sufficient means to pay for it; and (d) To be questioned in the presence of counsel unless the person has voluntarily waived his or her right to counsel.

Furthermore *Article 59 (2)* is to the effect that a person arrested shall be brought promptly before the court of competent judicial authority in the custodial State and such a state shall surrender such a person to the international criminal court.

### **3.3 REGIONAL INSTRUMENT**

#### **3.3.1 The African Charter on Human and Peoples' Rights, 1998**

Regarding the rights of criminal suspects, the charter provides every individual to have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.<sup>68</sup>

#### **3.3.2 The Treaty Establishing the East African Community, 1999**

The Treaty for the Establishment of the east African community is of the effect that the is committed to promoting and protecting human and peoples' rights in accordance with the provisions of the African Charter on Human and Peoples' Rights, as provided for by.<sup>69</sup>

The treaty provides the East African Court of Justice with the mandate to interpret the treaty however it further provides for the court to have such other original, appellate, human rights and

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<sup>68</sup> Article 6, The African Charter on Human and Peoples' Rights, 1998

<sup>69</sup> Article 6, The Treaty Establishing the East African Community 1999

such other jurisdictions as will be determined by the council<sup>70</sup>

In **James Katabazi and others Vs secretary general of the East African community and another**<sup>71</sup> the applicants had been charged with treason in Uganda. When they were granted bail, they were immediately re arrested by the armed forces and charged by the court martial and charged with terrorism on the same facts of treason charges. This interference with court process was successfully challenged in the constitutional court of Uganda. All the same the applicants were still detained. Before the east African court of justice, they challenged as an entrenchment to the treaty for Uganda's failure to respect court orders. In reaching a decision, court stated that they had no competence over human rights violations. However that the treaty undertakings by partner states to be guided and to abide by rule of law, and the universal standards of human rights, were used to hold in favor of the applicants that the intervention by the armed forces of Uganda to prevent execution of lawful orders violates the rule of law and therefore violates the treaty.

However the implication of the decision is that the party must show, through the pleadings, a cause of action arising from the treaty and not from a violation of rights. This leaves the door open for challenges of partner states like violating human rights and such rights also include rights of suspects.

*Articles 7* of the Treaty provides for adhering to the principles of democracy and the Rule of Law, as well as to the maintenance of universally accepted standards of human rights.

In relation to actions by natural person, one must approach the courts must approach court within two months from the day the cause of action arose. In the katabazi case, the case was dismissed due to being filed out of time

There is need to review this provision basing on the fact that limitation should not encumber a right to correct an entrenchment of a basic law or enforcement of a right. In **Attorney general Vs Rwanyarare and Others**<sup>72</sup>. Where *mulenga J* observed that the most conspicuous difficulty is in respect of petition that the act of parliament is or other law, is unconstitutional . apart from the

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<sup>70</sup> Article 27 (3) of the treaty establishing the east African community 1999

<sup>71</sup> James Katabazi and others Vs secretary general of the East African community and another Reference 1 of 2007 (EACJ)

<sup>72</sup>Attorney general Vs Rwanyarare and Others [2005] 1 EA 9

question of starting computing the thirty days, there is a high probability of inconsistency of such law being realized long after the expiration of the thirty days after the enactment... the appropriate authority should review the rule to make it more workable, and encourage, rather than appear to constrain, the culture of constitutionalism.

From the discussion, it is important to note rights of suspects are integral to the principles of justice, if these rights are not protected then criminal law enforcement will be achieved at the expense of humanity and failure of rule of law

### **3.4 Conclusion**

Due to the importance associated with rights accused person, such rights have been embodied in various legal frameworks on the international, regional and domestic levels. These have been discussed above. The gaps in the domestic legal coverage are filled partially by the regional instruments and declarations, Because of this, to a large extent; it has ensured that all suspects who are subject to international jurisdiction receive protection of their rights. It is also possible that if such rights are denied on the domestic level, regional forums can provide a platform to their enforcement.

## CHAPTER FOUR

### DATA PRESENTATION AND INTERPRETATION OF FINDINGS

#### 4.0 Introduction

This chapter highlights the interpretation and presentation of data collected from the field of study. Several people were interviewed including police officers, suspects, ex suspected and people dealing with suspects in their daily course of business. The field data is analyzed in the following circumstances.

#### 4.1 CASES WHERE RIGHTS OF SUSPECTS HAVE BEEN ABUSED

Despite the fact that the constitution provides for the rights of suspects, there has been several circumstances in Kasese district that such rights have been violated before trial commences and below are some of the victims.

##### **Byaruhanga Aston<sup>73</sup>**

He is working at a primary school. He was arrested on the 14<sup>th</sup> day of November 2014 where upon he was taken to Kasese central police. A conversation with the respondent revealed to me various challenge faced by the suspects among which some are congestion in the police cell, Poor feeding. It was revealed that food is not so good and at times the meals served are not enough and also some of the police officers are rough and tough. They at times do not allow visitors of the suspect to see him.

The treatment of the respondent contravened his constitutional rights. The constitution<sup>74</sup> provides that that the next of an arrested person shall be allowed reasonable access, article 39 further provides that all Ugandans are entitled to a clean and health environment.<sup>75</sup> The conduct of denying respondents relatives to visit the respondent contravened Article 23 (5) (b) while the poor feeding, the bad nature of the police cell did not show the spirit of article 39. This reveals that rights of the respondent were violated.

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<sup>73</sup> interview with Byaruhanga Aston at his resident in Habitant in Kasese municipality, on 1<sup>st</sup> May 12, 2017

<sup>74</sup> Article 23 (5) (b) Constitution of the Republic of Uganda, 1995

<sup>75</sup> Article 39, Constitution of the Republic of Uganda, 1995

### **Mumbere Yonasani<sup>76</sup>**

The respondent was arrested in 14<sup>th</sup> 2015 and detained at Mpondwe police station. He spent 6 days in police custody without recording any statement with police. He did not understand that that was unlawful custody. He further said that he believed that it was under the discretion of police to deal with the people in custody as they wish.

*Article 23 (4) (b)*<sup>77</sup> provides that an arrested person if not earlier released, shall be brought to court as soon as possible but in any case not later than forty-eight hours from the time of his or her arrest. In the case of **Ugaanda Vs Kalawudio Wamala**,<sup>78</sup> court held that spending 10 days in police custody before recording a statement from the suspect is clearly unlawful detention once he past the 24 hour limit(now 48 hours) The act of making the respondent spent 6 days in prison therefore contravened Article 23 of constitution,

### **Baluku Patrick<sup>79</sup>**

The respondent is 50 years old serving as a public servant, was arrested in Katwe Kabatoro where he worked. Arrest took place in his office and he was thereafter taken to Katwe police station in August 2016, the arrest was based on allegation of corruption and misuse of public funds. He was made to sit down on the dusty floor in a police still structure cell. He was denied means to communicate with his family and his efforts to communicate with his advocate were frustrated by the police officers at the station. He said Investigations have never kicked off however the case is still in the police files.

Several rights of the respondent are being contravened; the right to a lawyer under article 23 (3) and (5) was denied to suspect and the right to access of next of kin under article 23 (5) of the constitution. In **AG of Trinidad and Tobago v Whiteman**,<sup>80</sup> court held that a person arrested or detained has a constitutional right to be informed of his rights to communicate with a legal adviser as soon as possible before interrogation

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<sup>76</sup> Interview with the respondent at his residence in kyogha village, Bwera sub county 3<sup>rd</sup> May 12, 2017

<sup>77</sup> Article 23 (4) (b), Constitution of the Republic of Uganda, 1995

<sup>78</sup> Criminal session case No. 442 of 1996 [1998] UGHC 5 (19 November 1998)

<sup>79</sup> Interview at his work place residence in katwe kabatoro town council, on 2<sup>nd</sup> May 12, 2017

<sup>80</sup> AG of Trinidad and Tobago v Whiteman (1991) 2 WLR 1200 P,C

### **Nyamitabiko Jimmy<sup>81</sup>**

The respondent is a 29 years old peasant who was arrested on suspicion of theft in 2015; he was detained at Nyabirongo Police station. He was repeatedly beaten by police officers that he should conceal the place he kept the stolen property and that he should admit having made the offence. He sustained body injuries to the effect. Jimmy admitted he did not know what to do in the situation,

*Article 28 (3)* provides for the right to every person under a criminal charge to be presumed innocent until proved guilty, *Article 24* prohibits subjection to any form of torture or cruel, inhuman or degrading treatment, Further more *Article 44 (a)* provides that freedom from torture and cruel, inhuman or degrading treatment or punishment is a non derogable right. **Kyamanywa Simon Vs Uganda**,<sup>82</sup> Court held that torture/ inhuman degrading treatment means inflicting pain to a person by beating the body or part of the body. Therefore, inflicting six strokes would fall within the definition and hence inconsistent with article 24.

Therefore such beatings in addition to the forcing of him to conceal evidence and accepting the criminal charge on him violated the right of the respondent and his right of presumption of innocence as such treatment on him is not the treatment of an innocent man in addition to being degrading and consequently is in violation of rights of the a suspects.

### **Abubaker Melody<sup>83</sup>**

Abubaker is 23 years of age, a student was arrested and detained at Bwera police station. The arrest occurred on 25<sup>th</sup> 2016. Melody was from attending to his father's football show room. The arrest occurred at around midnight. Despite melody explaining that there were games showing at the show room, the police officers still arrested him without inquiring if his allegation was true. He said he was made to join other arrested persons, he was required to pay money in the morning in the form of bond fees yet he was not charged and was realized on the 26<sup>th</sup> in the evening. He claims he could have contracted tuberculosis in the process because of the congestion in the police cell and that one of the suspects on that day had signs of the disease.

The respondent's right to a clean and fair environment as provided in *Article 39* was violated. The

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<sup>81</sup> Interview with jimmy nyamitabiko at his residence in Rwenguhya, kisinga subcounty on 2<sup>nd</sup> May 12, 2017

<sup>82</sup> Kyamanywa Simon Vs Uganda Case no. 10/2000

<sup>83</sup> Interview with melody abubaker at the family place of work in Bwera town council, on 3<sup>rd</sup> May 12, 2017

act of detaining Abubaker together with a sick person could have made him vulnerable to the disease.

### **The Buhikira Palace Case**

On 26-27, 2016, there was a special situation at Buhikira Palace in kasese town and some other parts of the district. According to the human rights report, 2016, there were arbitrary or politically motivated killings by the Uganda Peoples Defense Force (UPDF) and Uganda Police Force (UPF) killed between 60 and 250 persons, including unarmed civilians, during clashes with supporters of His highness Charles Wesley Mumbere, the Rwenzururu king. 139 royal guards were arrested some who had visible injuries resulting from torture. According to the report Trials of the king and his guards continued at year's end<sup>84</sup>.

*Article 24 of the Constitution of the Republic of Uganda, 1995* prohibits subjection to any form of torture or cruel, inhuman or degrading treatment or punishment. *Article 23 (c)* provides for the right of suspects to be allowed access to medical treatment. The *Criminal Procedure Code Act*<sup>85</sup> under *section 2* permits police to use force however in *section 2 (3)*, it provides that nothing in this section shall be deemed to justify the use of greater force than was reasonable in the particular circumstances in which it was employed or was necessary for the apprehension of the offender. In the instant case, it seems there was a lot of force used to arrest and the killing was unlawful depending on the nature of the way the situation was handled.

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<sup>84</sup> <https://www.state.gov/documents/organization/265526.pdf> (on 14th/5/2017 at 9:48 pm)

<sup>85</sup> Section 2, The Criminal Procedure Code Act, cap 116

#### 4.2 CHALLENGES CAUSING POLICE TO VIOLATE RIGHTS OF SUSPECTS

Poor operational priority<sup>86</sup>. He said that the practice is that police officers put priority majorly at executing arrest and detaining suspects. He then added that there is less priority on examining the situation at the scene and the situation of the victim. Further still the possibility that the suspect may have a defense is given less interest; in case the police attempt to make investigation then it takes one direction which is criminalizing the suspect. This makes the suspects always vulnerable and shows how police has failed to discharge their duty of enforcing rights of suspects.

The ignorance of suspects of their rights<sup>87</sup>. He said this is the major problem affecting the enforcement of their rights<sup>88</sup>. He then explained that Kasese is a remote district with a low literacy level and that the constitution (following article 4(1)) has not been translated to local languages so as to accommodate the few lower literate persons. He also added that People in Kasese are predominately peasants and practice trade at a lower level. This leaves them with little exposure to legal matters except a small population in the civil jobs. This limited exposure to legal matters has made suspects not question the conduct of police officers that contravenes their rights, it has made the suspects not to demand for their rights and people do not know the forums to enforce their rights.

Poor supervision of police activities<sup>89</sup>. He said the that they rarely receive inspectors at their station. It also follows that Kasese is highly mountainous area where some of the crimes happen in remote mountainous areas that are hard to reach by government inspectors to investigate the conduct of police to suspects<sup>90</sup>.

Low levels of education and knowledge about rights of suspects<sup>91</sup>. The minimum education requirement is that one should have passed senior six to be legible for recruitment in police force. Rights of suspect are so compressive that it needs high intellectual capacity to be enforced to its

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<sup>86</sup> Interview with Kikenge Nathan, court clerk at Bwera magistrate grade one court criminal department, on 3<sup>rd</sup> May 12, 2017

<sup>87</sup> Interview with suspects brought to Bwera magistrate court on 3<sup>rd</sup> May 12, 2017

<sup>88</sup> Interview with Kikenge Nathan, court clerk at Bwera magistrate grade one court criminal department, on 3<sup>rd</sup> May 12, 2017

<sup>89</sup> Interview with police officer who preferred anonymity, attached to nyabirongo police station on 2<sup>nd</sup> May 12, 2017

<sup>90</sup> Interview with Kikenge Nathan, court clerk at Bwera magistrate grade one court criminal department, on 3<sup>rd</sup> May 12, 2017

<sup>91</sup> Interview with Kikenge Nathan, court clerk at Bwera magistrate grade one court criminal department, on 3<sup>rd</sup> may, 2017



recognized standards; In addition, rights of suspects are trained with less emphasis to cadets<sup>92</sup>.

Police officers are poorly remunerated therefore as an alternative they resort to suspects as an alternative source of income<sup>93</sup>. The officer in his story narrated that he has four children where one is at university of which he can't support them with his monthly salary which is nearly to Ug shs 500,000 only. Therefore him and his colleagues majorly do is resort to suspects where police are the only witnesses such as suspects of idle and disorderly, rogue and vagabond, suspicion of committing a crime, assault against police officers and suspects in traffic offences among others. In doing this they make the suspect stay in the detention cell for a long time accompanied with threats that he or she would stay for longer hours if he or she does not pay a certain sum.

Detention places at police are in a sorry state not good for human accommodation<sup>94</sup>. Most of the detention cells are substandard structures in a semi-permanent or temporary state in a sense that they are built of mud and some are semi-permanent save for the Kasese central police detention cell and a few others<sup>95</sup>. Majority of the cells are barely empty rooms with no furniture and places of convenience inside them. Such unclean and substandard environments go to the root of violation of rights of suspects.

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<sup>92</sup> Interview with police officer attached to Nyabirongo police station who preferred anonymity on 2<sup>nd</sup> May, 2017

<sup>93</sup> Interview with a police officer who preferred anonymity

<sup>94</sup> Interview with suspects brought to court on brought to Bwera magistrate grade one on 3<sup>rd</sup> May 12, 2017

<sup>95</sup> Interview with a police officer attached to Bwera police station who preferred anonymity, on 3<sup>rd</sup> May 12, 2017

## CHAPTER FIVE

### 5.0 RECOMMENDATIONS AND CONCLUSIONS

#### 5.1 RECOMMENDATIONS

Kasese district is one of the largest districts in the south western Uganda at the border of Uganda with the Democratic Republic of Congo. It has one of the largest population with one of the highest crime rates in the country. It is vital to know that Kasese is part of the Uganda and therefore a change that affects the whole country also affects Kasese specifically however given the nature of Kasese's uniqueness. Therefore needs specific attention as well.

Basing on the above discussion, it is certain that rights of suspects have been violated by police in Uganda. Uganda has a frame work that protects such rights however it has not been effected to fulfill the spirit it seeks to enforce. Due to the danger that is associated with the misconduct of rights of suspects, it is important that pertinent and feasible solutions be given to end such violations. The recommendations are as here under.

Professionalism and ethical education should be emphasized in the police force. *Timothy Roufa*<sup>96</sup> stated that that no other profession demands a higher ethical standard than that of law enforcement. Observance of rights of suspect is akin to ethics and professionalism, and such ethical education will set a high standard that practices of police like bribery, soliciting money from suspects, brutal treatment of suspects and other unprofessional practices will be reduced.

There should be public awareness of rights of suspects. Such tusk is upon the state as per article 4(2) of the Constitution of the Republic of Uganda, it also follows that Ignorance of the law has no defense. Such public awareness bases on the fact that Kasese is a remote area where most of the people are illiterate and have limited access to constitutional materials. This will eliminate the possibility of suspects being treated to the detriment of their rights and incase this occurs, suspects will know what to do including the proper forum to handle their grievances.

The state should provide refresher training or outreach programs to police officers concerning matters of rights of suspects and how they are to enforce them where Laws concerning

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<sup>96</sup> <https://www.thebalance.com/ethics-in-law-enforcement-and-policing-974542>, (checked on 5<sup>th</sup>/12/2017 at 9:15)

enforcement of rights suspects like the criminal procedure code, evidence act, police act, the penal code act, among others should be reemphasized.

Police cells and policing activities should be highly monitored where police premises should be installed with cameras, interrogation should be on camera and suspects examined to find out if their rights were protected at police.

New and well furnished structures should be set up. Modern cells and detention centers should be built in the district. Such structures should bare new state of art that much the standard and dignity of human beings. Such structures should contain furniture toilet services and other structures that are basic to human.

The standards of recruiting civilians into the force should be raised higher. Police deals with highly sensitive area and as far as suspects are concerned, it mandated to ensure that justice comes to the people within the limits of the law. This will build a high standard force of people with a high ration to ensure that rights of suspects are effectively dispensed in accordance to the legal standard.

Government should better the remuneration of police officers. Basaja<sup>97</sup> stated Police is one of the least earning public servants yet they are charged with an essential task. Therefore the reward given to police should be bettered so as to motivate them to perform to the required standard, standards better than the current ones which exposes them to low standards of life which makes them unhappy to which attitude they exhibit at police. Basaija added that a happy police officer means a happy nation.

Police officers should be engaged in Technical training on top of physical training. Some of the challenges in enforcing rights of suspects are due to failure to give technical solutions to problems .police officer should be trained intelligence of obtaining incriminating evidence without brutalizing suspects. They should be given skills of obtaining evidence and suspecting crime as opposed to indiscriminative arrest and brutalizing suspects.

Government should compulsorily provide lawyers to aid suspects. The provision of Article 28 (3) (d) that one is permitted to appear before the court in person or, at that person's own expense, by a lawyer of his or her choice should be amended in interest of justice that such service should begin

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<sup>97</sup> Interview with 38600PCBasaija32 attached at Bwera Police station

pre trial. This should be done because suspects are ignorant of their rights yet they cannot afford lawyers services. This should be done at early stage of investigation for it to happen efficiently. There should be legislation to the effect so as to ensure compliance.

Community policing should be practiced in the district. This will create a tie between police and the local communities that they serve. During the process the public will know what the police is to them, the procedure that is undergone the duties of police and those of suspects. This should also be carried as a mode of accountability between police and public. In the process the fear factor of suspects to suffer at the mercy of police will also end.

## **5.2 CONCLUSION**

From this paper, it has been observed the body empowered by law to conduct arrest, detention and investigation have for long violated these powers for certain reasons which have been listed in this paper work. This study has attempted to make recommendations so that the violations of such powers get remedy.

It has been of much use to write on this subject because suspects have rights which should not be denied to them without any reasonable and probable cause or even not in exercise of court order. It is also important to note that the constitution provides for such rights of suspects as fundamental rights, and provides that such rights are to be protected and provides that the Uganda Police force shall be responsible for safeguarding such rights.

Irrespective of such a mechanism protecting rights of suspects, such rights are being violated. Therefore, there is urgent need to address the problem of such violation through measures that empower the suspects. It is also vital that police should have its rights addressed first such that it is in a better position to address the issue rights of suspect.

## **BIBLIOGRAPHY**

### **TEXT BOOKS**

- F.J. Ayume, criminal practice and law in Uganda, Law Africa (U) ltd, 2010
- B.J. Odoki, A guide to criminal procedure in Uganda, 3<sup>nd</sup> edition, Law Africa publishing (k), 2011.
- Musa Ssekana, Criminal Procedure and Practice in Uganda, Law Africa , 2010
- G.W. Kanyeihamba, Constitutional and Political history of Uganda, centenary publishing house ltd, Kampala, 2002.
- Omony j. Paul, key issues in jurisprudence, “An in-depth discourse on independence on the discourse of jurisprudence.” 1<sup>st</sup> edition, 2006
- Strasburg human rights in prison, Canadian institute of internal affairs. 1986.
- Benjamin odoki, criminal investigation and prosecution, third edition, LDC publishers, 1999
- Bryan A. Garner, Black’s Law Dictionary, 8<sup>th</sup> edition, 2004.

### **JOURNALS**

- Hadden T.N Cambridge law journal vol.30, 1965

### **REPORTS**

- The Uganda human rights commission annual report 2016

### **STATUTES**

- The Criminal Procedure Code Act, cap 116
- Magistrates court act, cap 16
- Police Act cap 303
- The Universal Declaration of Human Rights (UDHR) 1948
- International Covenant on Civil and Political Rights (ICCPR) 1976

The Rome statute of the International Criminal Court, 2002

The African Charter on Human and Peoples' Rights, 1998

The Treaty Establishing the East African Community, 1999

## CASES

Uganda v Wabwire, HCB (1976) page 212

Susan Kigula and others v Attorney General

Wilmington v DPP 1935 ac 462

Ibigira and others v Uganda, [1966] EA 306

Christie V leachinsky, [1947] AC. Page 573

Mwanje s/o Njoroge V R, [1954] 21 E.A.C.A Pg. 373

Sekitoleko V Uganda, (1967) EA 53

US V Saiernio 481 US 739 (1987)

Dallison V Caffery [1964] ALL. ER

Mary Kamabati VUganda, (1975) HCB 208

AG of Trinidad and Tobago v Whiteman (1991) 2 WLR 1200 P,C

Kyamanywa Simon Vs Uganda Case no. 10/2000

Tebyasa v AG H.C.C. Suit no. 539 of 1968 (unreported)

Mwangi s/o njoroge Vs R (1954) 21 EACA 377

Codd Vs Cade (1871) 12 coz C.C.4

Dallison V Caffery (1964) 2 ALLER 610 at page 619

Kaddu v R H.C.C App. No. 241 of 1959 (unreported)

Imanyara V Nairobi App. No 125 of H.C. Misc 191

Byaruhanga V Uganda [1973] EA 234

James Katabazi and others Vs secretary general of the East African community and another  
Reference 1 of 2007 (EACJ)

Attorney general Vs Rwanyarare and Others [2005] 1 EA 9

#### **INTERNET SOURCES**

<https://www.state.gov/documents/organization/265526.pdf>

<http://www.moreorless.au.com/killer/amin.html>

## APPENDIX 1

### Questionnaire for officers in charge of criminal suspects

1. What is your name?
2. How old are you?
3. What is your level of education?
4. What is your occupation?
5. What departments exist in your station and what do they do?
6. Have you had any human rights training?
7. What rights were addressed in the training?
8. In your opinion which rights are the most important to be addressed to suspects undergoing arrest detention and investigation?
9. Are there any sorts of violation of human rights violation in the process of arresting detention and investigation if yes what are they and why are they violated?
10. What sort of punishments do you give to detainees who break detention rules?
11. What capacity does this cell have and how many detainees do you have?
12. Do you think the public can influence the police on the way it should conduct arrest? If so how?
13. What programs have been put in place to ensure police conducts its duties with a human rights perspective?
14. In your own opinion, do you think detention of suspects is effective in curbing crime?



## **APPENDIX 2**

### **Questionnaires for people that have undergone police arrest, detention and investigation.**

1. What is your name and age?
2. When did you get arrested
3. What offence had you allegedly committed?
4. Were you explained to the rights as a suspect?
5. What is your view about the treatment of suspects in custody?
6. What would you recommend the police to do for suspects?