

## Accountability for Acts of Torture by Counter Terrorism Law Enforcement Officials in Uganda

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### ABSTRACT

*The problem of torture has been a serious challenge within Uganda's police force and has persisted over the years regardless of a number of measures against the practice.<sup>1</sup> The practice of torture has permeated the entire police force but has been more pronounced in the fight against terrorism by the Counter Terrorism Police Unit and its affiliated security agencies.<sup>2</sup> The threat of crime such as terrorism in Uganda has had a number of implications on the safety and security of the country. In response to these threats, the Ugandan government has implemented a number of counterterrorism measures including enacting the Anti-Terrorism Act, and revamping law enforcement agencies to improve their capacity to effectively respond to and neutralize threats of terrorism.<sup>3</sup> While these measures are essential for the maintenance of safety and security, some of them have had the effect of unlawfully limiting and eroding certain rights and freedoms including the protection against torture, inhuman and degrading treatment.<sup>4</sup> One of the main concerns is that counterterrorism legislation in itself tends to be generally permissive, granting law enforcement wide discretion within the course of their duties with minimal accountability measures.<sup>5</sup> It is therefore essential for the state to strike a balance between safeguarding*

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<sup>1</sup> Human Rights Watch, *Fresh torture accusations levelled against Uganda's police*, (2017). Available at: <https://www.hrw.org/news/2017/05/14/fresh-torture-accusations-levelled-against-ugandas-police> (accessed 02 February 2018).

<sup>2</sup> The Observer, *Witness reveals JATT's ugly torture methods*, (29 June 2015). Available at: [www.observer.ug/news-headlines/38490-witness--reveals-jatt-s-ugly-torture-methods](http://www.observer.ug/news-headlines/38490-witness--reveals-jatt-s-ugly-torture-methods) (accessed 01 April 2018).

<sup>3</sup> Anti-Terrorism Act of Uganda, Act No 14 of 2002.

<sup>4</sup> M. Head, "Counter-terrorism laws: A threat to political freedom, civil liberties and constitutional rights" 26 *Melbourne University Law Review* (2002), pp. 667; A. Roberts, "Counter-terrorism, armed force and the laws of war" 44(1) *Survival: Global Politics and Strategy* (2002), pp. 8; L. Lustgarten, "National security, terrorism and constitutional balance" 75(1) *The Political Quarterly* (2008), pp. 4.

<sup>5</sup> M. Mutua, "Terrorism and human rights: power, culture and subordination" *Buffalo HRLR* (2002), pp. 302. See also: K. Anderson, "U.S. counterterrorism policy and superpower compliance with international human rights norms" 30 *Fordham International Law Journal* (2006-2007), pp. 455; A. Kielsingard and D. Mark, "Human rights approach to counter-terrorism" 36 *California Western International Law Journal* (2005-2006), pp. 249; A. Hudson, "Not a great asset: The UN Security Council's counter-terrorism regime: Violating human rights" 25 *Berkeley Journal of International Law* (2007), pp. 203; J. Fitzpatrick, "Speaking law to power: The war against terrorism and human rights" 14(2) *EJIL* (2003), pp. 241; C. Gearty, "11 September 2001, Counter-terrorism, and the human rights act" 32(1) *Law and Society* (2005), pp. 18; J. Mertus and T. Sajjad, "Human rights and human insecurity: The contributions of US counterterrorism" 7(1) *Journal of Human Rights* (2008), pp. 2.

*national security and protecting the right against torture, inhuman and degrading treatment. This article recommends a number of changes including improving internal and external accountability measures in order to ensure that law enforcement does not engage in torture, a practice which is clearly against both international and Ugandan law.*

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**KEYWORDS: Accountability, counterterrorism, law enforcement, human rights, Uganda**

## **1. INTRODUCTION**

Counterterrorism in Uganda today has become synonymous with torture and grave brutality at the hands of counterterrorism law enforcement agencies that seem to operate with minimal accountability and impunity.<sup>6</sup> Such conduct is indeed concerning given the fact that in addition to the prohibition of torture in the Bill of Rights under the Constitution,<sup>7</sup> Uganda enacted the Prevention and Prohibition of Torture Act<sup>8</sup> in 2012 which outlawed the use of torture by both the police and private individuals regardless of the intended outcome.<sup>9</sup> The role of law enforcement in any democratic state is to maintain order, uphold the law and ensure that rights and freedoms are protected rather than infringing on them.<sup>10</sup> The success of police work cannot therefore be measured against how brutal law enforcement is towards the citizenry. Police operations should therefore be conducted in strict accordance with the provisions of law otherwise they run the risk of breaking the very law they seek to uphold.<sup>11</sup> With a great deal of discretion at their disposal, there is always a high probability of abuse of power. There is therefore a need to constantly review police actions and hold them accountable for any violations. If nothing is done about such cases of misconduct, there is a likelihood of establishing a culture of impunity which leads to a vicious cycle of human rights violations.<sup>12</sup> This has been a real challenge in Uganda where counterterrorism police have been responsible for a number of human rights violations including the torture of suspects of terrorism.

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<sup>6</sup> S. Lubwama, *Kaweesi suspects reveal torture, death at Nalufenya*, (26 May 2017). Available at: <http://www.monitor.co.ug/News/National/Kaweesi-suspects-reveal-torture--death-at-Nalufenya/688334-3942506-bpvrki/index.html> (accessed 31 July 2017).

<sup>7</sup> Article 24 of the Constitution of Uganda.

<sup>8</sup> Prevention and Prohibition of Torture Act of Uganda of 2012.

<sup>9</sup> Section 3 of the Prevention and Prohibition of Torture Act.

<sup>10</sup> R. Crawshaw, S. Cullen and T. Williamson, *Human rights and policing* (2006), pp. 20; Commonwealth Human Rights Initiative *The police, the people, the politics: police accountability in Uganda* (2006), pp. 8-10. Available at: [http://www.humanrightsinitiative.org/publications/police/uganda\\_country\\_report\\_2006.pdf](http://www.humanrightsinitiative.org/publications/police/uganda_country_report_2006.pdf) (accessed 10 April 2018).

<sup>11</sup> J. T. Walker, *Policing and the Law*, Prentice Hall (2002), pp. 23.

<sup>12</sup> M. Daruwala and A. Chaltin, *Stamping Out Rights: The Impact of Anti-Terrorism Laws on Policing* in T. Boyd-Caine, (Ed.) (2007), pp. 40.

Mount noted that one of the major human rights violators in Uganda was the Uganda Police Force. Some of the regularly alleged violations included torture and cruel, inhuman or degrading treatment or punishment.<sup>13</sup> Mount attributed the high prevalence of human rights abuse by the police to inadequate training, equipment and resources. However, she argued that the number one factor that facilitates such abuse of power is impunity. She further argued that the lack of investigation and accountability leads officers to act as they please. Mount emphasized that accountability is the cornerstone of the criminal justice system and the lack of investigation and punishment corrupts the institution.

CWHRI further argues that the Police Act of Uganda maintains a colonial approach to policing which focuses on crime prevention and security.<sup>14</sup> This approach is inconsistent with international practice which requires government to impose a legal obligation upon law enforcement to operate efficiently, effectively and democratically while upholding the rule of law.<sup>15</sup> The latter obligation enables policing formulation for law enforcement while ensuring accountability. The police in Uganda often use their authority for protecting the interests of the current government.<sup>16</sup> During the colonial era, the police served the interests of the government rather than the public. The police were controlled by the executive; used to control but not protect the public; protected the interests of the government; and were generally alienated from the public, characteristics that are akin to Uganda's current police force.

On the contrary, an effective law enforcement abides by the rule of law; is accountable to the community; acts with sufficient transparency; prioritizes the protection of citizens; upholds human rights; and works with the public in the execution of their duties.<sup>17</sup> Although there are various mechanisms to ensure accountability of law enforcement in Uganda, most of them merely remain on paper.<sup>18</sup> The police continue to conduct

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<sup>13</sup> S. Mount, *Policing and human rights: Time for real change in Uganda* (15 May 2013) *The Daily Monitor* available at: [www.monitor.co.ug](http://www.monitor.co.ug) (accessed 8 September 2014). Sarah Mount was the program officer for the Police Reform Commonwealth Human Rights Initiative.

<sup>14</sup> Common Wealth Human Rights Initiative, *The police, the people, the politics: police accountability in Uganda* (2006) ISBN: 81-88205-29-X. PART V—Powers, duties and privileges of police officers: Available at: [http://www.humanrightsinitiative.org/publications/police/uganda\\_country\\_report\\_2006.pdf](http://www.humanrightsinitiative.org/publications/police/uganda_country_report_2006.pdf) (accessed 10 May 2018).

<sup>15</sup> as above.

<sup>16</sup> Common Wealth Human Rights Initiative (n 14 above), para. 11. See also: Human Rights Watch, *World Report 2003 Uganda* (2003). Available at: <http://www.hrw.org/wr2k3/africa13.html> (accessed on 11 February 2018). In January 2002, the Uganda Peoples' Congress political party staged a peaceful demonstration in Kampala, Uganda. The police responded violently by firing upon the crowd killing a journalist. Several demonstrators were also detained.

<sup>17</sup> as above; C. E. Stone and H. H. Ward, "Democratic policing: A framework for action" 10(1) *Policing and Society: An International Journal of Research and Policy* (2000), pp. 11.

<sup>18</sup> Common Wealth Human Rights Initiative (n 14 above), para. 32.

themselves improperly with impunity. Law enforcement has created a culture of corruption, lack of transparency, non-accountability and self-regulation. The next section will examine the operations of the Counter Terrorism Police Unit and its associated security agencies, and how they contribute to torture in the country.

## **2. COUNTER TERRORISM LAW ENFORCEMENT IN UGANDA**

### **2.1. COUNTER TERRORISM POLICE UNIT AND JOINT ANTI-TERRORISM TASK FORCE**

Every counterterrorism strategy requires careful coordination of various resources in order to effectively combat the crime. It is therefore imperative to have specialized agencies within law enforcement that are dedicated to the fight against terrorism. The Uganda Police Force therefore created the Counter Terrorism Police Unit that is charged with the mandate of diffusing explosives; rescuing hostages and negotiating for their release; apprehending terror suspects; and investigating acts of terrorism.<sup>19</sup> The Counter Terrorism Police Unit reports directly to the Uganda Police Force Directorate of Terrorism.<sup>20</sup> The Counter Terrorism Police Unit is comprised of regular police officers who receive some form of additional training on counterterrorism.<sup>21</sup> However, the effectiveness of this unit has often been undermined by the lack of adequate training, limited resources and the lack of manpower.<sup>22</sup> These challenges have impeded on the unit's ability to detect acts of terror before they happen and respond to them appropriately.<sup>23</sup> Regardless of its inadequacies, the Uganda Police Force retains the Counter Terrorism Police Unit as one of its main divisions.

In order to address the deficiencies of the Counter Terrorism Police Unit, the Uganda Police Force established the Joint Anti-Terrorism Task Force (JATT) that operates alongside the unit.<sup>24</sup> The JATT is best defined as a paramilitary agency which spearheads counterterrorism operations in Uganda.<sup>25</sup> The agency's members are selected from various institutions including the military, police and security personnel. JATT's operations have

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<sup>19</sup> See: Immigration and Refugee Board of Canada, *Responses to information requests* (2013). Available at: <https://www.justice.gov/sites/default/files/eoir/legacy/2013/11/07/UGA102830.E.pdf> (accessed 01 April 2018).

<sup>20</sup> As above.

<sup>21</sup> U.S. Department of State, *Country Reports: Africa Overview*. Country Reports on Terrorism 2015 (2015). Available at: <https://www.state.gov/j/ct/rls/crt/2015/257514.htm> (accessed 02 April 2018).

<sup>22</sup> See: [www.upf.go.ug/directorate/](http://www.upf.go.ug/directorate/) (accessed 02 November 2017); Responses to information requests. Available at: <https://www.justice.gov/sites/default/files/eoir/legacy/2013/11/07/UGA102830.E.pdf> (accessed 31 April 2018).

<sup>23</sup> As above.

<sup>24</sup> United States Department of State, *Country Reports on Terrorism 2011 - Uganda* (2012). Available at: <http://www.refworld.org/docid/501fbc9928.html> (accessed 05 April 2018).

<sup>25</sup> As above.

raised a number of legitimate concerns because the agency's mandate is not codified and most of its operations are secretive with minimal accountability.<sup>26</sup> The agency has developed an infamous reputation for brutality and violence towards suspects of terrorism.<sup>27</sup> Suspects are frequently swooped up by plain clothed undercover personnel who deliver them to secret locations where their appointment with torture awaits.<sup>28</sup> After their harrowing ordeals, some suspects are charged with terrorism while others are released without charge or even being produced in court.<sup>29</sup> However, a considerable number of suspects never survive the intense torture that is designed to extract as much terrorism intelligence as possible.<sup>30</sup> Those who survived their torment reported that JATT personnel utilize any object within their reach to inflict trauma including whips, sticks, chairs, hammers and butts of guns during interrogation.<sup>31</sup> In addition to battery, chili is often sprayed into eyes, noses and ears and suspects endure an array of inhumane treatment such as prolonged starvation; being chained in uncomfortable postures; and electrocution.<sup>32</sup>

The violations of torture exposed by JATT's methods of operation during counterterrorism may be attributed to lack of accountability and represent a gross departure from the rule of law. However, this may not come as a surprise because law enforcement agencies in Uganda are generally inundated with several cases of misconduct and a general disregard

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<sup>26</sup> B. Baker, "Multi-choice policing in Uganda" 15(1) *Policing and Society: An International Journal of Research and Policy* (2005), pp. 19.

<sup>27</sup> A. L. Sage, *African Counterterrorism Cooperation: Assessing Regional and Subregional Initiatives* (2007), pp. 85.

<sup>28</sup> V. V. Ramraj, M. Hor and K. Roach, *Global anti-terrorism Law and Policy* (2012), pp. 590; Refugee Documentation Centre, *Information regarding abuses carried out by the ISO in Uganda* (2010); J. Rone, "State of pain: Torture in Uganda" 16(4) *Human Rights Watch* (2004), 4; S. Pavic and J. Kyriazis, *Presumed innocent, behind bars: The problem of lengthy pre-trial detention in Uganda*, International Human Rights Program (2011). Available at: [http://www.asf.be/wp-content/uploads/2014/06/ASF\\_UG\\_Pre-trial-detention-report-Univ-Toronto\\_2011.pdf](http://www.asf.be/wp-content/uploads/2014/06/ASF_UG_Pre-trial-detention-report-Univ-Toronto_2011.pdf) (accessed 05 April 2018).

<sup>29</sup> Pavic and Kyriazis (n 28 above).

<sup>30</sup> S. Lamwaka, *Preventing torture in Uganda*, The Finnish NGO Foundation for Human Rights (2011). Available at: <http://projects.essex.ac.uk/ehrr/V6N2/Lamwaka.pdf> (accessed 07 August 2017); The Redress Trust, *Torture in Uganda: A Baseline Study on the Situation of torture Survivors in Uganda* (2007). Available at: [http://www.redress.org/downloads/publications/TortureUganda\\_Apr%2007.pdf](http://www.redress.org/downloads/publications/TortureUganda_Apr%2007.pdf) (accessed 02 April 2018); Open Society Foundations *We're tired of taking you to court: Human rights abuses by Kenya's Anti-Terrorism Police Unit*, pp. 24.

<sup>31</sup> J. Davis, 'Evaluating counterterrorism in Africa' (2010) 212; S Lamwaka *Preventing torture in Uganda*, The Finnish NGO Foundation for Human Rights (2011). Available at: <http://projects.essex.ac.uk/ehrr/V6N2/Lamwaka.pdf> (accessed 29 July 2017); The Redress Trust *Torture in Uganda: A Baseline Study on the Situation of torture Survivors in Uganda*. Available at: [http://www.redress.org/downloads/publications/TortureUganda\\_Apr%2007.pdf](http://www.redress.org/downloads/publications/TortureUganda_Apr%2007.pdf) (accessed 29 April 2018).

<sup>32</sup> As above.

for the community's welfare.<sup>33</sup> Mount notes that the Uganda Police Force is one of the biggest human rights violators in the country subjecting citizens to various forms of torture.<sup>34</sup> Mount attributes these violations of human rights by the Uganda Police Force to limited or inadequate training, lack of appropriate resources, and a culture of impunity.<sup>35</sup> Such impunity is facilitated by lack of investigation and punishment of police indiscipline and limited oversight or supervision which makes them susceptible to human rights violations.<sup>36</sup>

## 2.2. SAFE HOUSES AND TORTURE CHAMBERS

The Constitution of Uganda requires that any individually who is arrested on a charge or suspicion must be strictly detained in a facility that is recognized under the law for that purpose.<sup>37</sup> Detaining an individual in a location that is not designated as a detention facility therefore constitutes a violation of the provisions of the constitution. However, the JATT and Counterterrorism Police Unit in Uganda have repeatedly detained terror suspects in secret locations and so-called safe houses where they are at liberty to mishandle and ill-treat them in whatever manner that pleases them. It is believed that there are several safe houses dotted around the country. In 2009, the Uganda Human Rights Commission (UHRC) carried out investigations on human rights accusations levelled against the JATT including the use of torture and detaining suspects at certain locations that are not designated as detention facilities.<sup>38</sup> The UHRC found that the JATT had been responsible for several human rights violations that were carried out at several locations including their headquarters in Kololo which is a suburb in Kampala.<sup>39</sup> From this location, the agency has

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<sup>33</sup> Commonwealth Human Rights Initiative, *The police, the people, the politics: police accountability in Uganda* (2006). Available at: [http://www.humanrightsinitiative.org/publications/police/uganda\\_country\\_report\\_2006.pdf](http://www.humanrightsinitiative.org/publications/police/uganda_country_report_2006.pdf) (accessed 10 April 2018), pp. 8-10.

<sup>34</sup> S. Mount, *Policing and human rights: Time for real change in Uganda*, Daily Monitor, (15 May 2013). Available at: <http://www.monitor.co.ug/OpEd/Commentary/Policing-and-human-rights--Time-for-real-change-in-Uganda/689364-1852782-5oap1wz/index.html> (accessed 8 April 2018).

<sup>35</sup> As above.

<sup>36</sup> B. Baker, "Multi-choice policing in Uganda" 15(1) *Policing and Society: An International Journal of Research and Policy* (2005), pp. 19; United States Department of State, *Country Reports on Terrorism 2011 - Uganda* (2012). Available at: <http://www.refworld.org/docid/501fbc9928.html> (accessed 2 February 2017).

<sup>37</sup> Art 23(2) of the Constitution of Uganda.

<sup>38</sup> Uganda Human Rights Commission, *12<sup>th</sup> Annual Report of the Uganda Human Rights Commission to the Parliament of the Republic of Uganda* (2009). Available at: <https://www.google.com/search?q=uganda+human+rights+commission+terrorism+investigation&ie=utf-8&oe=utf-8> (accessed 30 July 2017).

<sup>39</sup> As above; see also: B. Baker, "Multi-choice policing in Uganda" 15(1) *Policing and Society: An International Journal of Research and Policy* (2005), pp. 19; United States Department of State, *Country Reports on Terrorism 2011 - Uganda* (2012). Available at: <http://www.refworld.org/docid/501fbc9928.html> (accessed 29 July 2017).

engaged in several cases of torture that has at times resulted in the death of victims.<sup>40</sup> This is the same case for the Special Investigations Unit (SIU) situated in Kireka, Kampala which has also been a harrowing tale of those who have been unfortunate enough to end up at the facility for one reason or another.<sup>41</sup>

In 2017, a detention facility located in Jinja known as Nalufenya high security prison came into the limelight for torture of detainees including the Mayor of Kamwege, Godfrey Byamukama.<sup>42</sup> The mayor together with thirteen other individuals were detained in connection with the gruesome gunning down of the late Assistant Inspector General of Police, Andrew Felix Kaweesi in March 2017.<sup>43</sup> The accused persons alleged that they were subjected to repeated acts of torture for a total period of thirty days. Throughout their harrowing ordeal, they were repeatedly beaten and forced to confess to the murder of the fallen Assistant IGP.<sup>44</sup> On 7 November 2017, twelve of the suspects who had not been committed to the High Court were granted mandatory bail by the Magistrates Court.<sup>45</sup> Shortly after their release, plain clothed security operatives re-arrested the suspects close to the court premises and whisked them off to an unknown destination.<sup>46</sup> Although Nalufenya only became famous recently for the acts of torture, the facility had been in existence since the colonial period in the 1800s.<sup>47</sup> In the 1990s, the facility operated like any ordinary police station. However, this all changed in the 2000s when Brigadier Elly Kayanja, the commander of Operation Wembly transformed the facility as the base for operations to crack down on crime in Kampala.<sup>48</sup> The Nalufenya Special Investigations Centre was managed by the Flying Squad Unit under the leadership of Herbert Muhangi who reported

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<sup>40</sup> Human Rights Watch Uganda, *Open secret, illegal detention and torture by the Joint Anti-Terrorism Task Force in Uganda* (2009), pp. 35. The HRW documented several cases including that of Saidi Lutaaya, a hawker who operated at the taxi park in Kampala. Lutaaya was arrested for undisclosed reasons and was detained at JATT's headquarters in Kololo. He was subsequently tortured until he could not stand on his own. He was later taken to hospital with serious injuries to his entire body where he later died.

<sup>41</sup> Human Rights Watch Uganda, *Uganda: Torture, extortion, killing by police unit* (2011). Available at: <https://www.hrw.org/news/2011/03/23/uganda-torture-extortion-killings-police-unit> (accessed 01 August 2017), para. 16.

<sup>42</sup> S. Lubwama, *Kaweesi suspects reveal torture, death at Nalufenya* (26 May 2017). Available at: <http://www.monitor.co.ug/News/National/Kaweesi-suspects-reveal-torture--death-at-Nalufenya/688334-3942506-bpvrki/index.html> (accessed 31 April 2018).

<sup>43</sup> As above.

<sup>44</sup> Lubwama (n 42 above), para. 6.

<sup>45</sup> J. Kigongo, *Kaweesi murder suspects re-arrested after securing bail* (7 November 2017). Available at: [www.monitor.co.ug/News/National/Kaweesi-murder-suspects-rearrested--bail-Sajjabi/688334-4176704-ta329w/index.html](http://www.monitor.co.ug/News/National/Kaweesi-murder-suspects-rearrested--bail-Sajjabi/688334-4176704-ta329w/index.html) (accessed 10 April 2018).

<sup>46</sup> As above.

<sup>47</sup> S. Kafeero and A. Bagala, *Nalufenya: A look inside the dreaded police station* (21 May 2017). Available at: <http://www.monitor.co.ug/News/National/Nalufenya-look-inside-dreaded-police-station/688334-3935154-gmx0xd/index.html> (accessed 30 April 2018).

<sup>48</sup> Kafeero and Bagala (n 47 above), para. 7.

to the former Inspector General of Police, General Kale Kayihura.<sup>49</sup> The infamous facility housed suspects of serious crimes including terrorism who revealed that the episodes of torture often begun immediately after one arrived at the center.

Following the release of pictures of seriously wounded detainees including the Mayor of Kamwenge, the UHRC instituted investigations into the torture allegations at the facility.<sup>50</sup> The UHRC investigation was met by resistance from the police who granted them limited access to the facility as well as those detained there. The findings of the UHRC highlighted serious torture at the facility and upon review of the report, Parliament recommended the closure of Nalufenya.<sup>51</sup> A senior police officer was perplexed with the public outcry on the torture carried out at the facility.<sup>52</sup> He reasoned that the same treatment had been inflicted at Kireka Special Investigations Unit and several other safe houses across the country.<sup>53</sup> He also noted that the facility housed dangerous individuals who are accused of murder and terrorism who cannot be released within 48 hours as mandated by the constitution.<sup>54</sup> The utilization of torture by the police during counterterrorism operations raises several questions regarding the protections against torture, accountability of law enforcement and the rule of law. However, Okoth Ochola, the current Inspector General of Police of Uganda who assumed office in March 2018 closed the controversial facility, reverting it back to its original use as police station.<sup>55</sup> Nonetheless, it is alleged that there are several other secret detention centers situated all over the country.<sup>56</sup> The next section will examine the relevant legal standards on the use of torture.

### **3. LEGAL STANDARDS ON THE PREVENTION OF TORTURE**

#### **3.1. INTERNATIONAL FRAMEWORK ON TORTURE**

The protection against torture, inhuman and degrading treatment is fundamental to the preservation of human dignity. The Universal Declaration of Human Rights (UDHR) as well as the International Covenant on Civil and Political Rights (ICCPR) both prohibit any

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<sup>49</sup> Kafeero and Bagala (n 47 above), para. 10.

<sup>50</sup> Daily Monitor, *Parliament tells Uganda govt to close Nalufenya torture chambers* (24 May 2017). Available at: <http://perilofafrica.com/parliament-tells-uganda-govt-close-nalufenya-torture-chambers/> (accessed 10 May 2018).

<sup>51</sup> As above.

<sup>52</sup> Kafeero and Bagala (n 47 above), para. 25.

<sup>53</sup> As above.

<sup>54</sup> Kafeero and Bagala (n 47 above), para. 26.

<sup>55</sup> J. Kato, "Why IGP Ochola closed Nalufenya" *Daily Monitor* (29 April 2018). Available at: <http://www.monitor.co.ug/News/National/Why-IGP-Ochola-closed-Nalufenya-Special-Forces-/688334-4535048-orwltz/index.html> (accessed 17 May 2018).

<sup>56</sup> As above.



treatment that falls within the category of torture.<sup>57</sup> The ICCPR further requires that individuals under detention must be treated with dignity<sup>58</sup> and are non-derogable even during emergencies.<sup>59</sup> The Human Rights Committee (HRC) in General Comment 20 emphasized the importance of the protection against torture, inhuman and degrading treatment, and noted that there can never be a justification for torturing an individual.<sup>60</sup> This protection is also repeated in the Convention against Torture (CAT) which defines acts of torture as:<sup>61</sup>

“... any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

The elements of torture highlighted in the definition under Article 1 of the CAT are as follows: there must be an intentional infliction of mental or physical pain that causes suffering to the victim; for the purpose of obtaining a confession or other information; and such treatment must be instigated or authorized by a public official or person acting in an official capacity. In addition, the prohibition of torture has attained the status of *jus cogens* within international law.<sup>62</sup>

Despite its universal prohibition, torture is still widely employed by counterterrorism law enforcement and agencies in Uganda for the purpose of extracting confessions and intelligence.<sup>63</sup> Such acts fall squarely within the classification of torture which is prohibited under international law. The CAT obligates state parties to ensure that they prohibit acts

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<sup>57</sup> Article 5 of the UDHR; Article 7 of ICCPR.

<sup>58</sup> Article 10 of the ICCPR.

<sup>59</sup> Article 4(2) of the ICCPR.

<sup>60</sup> HRC General Comment 20, Article 7 (Forty-fourth session, 1992), U.N. Doc. HRI/GEN/1/Rev.1 at 30 (1994), para. 3.

<sup>61</sup> Article 1 of the CAT

<sup>62</sup> E. De Wet, “The prohibition of torture as an international norm of *jus cogens* and its implications for national and customary law” 15(4) *European Journal of International Law* (2004), pp. 97; Robben Island guidelines for the prohibition and prevention of torture in Africa. Available at: [http://www.achpr.org/files/special-mechanisms/cpta/rig\\_practical\\_use\\_book.pdf](http://www.achpr.org/files/special-mechanisms/cpta/rig_practical_use_book.pdf) (accessed 27 April 2018), pp. 7.

<sup>63</sup> Redress Trust, *Torture in Uganda: A baseline study on the situation of torture survivors in Uganda* (2006). Available at: [http://www.redress.org/downloads/publications/TortureUganda\\_Apr%2007.pdf](http://www.redress.org/downloads/publications/TortureUganda_Apr%2007.pdf) (accessed 29 April 2018); Rone (n 28 above), pp. 4.

of torture carried out by their own state agencies such as the police<sup>64</sup> as well independent or private actors.<sup>65</sup> Uganda therefore has an obligation to criminalize all forms of torture and punish those who are found guilty of perpetrating it.<sup>66</sup> The classification of a particular act as torture must be assessed subjectively on a case by case basis in relation necessity and proportionality,<sup>67</sup> as well as the physical condition of the victim of torture.<sup>68</sup> Any form of physical harm, mental/psychological pain and suffering that is inflicted upon such individuals automatically falls under acts of torture which are prohibited by international law.<sup>69</sup> The proper implementation of this protection against torture necessitates educating and training law enforcement in lawfully acceptable methods of arrest, interrogation and treatment of detainees.<sup>70</sup> This would minimize the recurrence of acts of torture within counter terrorism law enforcement which would in turn improve the image of the police institution.

CAT also mandates states to conduct an impartial investigation whenever a detainee complains about torture.<sup>71</sup> However, it was noted in the previous section that torture has been prevalent in Ugandan detention facilities and the authorities acknowledge it. Despite this, investigations are seldom carried out regarding such reports which leaves a lot to be desired. In addition to investigation of allegations of torture, Uganda also has a duty to inspect its detention facilities to ensure that the living conditions are not detrimental to the health and safety of detainees.<sup>72</sup> In *Mukong v Cameroon*<sup>73</sup> the HRC held that poor detention conditions may very well amount to torture, inhuman and degrading treatment depending on the state of the facility. It was noted that there are indeed certain minimum standards which every detainee is entitled to for example food, clothing, bedding and medical attention.<sup>74</sup> Any living conditions which do not meet these minimum standards ultimately infringe on the prohibition against torture, inhuman and degrading treatment. Unfortunately, poor living conditions in Uganda's detention facilities appear to be the intended standard because these facilities are purposely designed to be as uncomfortable

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<sup>64</sup> Article 16 of the CAT.

<sup>65</sup> General Comment 20, para. 13.

<sup>66</sup> Article 4 of the CAT.

<sup>67</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, UN Doc. E/CN.4/2006/6 (23 December 2005), para. 39.

<sup>68</sup> General Comment 20, para. 2.

<sup>69</sup> M. Nowak and E. McArthur, "The distinction between torture and cruel, inhuman or degrading treatment" *16(3) Torture* (2006), pp. 147–151.

<sup>70</sup> Article 10 of the CAT.

<sup>71</sup> Article 2 and 3 of the CAT.

<sup>72</sup> *UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, UNGA Res 43/173 (9 December 1988) para 29(1).

<sup>73</sup> *Mukong v Cameroon* HRCte Com 458/1991.

<sup>74</sup> *Mukong v Cameroon* HRCte Com 458/1991, para. 9(3).

as possible in order to extract information and confessions from the detainees. Jamil Mukulu, a former leader of the Allied Democratic Forces (ADF)<sup>75</sup> who was detained at Nalufenya prison facility described the condition of the premises as a 'pigsty' that was not suitable for human beings.<sup>76</sup>

### 3.2. AFRICAN REGIONAL FRAMEWORK ON TORTURE

The African Charter on Human and Peoples' Rights (ACHPR) also prohibits torture and mandates state parties to enact legislation that criminalizes such conduct.<sup>77</sup> The ACHPR imposes a duty upon states to educate their police officials on the prohibition of torture and ensure that all allegations of torture are investigated.<sup>78</sup> In *Okiring v Uganda*,<sup>79</sup> the African Commission held that in an instance when an individual is injured during detention or within the custody of security officials, there is a strong presumption that he/she was tortured. In such instances, the state must prove that its security operatives did not engage in such actions.<sup>80</sup> Where an individual claims that he/she was tortured, the state has an obligation to conduct an independent investigation into such allegations.<sup>81</sup>

In 2008, African Union adopted the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (*Robben Island Guidelines for the prohibition and prevention of torture in Africa*).<sup>82</sup> The guidelines acknowledge that torture, inhuman and degrading treatment or punishment is a vice that is plaguing most African states.<sup>83</sup> It is also emphasized that the prohibition and prevention of torture are interrelated and important for ensuring human dignity.<sup>84</sup> States must not therefore just end at prohibiting torture under their national laws, but should also adopt measures that prevent such conduct. In this regard, states must adopt international

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<sup>75</sup> The ADF has been designated as a terrorist organization under the Second Schedule to the Anti-Terrorism Act of Uganda (2002).

<sup>76</sup> Kafeero and Bagala (n 47 above), para. 25.

<sup>77</sup> Article 5 of the ACHPR: "every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited."

<sup>78</sup> See Article 6 of the ACHPR.

<sup>79</sup> Communication 339/2007: *Patrick Okiring and Agupio Samson (represented by Human Rights Network and ISIS-WICCE) v Republic of Uganda*.

<sup>80</sup> *Okiring v Uganda*, para. 97.

<sup>81</sup> *Okiring v Uganda*, para. 98; Communication No. 187/2001: *Dhaou Belgacem Thabti v Tunisia* (14 November 2003) Committee against Torture CAT/C/31/D/187/2001.

<sup>82</sup> Robben Island guidelines for the prohibition and prevention of torture in Africa. Available at: [http://www.achpr.org/files/special-mechanisms/cpta/rig\\_practical\\_use\\_book.pdf](http://www.achpr.org/files/special-mechanisms/cpta/rig_practical_use_book.pdf) (accessed 27 April 2018).

<sup>83</sup> See para. 1 of the Introduction to the *Robben Island Guidelines*.

<sup>84</sup> See para. 3 of the Introduction to the *Robben Island Guidelines*.

instruments on the prohibition of torture and promote related regional initiatives;<sup>85</sup> criminalize the use of torture;<sup>86</sup> prevent impunity of perpetrators;<sup>87</sup> and adopt mechanisms for the investigation of complaints.<sup>88</sup> The second aspect which relates to prevention of torture requires states to implement procedural safeguards for detainees;<sup>89</sup> ensure that the conditions of detention conform to the basic minimum standards;<sup>90</sup> implement measures to oversee and supervise law enforcement;<sup>91</sup> train law enforcement;<sup>92</sup> and encourage the participation of civil society organizations.<sup>93</sup> Part three of the guidelines emphasize the need to respond to victims of torture by providing medical care, preventing reprisal from perpetrators, rehabilitation, and compensation.<sup>94</sup> The Committee for Prevention of Torture was established to oversee the implementation of the *Robben Island Guidelines*.<sup>95</sup>

The African Commission acting under the authority of Article 45(1) (b) of the ACHPR,<sup>96</sup> adopted the *Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa*.<sup>97</sup> The African Guidelines emphasize that African states have an obligation to respect the prohibition against torture even during counterterrorism by criminalizing torture, ensuring accountability for violations and providing effective remedies for victims of torture.<sup>98</sup> The African framework creates accountability measures that guide state parties in the prohibition and prevention of torture. Such measures include ensuring accountability of law enforcement by promptly investigating human rights abuses, prosecuting those found in violation.<sup>99</sup> One of the most emphasized measures therein is the enactment of national legislation that prohibits torture, inhuman and degrading treatment. It is also important to briefly examine the East African sub-regional framework and how it contributes to the prevention and prohibition of torture, cruel, inhuman and degrading treatment.

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<sup>85</sup> See Part I. A of the *Robben Island Guidelines*.

<sup>86</sup> See Part I. B of the *Robben Island Guidelines*.

<sup>87</sup> See Part I. E of the *Robben Island Guidelines*.

<sup>88</sup> See Part I. F of the *Robben Island Guidelines*.

<sup>89</sup> See Part II. A of the *Robben Island Guidelines*.

<sup>90</sup> See Part II. C of the *Robben Island Guidelines*.

<sup>91</sup> See Part II. D of the *Robben Island Guidelines*.

<sup>92</sup> See Part II. E of the *Robben Island Guidelines*.

<sup>93</sup> See Part II. F of the *Robben Island Guidelines*.

<sup>94</sup> See Part III of the *Robben Island Guidelines*.

<sup>95</sup> ACHPR/Res 158(XLVI) 09.

<sup>96</sup> Article 45(1) (b) of the ACHPR.

<sup>97</sup> Adopted by the African Commission on Human and Peoples' Rights during its 56<sup>th</sup> Ordinary Session in Banjul, Gambia (21 April to 7 May 2015).

<sup>98</sup> Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa, para. D (i).

<sup>99</sup> Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa, Part 1(D).

### 3.3. EAST AFRICAN SUB-REGIONAL FRAMEWORK ON TORTURE

The East African Community (EAC) originated from the Customs Union between Uganda and Kenya in 1917.<sup>100</sup> Tanzania was admitted into the Customs Union in 1927. The main function of the Union was to facilitate trade between the three partner states.<sup>101</sup> Later between 1948 and 1961, the Union was restructured into the East African Commission with the aim of establishing a federal government.<sup>102</sup> However, differences in ideologies between the three partner states led to its collapse in 1977.<sup>103</sup> The EAC was revived in 1999 with the signing of the Treaty for Establishment of the East African Community.<sup>104</sup> The membership of the EAC has since then expanded from three to six countries including Kenya, Uganda, Tanzania, Rwanda, Burundi and South Sudan.<sup>105</sup>

The EAC has a vision to create a prosperous, stable and politically unified sub-region for the benefit of its peoples.<sup>106</sup> While the EAC's main agenda is the facilitation of trade, the sub-region now recognizes the role of human rights and its impact on the quality of life of its citizens. The EAC Treaty provides that a foreign state may be admitted into the EAC on condition that that state respects democracy, the rule of law and human rights.<sup>107</sup> According to the EAC Treaty, these same principles must be observed by all member states of the EAC.<sup>108</sup> Pursuant to this commitment, the Council adopted the Plan of Action on Promotion and Protection of Human Rights for the East African Community<sup>109</sup> which contained a number of strategies on the protection of human rights including the adoption of a Bill of Rights for protection of human rights in the EAC.<sup>110</sup> In addition to the adoption of the Bill of Rights, the Council proposed compliance with the Paris Principles on National Human Rights Institutions ; empowering national human rights institutions; National Plans

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<sup>100</sup> Global Edge, *EAC*. Available at: <https://globaledge.msu.edu/trade-blocs/eac/memo> (accessed 14 April 2018).

<sup>101</sup> As above.

<sup>102</sup> F. Oluoch, "Leaders launch economic bloc" (28 July 2013) *Daily Nation*. Available at: <https://www.nation.co.ke/lifestyle/dn2/Leaders-launch-economic-bloc-/957860-1929534-10ksbk8/index.html> (accessed 13 April 2018).

<sup>103</sup> East African Community, *History of the EAC*. Available at: [http://www.eac.int/index.php?option=com\\_content&view=article&id=44&Itemid=54](http://www.eac.int/index.php?option=com_content&view=article&id=44&Itemid=54) (accessed 23 March 2018).

<sup>104</sup> For more information, see: <http://www.eac.int/treaty/> (accessed 23 March 2018).

<sup>105</sup> The Republic of Rwanda and the Republic of Burundi acceded to the EAC Treaty on 18 June 2007 and became Members from 1 July 2007. South Sudan was admitted into the EAC in April 2016.

<sup>106</sup> East African Community, *About EAC*. Available at: [http://www.eac.int/index.php?option=com\\_content&id=1:welcoming-to-eac&Itemid=53](http://www.eac.int/index.php?option=com_content&id=1:welcoming-to-eac&Itemid=53) (accessed 24 June 2015).

<sup>107</sup> Art 3(3) (b) of the EAC Treaty of 1999.

<sup>108</sup> Art 7(2) of the EAC Treaty of 1999.

<sup>109</sup> EAC/CM 15/Decision 36.

<sup>110</sup> Sec 3 of the EAC Plan of Action on Human rights.

of Action; improving human rights reporting; ratification of all international human rights treaties; and improving awareness.

In 2012, the East African Legislative Assembly (EALA) passed the EAC Bill of Human Rights.<sup>111</sup> The Bill of Rights adopts measures for the protection and enforcement of human rights in the region. The Bill of Rights prohibits to use of torture in any form whether physical or mental.<sup>112</sup> However, the Bill of Rights is not yet operational for want of assent from the EAC Heads of State. Citizens therefore do not have the capacity to sue member states in the East African Court of Justice (EACJ) for human rights violations.<sup>113</sup> In 2005, the Council concluded a Draft Protocol to extend the jurisdiction of the EACJ to include human rights violation claims. However, the Draft Protocol has also not yet been approved. Regardless of this impediment, the EACJ has entertained some cases involving human rights under the commitment of states in the EAC Treaty.<sup>114</sup> The next section discusses the prohibition of torture within the Ugandan legal framework.

### 3.4. NATIONAL FRAMEWORK ON TORTURE

The Constitution of Uganda prohibits the use of torture, inhuman and degrading treatment in all its forms.<sup>115</sup> The prohibition is considered absolute in the Constitution which does not allow for any derogations even in instances where a state of emergency is declared.<sup>116</sup> The Police Act of Uganda forbids police officers from torturing any individual and states that any officer who does so commits a crime.<sup>117</sup> In instances where a detainee alleges to have been tortured, the Act mandates that a prompt and independent investigation must be carried out to verify those claims.<sup>118</sup>

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<sup>111</sup> East African Community *EALA passes Bill on Human Rights* available at: [http://www.eac.int/index.php?option=com\\_content&view=article&id=988:eala-passes-bill-on-human-rights&catid=146:press-releases&Itemid=194](http://www.eac.int/index.php?option=com_content&view=article&id=988:eala-passes-bill-on-human-rights&catid=146:press-releases&Itemid=194) (accessed 29 March 2018).

<sup>112</sup> Article 17(d) of the EAC Human and Peoples' Rights Bill of 2011.

<sup>113</sup> International Justice Resource Center, *East African Court of Justice*. Available at: <http://www.ijrcenter.org/regional-communities/east-african-court-of-justice/> (accessed 29 March 2018).

<sup>114</sup> See for example: *James Katabazi and 21 others v Secretary General of the East African Community and the Attorney General of the Republic of Uganda* held in the East African Court of Justice at Arusha, Case no. 1 of 2007; *Omar Awadh and Six Others v Attorney General of Kenya, Attorney General of Uganda, and Secretary General of the EAC*. Decision on Jurisdiction: *Omar Awadh and Six Others v Attorney General of Kenya, Attorney General of Uganda, and Secretary General of the EAC*. 1 November 2011, EACJ First Instance Division, App. No. 4 of 2011.

<sup>115</sup> Article 24 of the Constitution of Uganda.

<sup>116</sup> Article 44(a) of the Constitution of Uganda.

<sup>117</sup> Section 25 of the Uganda Police Act.

<sup>118</sup> As above.

In addition to the Constitution and the Police Act, Uganda enacted the Prevention and Prohibition of Torture Act<sup>119</sup> in 2012 which specifically prohibits acts of torture. According to the Prohibition of Torture Act, torture is defined as an act or omission that inflicts excessive pain and suffering which may be physical or mental.<sup>120</sup> The pain and suffering has to be caused deliberately in order to obtain information against the will of the victim;<sup>121</sup> for the purpose of punishing an individual;<sup>122</sup> and for the purpose of getting an individual to cooperate for whatever reason.<sup>123</sup> The act also lists examples of torture<sup>124</sup> which include the application of physical trauma or the threat thereof;<sup>125</sup> the administration of mind-altering compounds;<sup>126</sup> threats to death;<sup>127</sup> and threats to friends, relatives or another person.<sup>128</sup> The Act emphasizes that all methods of torture are unlawful regardless of the circumstances<sup>129</sup> and that torture is a criminal offence.<sup>130</sup> Any individual may bring a complaint of torture to the Police Commission or authority regardless of whether they are the victim.<sup>131</sup> In fact, the Act places an obligation upon all individuals who have a suspicion that torture has or is taking place to file a report with the Police Commissioner.<sup>132</sup> When such a complaint is made, a prompt investigation must be instituted and if found guilty, perpetrators must be held accountable.<sup>133</sup> In addition, individuals who bring such complaints of torture must be protected against retribution and intimidation by the state or the police.<sup>134</sup> It must further be noted that the Act renders evidence that is obtained through torture inadmissible<sup>135</sup> and any person who utilizes such information or evidence for the purpose of prosecution of a particular case commits an offence.<sup>136</sup> The Constitutional Court of Uganda and the Human Rights Commission have had the opportunity to interpret the prohibition on torture. In the case of *Emmanuel Mpondi v Chairman Board of Governors & 2 ORS*, the Uganda Human Rights Commission ruled that the whipping of students to a point that they get injured constituted cruel, inhuman and

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<sup>119</sup> Prevention and Prohibition of Torture Act of Uganda of 2012.

<sup>120</sup> Section 2 of the Prevention and Prohibition of Torture Act of Uganda.

<sup>121</sup> Section 2(1) (a) of the Prevention and Prohibition of Torture Act of Uganda.

<sup>122</sup> Section 2(1) (b) of the Prevention and Prohibition of Torture Act of Uganda.

<sup>123</sup> Section 2(1) (c) of the Prevention and Prohibition of Torture Act of Uganda.

<sup>124</sup> See also: Section 1 of the Second Schedule to the Prevention and Prohibition of Torture Act of Uganda.

<sup>125</sup> Section 2(2) (a) of the Prevention and Prohibition of Torture Act of Uganda.

<sup>126</sup> Section 2(2) (b) of the Prevention and Prohibition of Torture Act of Uganda.

<sup>127</sup> Section 2(2) (c) of the Prevention and Prohibition of Torture Act of Uganda.

<sup>128</sup> Section 2(2) (d) of the Prevention and Prohibition of Torture Act of Uganda.

<sup>129</sup> Section 3(1) of the Prevention and Prohibition of Torture Act of Uganda.

<sup>130</sup> Section 4 of the Prevention and Prohibition of Torture Act of Uganda.

<sup>131</sup> Section 11 of the Prevention and Prohibition of Torture Act of Uganda.

<sup>132</sup> Section 20 of the Prevention and Prohibition of Torture Act of Uganda.

<sup>133</sup> Section 11(b) of the Prevention and Prohibition of Torture Act of Uganda.

<sup>134</sup> Section 21 of the Prevention and Prohibition of Torture Act of Uganda.

<sup>135</sup> Section 14 and 15 of the Prevention and Prohibition of Torture Act of Uganda.

<sup>136</sup> As above.

degrading treatment.<sup>137</sup> While the Commission merely condemned corporal punishment in schools, the Children's Act abolished it completely.<sup>138</sup> Likewise, in *Kigula and Others v The Attorney-General*, the Constitutional Court of Uganda held that the death penalty is a violation of the protection against torture.<sup>139</sup>

The Prohibition of Torture Act of Uganda as well as international law clearly prohibits torture regardless of the intended outcome and criminalize such conduct. However, despite such an elaborate legislative framework on the prohibition of torture, counterterrorism law enforcement still continues to subject detainees to torture with impunity. Torture often occurs with the knowledge of senior police officials who are supposed to hold the junior police officers accountable for such misconduct.<sup>140</sup> With impunity permeating most public institutions in the country, investigations on police misconduct also hardly materialize.<sup>141</sup> While the Prevention and Prohibition of Torture Act of Uganda is a very important piece of legislation, it largely remains unimplemented in practice. Police and security agents are in the habit of condoning and covering up for the misdoings of their colleagues which hinders effective accountability.<sup>142</sup> As such, there is an urgent need to ensure accountability of law enforcement officials in order to prevent further torture of suspects.

#### 4. ACCOUNTABILITY FOR TORTURE BY LAW ENFORCEMENT OFFICIALS

The principle of accountability which forms the cornerstone of every democratic state necessitates that all officials who perform a public mandate must be answerable to the public whom they serve.<sup>143</sup> Accountability is so important that it is written into the Constitution of Uganda under the National Objectives and Directive Principles of State Policy.<sup>144</sup> Although the objectives and principles of state are not directly enforceable, they constitute guidelines by which government and its agencies are supposed to fulfil their mandate. The process of accountability establishes checks and balances that minimize the

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<sup>137</sup> *Emmanuel Mpondi v Chairman Board of Governors & 2 ORS UHRC 1 (1999-2002)*.

<sup>138</sup> Section 106A of the Children's Act of 2016.

<sup>139</sup> *Kigula and Others v The Attorney-General (2005)* Constitutional Court of Uganda, pp. 197.

<sup>140</sup> Kafeero and Bagala (n 47 above), para. 10.

<sup>141</sup> United States Department of State, *Country Reports on Terrorism 2011 - Uganda (2012)*. Available at: <http://www.refworld.org/docid/501fbc9928.html> (accessed 2 April 2018).

<sup>142</sup> Human Rights Watch Uganda, *Open secret, illegal detention and torture by the Joint Anti-Terrorism Task Force in Uganda (2009)*, pp. 36.

<sup>143</sup> M. Bovens, *Public accountability (2003)*. Paper for the EGPA annual conference, Oeiras Portugal September 3-6, to be presented in workshop 8 (Ethics and integrity of governance) 2003. Available at: <http://www.law.kuleuven.be/plaatsingsdienst/integriteit/egpa/previous-egpa-conferences/lisbon-2003/bovens.pdf> (accessed 18 April 2018).

<sup>144</sup> National objectives and directive principles of state policy, Objective XXVI of the Constitution of Uganda.



probability of abuse of authority.<sup>145</sup> Auerbach notes that the effective accountability of police requires a command of ranks; procedures for lodging complaints; oversight of juniors; access to the judiciary; the right to access information; reasonable transparency of police work; restraint; and observing the rule of law.<sup>146</sup>

In April 2013, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, noted important principles for ensuring accountability during counterterrorism operations.<sup>147</sup> The Special Rapporteur emphasized that in order to ensure accountability, there was a need to prohibit systematic violations of human rights including abuses that are authorized by the state; securing the right to the truth; emphasizing the role of accountability; implementing measures that combat impunity;<sup>148</sup> and limiting the unjustifiable invocation of the national security defense in order to preclude review.<sup>149</sup> The Special Rapporteur also noted that in order for accountability to be properly achieved, there was a need for government to uphold the principle of the rule of law at all times.<sup>150</sup> It is therefore important to briefly examine some of the internal and external accountability mechanisms which contribute to the accountability of the police institution as well as make an assessment of their effectiveness.

#### 4.1. INTERNAL ACCOUNTABILITY MECHANISMS

Internal accountability measures are those checks and balances established within the police institution that ensure the answerability of law enforcement officials for their actions. These mechanisms can prove essential for the elimination of the use of torture against detainees, resolving cases of indiscipline, and ensuring professionalism.<sup>151</sup> While the measures discussed hereunder may be applicable to the general police force, their effective implementation can have the effect of limiting torture carried out by counterterrorism police and agencies.

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<sup>145</sup> A. Schedler, L. J. Diamond and M. F. Plattner, *The self-restraining state: Power and accountability in new democracies*. Lynne Rienner Publishers (1999), pp. 13.

<sup>146</sup> J. N. Auerbach, "Police accountability in Kenya" 3 *African Human Rights Law Journal* (2003), pp. 279.

<sup>147</sup> Framework principles for securing the accountability of public officials for gross or systematic human rights violations committed in the course of States-sanctioned counter-terrorism initiatives. A/HRC/22/52, 17 April 2013 (accessed 22 April 2018).

<sup>148</sup> As above, para. 13.

<sup>149</sup> As above, para. 15.

<sup>150</sup> As above, para. 38.

<sup>151</sup> Kafeero and Bagala (n 47 above), para. 10..

#### 4.1.1. POLICE DISCIPLINARY CODE OF CONDUCT

The disciplinary code of conduct was enacted as part of the Uganda Police Act under the disciplinary section.<sup>152</sup> The disciplinary code is applicable to law enforcement officers, students in police academies, local police administrations, security organizations that are subject to the Inspector General of Police's command, and all individuals who perform duties within the police institution.<sup>153</sup> This implies that counterterrorism police and security agencies for example JATT that perform policing functions are all expected to abide by the code of conduct. The code of conduct requires law enforcement officers not to intentionally deprive individuals of their rights without probable cause and to treat all persons with dignity.<sup>154</sup> Any police officer who contravenes the provisions of the code of conduct may be prosecuted in the disciplinary courts of the police.<sup>155</sup> According to section 49 of the Police Act, every police unit shall have a disciplinary court. Police Disciplinary Courts include the Police Council Appeals Court, Regional Police Courts, and Subordinate Police Courts. <sup>156</sup>These disciplinary courts are indeed a potential avenue for disciplining counterterrorism police officers who engage in torture of detainees. However, it must be noted that the disciplinary code is only useful if it is implemented. For as long as it remains merely theoretical, it ceases to serve the purpose which it was intended for.

#### 4.1.2. PUBLIC COMPLAINTS AGAINST POLICE

The Police Act of Uganda establishes a complaints procedure under which individuals may submit complaints against police officers who are accused of human rights violations, indiscipline and unprofessionalism.<sup>157</sup> These complaints have to be addressed to the highest ranking police officer in the district. Upon receipt of the complaint, the senior officer must initiate an investigation to validate the claims and respond to the complaint with the results of the investigation and the course of action if necessary.<sup>158</sup> The public complaints procedure is an internal investigation. As such, the data on how frequent it is used and whether complainants' grievances are actually investigated remains abstract since such information is not published. In addition, the process involves the senior officer solely examining a complaint of misconduct of one of their own. After the investigation, the

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<sup>152</sup> Part VI, Section 44 of the Uganda Police Act.

<sup>153</sup> Section 45 and the Schedule of the Uganda Police Force Act.

<sup>154</sup> Section 2 of the Schedule to the Uganda Police Act. "A member of the force shall - not use the authority of his or her office for undue gain; not take away the liberty or rights of any person without reasonable cause; not convert property of any person or any property which comes into his or her custody by virtue of his or her office; treat humanely all persons at his or her disposal without discrimination...."

<sup>155</sup> Section 49 of the Uganda Police Force Act.

<sup>156</sup> Section 50 of the Uganda Police Force Act.

<sup>157</sup> Section 70(1) of the Uganda Police Act.

<sup>158</sup> As above.

course of action is solely determined by the same officer. The probability of a conflict of interest is very high in such circumstances which potentially blurs the effectiveness of this procedure.

It is important to note that there is another forum which is empowered to receive complaints against police officers from members the public. This is the Human Rights Desk established under the Uganda Police Professional Standards Unit.<sup>159</sup> Members of the public whose rights have been violated by a police officer can report the matter to the human rights desk for investigation and further action. The human rights desk offers a quick way to report misconduct by law enforcement including torture. The major challenges with the Human Rights Desk is that it is centrally located in Kampala making it inaccessible to other regions, and that it is manned by the police themselves who may be biased in some cases.<sup>160</sup>

While the above discussed internal accountability measures may very well be potential avenues for the prevention of torture with law enforcement, one major factor that defeats their effectiveness is the incitement of misconduct among junior officer by their own seniors. In several cases, senior police officers have sanctioned the use of violence against citizens.<sup>161</sup> For example during the Ugandan presidential campaigns in 2016, the former Inspector General of Police (IGP) of Uganda, Kale Kaihura, directly instructed his officers to whip the supporters of opposition parties.<sup>162</sup> The former IGP's actions were widely criticised but no disciplinary action followed since the order came directly from the chief of police. With the seemingly persistent problem of torture plaguing law enforcement in Uganda despite an elaborate framework prohibiting such conduct, the following recommendations are proposed.

#### **4.2. EXTERNAL ACCOUNTABILITY MECHANISMS**

In order for internal accountability measures to be more effective, there is a need for external accountability measures within law enforcement. While there is a possibility for internal accountability measures to be effective on their own, external accountability measures create an extra layer of oversight that reinforces the process of accountability in form of review. External accountability measures are mechanisms that are established outside the law enforcement institution. External accountability mechanisms are therefore independent of the law enforcement institution and serve the purpose of scrutinizing

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<sup>159</sup> For more information, see: <https://ugfacts.com/uganda-police-professional-standards-unit/>.

<sup>160</sup> As above.

<sup>161</sup> Kafeero and Bagala (n 47 above), para. 10..

<sup>162</sup> Daily Monitor, *Police okayed beating of citizens, says Kayihura* (15 July 2016). Available at: <http://www.monitor.co.ug/News/National/Police-okayed-beating-of-citizens--says-Kayihura/688334-3295338-v2yu4vz/index.html> (accessed 8 April 2018).

whether law enforcement officers are indeed held accountable for their actions. Such avenues include the parliament, the court system as well as independent organizations such as human rights institutions, NGOs and CSOs. External mechanisms play a complementary role to internal accountability mechanisms. In addition, they have an advantage of independence from the influence of law enforcement while carrying out the function of review.

#### 4.2.1. THE JUDICIARY (COURTS OF LAW)

The court system in several countries is often referred to as the administration of justice because of the role they play in every democracy. The courts are an important avenue through which victims of human rights violations can seek redress.<sup>163</sup> Victims of human rights violations have the right to bring an action before the courts of law in order to seek a resolution. The accessibility, independence and effectiveness of the court system is therefore pivotal towards the enforcement of human rights. It must be noted that law enforcement officers are also subject to the jurisdiction of the courts and are not immune from prosecution should if they violate the law in the course of their duties. In addition, the following issues have to be ensured: access to courts; effectiveness of remedies; and independence of courts.

Independence of the judiciary is the cornerstone principle of every democratic state in order to ensure the rule of law.<sup>164</sup> To carry out its function of administering justice, the judiciary should not be subject to undue influence from the other branches of government especially the executive.<sup>165</sup> Dudziak wrote an article entitled 'Who cares about court? Creating a constituency for judicial independence in Africa.' This article analyzed the role of the judiciary with the as a means to establish and maintain the rule of law in Africa.<sup>166</sup> Dudziak noted that in many developing countries, the judiciary is perceived as an agent of political leaders.<sup>167</sup> Historically, there have been significant tensions between the executive and the judiciary in Uganda which persist even today.<sup>168</sup> The President of Uganda has on several occasions been critical of the judiciary accusing them of being unpatriotic and biased towards him and the ruling party (NRM).<sup>169</sup> The President has even vowed in the

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<sup>163</sup> Article 50(1) of the Constitution of Uganda; Article 23(1) of the Constitution of Kenya.

<sup>164</sup> M. Mutua, "Justice under siege: The rule of law and judicial subservience in Kenya" 23(1) *Human Rights Quarterly* (2001), pp. 96.

<sup>165</sup> M. Perry, "Protecting human rights in a democracy: What role for the courts" 38 *Wake Forest Law Review* (2003), pp. 635.

<sup>166</sup> M. L. Dudziak, "Who Cares About Courts? Creating a Constituency for Judicial Independence in Africa" 101 *Michigan Law Review* (2003), pp. 1622.

<sup>167</sup> as above, 4.

<sup>168</sup> Dudziak (n 166 above), pp. 4.

<sup>169</sup> Common Wealth Human Rights Initiative Uganda (n 14 above), para. 34.

past not to follow some court decisions which he thought were not made in his favor.<sup>170</sup> This is truly an undesirable attitude towards the courts in light of the important duties that they carry out.

#### 4.2.2. THE HUMAN RIGHTS COMMISSION

The Uganda Human Rights Commissions is a constitutional body that are charged with the mandate of promoting, protecting and monitoring the implementation of human rights in the respective countries.<sup>171</sup> In the promotion and protection of human rights, this institution investigate allegations of violations, carries out site visits and interviews with detainees, conducts research on different aspects of human rights, and oversees the implementation of human right by government and its various institutions including law enforcement.<sup>172</sup> The Human Rights Commission may institute a human rights violation investigation either on its own motion or upon receipt of a complaint drawing its attention to a particular allegation.<sup>173</sup> The Commission has been instrumental in investigating and highlighting abuse of human rights committed during counterterrorism, as well as seeking a proper remedy for victims. In 2009, the UHRC investigated nineteen cases of human rights abuses carried out by the JATT in the course of the duties including torture, cruel and degrading treatment, arbitrary detention, unlawful dispossession, unlawful, arrest, and confinement in places that are not gazetted as detention centres.<sup>174</sup>

The Commission has faced some challenges during the execution of its mandate including insecurity in some areas where violations occurred hindering access; intimidation of victims and witness to silence them; threats to employees of the Commission; and denial of access to information, restricted areas and victims in custody.<sup>175</sup> Regardless of these challenges which may affect the quality of work of the Commission in one way or another, one advantage that facilitates its work is constitutional independence.<sup>176</sup> The independence of the Human Rights Commission ensures that it executes its mandate free from control of any institution or individual. As a result, its investigations, findings and recommendations are often free from undue influence. This makes Human Rights Commission an important

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<sup>170</sup> as above.

<sup>171</sup> Art 51(1) of the Constitution of Uganda.

<sup>172</sup> Article 52 of the Constitution of Uganda.

<sup>173</sup> Article 52(1) (a) of the Constitution of Uganda; Section 7 of the Uganda Human Rights Commissions Act.

<sup>174</sup> Uganda Human Rights Commission, *12<sup>th</sup> Annual Report of the Uganda Human Rights Commission to the Parliament of the Republic of Uganda*. Available at: <https://www.google.com/search?q=uganda+human+rights+commission+terrorism+investigation&ie=utf-8&oe=utf-8> (accessed 9 April 2018) (2009), pp. 12.

<sup>175</sup> as above, 38.

<sup>176</sup> Article 54 of the Constitution of Uganda; Article 59(2) (g) of the Constitution of Kenya.

external accountability mechanism over violations committed by counterterrorism law enforcement.

#### 4.2.3. CIVIL SOCIETY ORGANIZATIONS

Civil society refers to the collection of various non-governmental organizations, pressure groups and institutions that advocate for the interests and spirit of the common citizenry. Civil society organizations (CSOs) play a very important role in every democracy to ensure the rule of law, transparency and democracy, service delivery, protection of human rights and accountability among many other objectives.<sup>177</sup> There are several civil society organizations operating within Kenya and Uganda with the main objective of ensuring the promotion and protection of human rights. When it comes to accountability of law enforcement, the civil society organizations whose mandates fall within this area may be classified under two categories: organizations that focus on human rights abuse by law enforcement; and organizations that focus on reform within the law enforcement institution.<sup>178</sup>

While civil society organizations are often a promising avenues for addressing human rights due to their independence and focus on the interests of society, they are often underfunded and lack expertise due to limited resources.<sup>179</sup> In addition, CSOs are often treated with suspicion depending on the source of their funding and objectives. These organizations also face opposition from the governments themselves who view them as anti-government.<sup>180</sup> For example, in April 2014 Kenyan authorities gave shoot-to-kill orders and warned NGOs and human rights organizations to keep off their crackdown on terrorists and radical Muslims.<sup>181</sup> For as long as CSOs are viewed as anti-governmental agencies, they cannot adequately carry out their mandate to protect human rights and publicize violations.

#### 4.2.4. THE MEDIA

The media is a collective term for all forms of mass communication including radio, TV, newspapers, internet, magazines, billboards, mail and telephone. The media plays an

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<sup>177</sup> KPMG, *Civil society and accountability – should donors try to influence civil society efforts to strengthen accountability?* Available at: [http://www.kpmg.com/eastafrica/en/services/Advisory/Development-Advisory-Services/Thought\\_Leadership\\_at\\_DAS/Documents/DAS\\_Paper\\_3%20-%20Governance.pdf](http://www.kpmg.com/eastafrica/en/services/Advisory/Development-Advisory-Services/Thought_Leadership_at_DAS/Documents/DAS_Paper_3%20-%20Governance.pdf) (accessed 10 April 2018) (2011), pp. 2.

<sup>178</sup> Common Wealth Human Rights Initiative Uganda (n 14 above), para. 41.

<sup>179</sup> A. Fowler, "The role of NGOs in changing state-society relations: perspectives from Eastern and Southern Africa" 9(1) *Development policy review* (1991), 53.

<sup>180</sup> Common Wealth Human Rights Initiative Uganda (n 14 above), para. 41.

<sup>181</sup> Kimaiyo Warns NGOs to Keep off Government's Crackdown on Terrorists and Radical Muslims – We Will Finish Them (7 April 2014) *Kenyan Daily Post*. Available at: <http://www.kenyan-post.com/2014/04/kimaiyo-warns-ngos-to-keep-off.html> (accessed 28 August 2014).

important role in any democracy and they are often referred to as the watchdogs of democracy and the principles it stands for.<sup>182</sup> In the course of their duties, the media exposes misconduct including human rights violations, implicates errant officers, and provides the public with more information which the police and government might want to conceal as it would tarnish their image.<sup>183</sup> It is no wonder that some members of the media are often intimidated, targeted and even arrested for their role in publicising certain information. Due to the effectiveness of the media in uncovering cases of human rights abuses, the governments of Kenya and Uganda have desperately attempted to curtail the freedom of the press in order to conceal their wrongdoing.<sup>184</sup> Such attempts include raids and confiscation of material, suspension of operation licences, prosecuting journalists and enactment of laws that effectively limit freedom of press and expression.<sup>185</sup> Regardless of these attempts to silence the media, journalists continue to carry out their duties which play a vital role in pressurizing government and its agencies to abide by the principles of democracy and rule of law.

## 5. CONCLUSION AND RECOMMENDATIONS

### 5.1. CONCLUSION

International, regional, sub-regional and national law all contain protections that criminalize and prohibit the use of torture on detainees regardless of the intended outcome. In addition, Uganda has an Act dedicated to the prohibition of torture. While this model piece of legislation is undoubtedly important, it remains largely unimplemented in relation to counterterrorism police and agencies who continue to torture suspects with impunity. The issue is also made complex by the fact that there are internal accountability measures within law enforcement which are designed to curb misconduct. These include police disciplinary codes as well as public complaint measures which have been largely ineffective.

In addition to the ineffective accountability measures, the problem of incitement and condoning of indiscipline by senior officials further fuels indiscipline and abuse of human rights by junior officers.<sup>186</sup> This gives junior officers the confidence that their indiscretions will go unpunished since they are acting on the orders of their seniors. It is certain that

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<sup>182</sup> J. Schultz, *Reviving the fourth estate: Democracy, accountability and the media* (1998), pp. 3.

<sup>183</sup> Common Wealth Human Rights Initiative Uganda (n 14 above), para. 42.

<sup>184</sup> D. Ziegler and M. K. Asante, *Thunder and silence: The mass media in Africa* (1992), pp. 2; J. Butler, "4 Evolving Political Accountability in Kenya" 10 *The Political Economy of Development and Underdevelopment in Africa* (2013), 93.

<sup>185</sup> as above.

<sup>186</sup> Kafeero and Bagala (n 47 above), para. 10.

without an effective police force, the country will surely plunge into a chaotic society with dire consequences on the quality of life of citizens. The observance of human rights should therefore not be viewed as a hindrance for police work in any democratic state. As such, the following considerations must be stressed at all times: the police should be accountable to the public; the police should serve and protect the community; police should be impartial during their duties; police should exercise transparency; police must address the concerns of society; and, human rights must be observed. If these considerations are implemented, the police will surely improve confidence in itself. Failure to respect the rule of law results in failure of justice.

## 5.2. RECOMMENDATIONS

Any agenda that proposes reform should be introduced with a practical and effective legislative framework which acts as reference point. Accountability measures must be clearly articulated in such legislation and include enforcement mechanisms. In addition, accountability measures should comprise of both internal and external measures which are independent. The independence of accountability measures adds an extra layer of checks and balances that ensures that law enforcement abides by the law. This article identifies the following key areas which need to be addressed to secure accountability.

### 5.2.1. SUSPEND JATT PENDING CODIFICATION OF ITS MANDATE

As was noted in this article, Uganda's JATT that operates alongside the Counterterrorism Police Unit does not have a constitutive mandate.<sup>187</sup> Although the JATT has in fact contributed to the prevention of terrorist activities in Uganda<sup>188</sup>, the scope of its operations, powers and chain of command is not formally codified. This definitely presents serious challenges in ascertaining the agency's scope of operation and accountability. This has already manifested in the numerous human rights violations of torture with impunity that have been carried out by JATT during their operations.<sup>189</sup> It is therefore important for the Government of Uganda to immediately suspend the operations of the security agency pending the definition and codification of the mandate of JATT in order to avoid further human rights violations. Such codification should clearly state the scope of the powers of

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<sup>187</sup> All Africa, *Uganda: JATT is normal* (8 December 2005) *AllAfrica*. Available at: [www.allafrica.com/stories/200512080746.html](http://www.allafrica.com/stories/200512080746.html) (accessed 02 April 2018).

<sup>188</sup> A. Habib, *Police foil terror attack on Kampala installations, arrest several suspects with explosives* (14 September 2014). Available at: [www.galaxyfm.com.co.ug/2014/09/14/](http://www.galaxyfm.com.co.ug/2014/09/14/) (accessed 02 April 2018); New Vision, *Uganda arrests two terror suspects* (7 April 2015). Available at: [www.newvision.co.ug/new\\_vision/news/1323705/uganda-arrests-terror-suspects](http://www.newvision.co.ug/new_vision/news/1323705/uganda-arrests-terror-suspects) (accessed 01 April 2018).

<sup>189</sup> The Observer, *Witness reveals JATT's ugly torture methods* (29 June 2015). Available at: [www.observer.ug/news-headlines/38490-witness--reveals-jatt-s-ugly-torture-methods](http://www.observer.ug/news-headlines/38490-witness--reveals-jatt-s-ugly-torture-methods) (accessed 01 April 2018).



the JATT; its chain of command (who it reports to); method of appointment of its staff members; disciplinary measures for misconduct; and the various accountability mechanisms. This intervention will ensure the protection of civilians against the arbitrary mandate that has enabled JATT officials to carry out rights violations with impunity during the course of their duties.

### **5.2.2. ELIMINATE UNDIE POLITICAL INFLUENCE**

The Uganda Police Force may be currently described as an institution that is heavily influenced by the executive branch of government. At this point it is important to note that the police force is lawfully under the administrative control of the executive. However, the Uganda Police Force has been engaged by the executive to advance their selfish political ambitions by suppressing legitimate opinions and intimidating opposition rhetoric. Rather than serving and protecting the citizens, police prioritize the preservation of the regime at the expense of human rights.<sup>190</sup> Any individuals who are perceived as government detractors are often arrested, detained and tortured as an example for anyone with such ambitions.<sup>191</sup> Once detained, they are charged with all sorts of bogus charges including treason and terrorism. It is indeed undesirable for the police to be used as pawns by political leaders to infringe on human rights for the purpose of staying in power and clamping down on dissent. The police institution must retain a high degree of professionalism; impartiality; independence in resource allocation; and program prioritization without undue influence. If this is not observed, police risk the possibility of becoming a tool of oppression at the expense of the governed.

### **5.2.3. IMPLEMENT ACCOUNTABILITY MEASURES**

The work of police usually comprises of tasks and missions which necessitate meticulous planning and supervision in order to minimize the abuse of power. Engaging in monitoring police work enables the identification of errant officers who must be answerable for any violations. Police institutions always have a hierarchy of authority ranking according to seniority. It is important for professionalism, discipline and accountability to be emphasized right from the top leadership of police and down to the junior officers. If senior police officers are seen to be intolerant to human rights abuses, it becomes easier to enforce such standards throughout the police force. This ensures that the rule of law is

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<sup>190</sup> Amnesty International, *Police Reform in Kenya: "A Drop in the Ocean"* (2013). Available at: [www.amnesty.org](http://www.amnesty.org) (accessed 9 April 2018), pp. 16.

<sup>191</sup> C. Gaffery, *Amnesty: Ugandan police guilty of torture and excessive force ahead of elections* (7 December 2015). Available at: [www.newsweek.com/xxx-uganda-police-xxx-401778%3famp=1](http://www.newsweek.com/xxx-uganda-police-xxx-401778%3famp=1) (accessed 03 April 2018); Rone (n 28 above), pp. 4.

observed during operations. Operations may be divided into three stages including the planning stage, execution and review.

In the planning stage, law enforcement officials analyse and state the objectives of the operations. Instructions are also relayed on the methods of execution of the task at hand. The next stage involves accountability during the execution of the operation in order to ensure that officers stick to instructions that were given during the briefing. This usually entails supervision by a senior officer who may be dispatched with the junior officers. This minimises the likelihood of misconduct for example abuse of human rights. After the task has been executed, the last stage of accountability would necessitate some form of review to assess the successes and failures of the mission. At this stage, an assessment of the conduct of the police is also made to ensure that it complied by the law.

It must be noted that this model of accountability has proved effective in some states of the US that employ accountability before, during and after operations. In instances where the police are assigned a particular task, they are usually briefed on the mission including the objectives of the task and the expectations.<sup>192</sup> They are also instructed on the rules of engagement and how the mission is supposed to be carried out including the level of the threat in order to abide by the requirement of proportionality.<sup>193</sup> Once the police officers set out for the operation, they usually maintain a channel of communication with their superiors or the command centre through radio communication.<sup>194</sup> Due to the availability of advanced technology and resources, a large proportion of police in the US now have cameras fitted on their vehicles as well as their bodies.<sup>195</sup> These cameras record video footage of the officers' engagement with their objectives and targets which may be used as evidence if necessary. At the end of the operations, there is a de-briefing session where information is collected and reviewed in order to determine whether the objectives were sufficiently achieved. This also becomes a forum to examine the conduct of the officers to establish whether there was any misconduct. All these measures create several layers of accountability to ensure that police power is not abused.

It must be admitted that some of such technologies are not available in Uganda and it will take some time for them to be adopted in order to enhance the Uganda police force's accountability. However, it does not hinder the police from examining each operation on

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<sup>192</sup> S. Walker, *Police accountability* (2001), pp. 199-214.

<sup>193</sup> As above.

<sup>194</sup> See also: S. Holdaway, *Inside the British police: A force at work* (1983), pp. 2; F. M. Costa et. Al., "Communication system with improved safety feature" (7 February 2017) US Patent No. 9,564,042.

<sup>195</sup> B. Ariel, W. A. Farrar and A. Sutherland, "The effect of police body-worn cameras on use of force and citizens' complaints against the police: A randomized controlled trial" 31(3) *Journal of quantitative criminology* (2015), 509-535.

its merits in order to check for compliance of the law, human rights violations, and ensure accountability for those responsible.

#### **5.2.4. EDUCATE POLICE ON THE PROHIBITION OF TORTURE**

The mandate of police work often interfaces with human rights and they are empowered to limit some rights where there is probably cause to do so for example the deprivation of liberty through detention. However, it was noted that the prohibition of torture is an absolute protection which cannot be limited under any circumstance. It is therefore imperative for all law enforcement officers to have knowledge on human rights and in particular, the prohibition of torture. This would also necessitate training police on the acceptable treatment of detainees and proper interrogation techniques. It appears that law enforcement favour the use of torture in order to extract confessions and intelligence. It is important to re-emphasize the importance of dignity of all individuals in custody.