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UGANDA

Breaking the circle: protecting human rights in the northern war zone

1. Introduction

The war in northern Uganda is in its thirteenth year. The districts of Gulu and Kitgum, home of the Acholi ethnic group, have been ravaged. Approximately 400,000 people, around 50% of the population, are internally displaced. The rural economy is catastrophically reduced.

In September 1997 Amnesty International published a report on human rights abuses against children by the Lord's Resistance Army (LRA), one of the parties to this war. Through the testimony of former child soldiers, it described the journey through hell experienced by abducted children. It detailed the violence they are forced to visit on each other and on villagers by an armed group that attacks civilians as a standard method of operation. As that report made clear, the LRA has abducted thousands of children and adults, has unlawfully killed hundreds, possibly thousands, of civilians, has raped thousands of women and beaten thousands of men, women and children. If it did not forcibly abduct children, the LRA would have few soldiers.¹

¹ *Uganda: "Breaking God's commands": the destruction of childhood by the Lord's Resistance Army*, Amnesty International, AFR 59/01/97, 18 September 1997.

However, human rights abuses against children by the LRA are only part of the dynamic of war in northern Uganda. The control of the civilian population is a strategic issue for the government's Uganda Peoples' Defence Forces (UPDF) as well as for the LRA.² This puts civilians of all ages at the heart of the conflict, rendering them especially vulnerable to human rights abuse by both sides.

Largely obscured by the scale of LRA violence is a pattern of human rights violations involving UPDF soldiers. Since 1996 Amnesty International has documented scores of killings, dozens of rapes and hundreds of beatings. There is a general problem of impunity for soldiers who have committed serious crimes against civilians. While many have been arrested and charged, few have been tried. The reasons for this lie in a complex series of institutional failures in the administration of justice. Amnesty International believes that the fact these have been allowed to continue is the result of failure by the political authorities at the highest level, including President Yoweri Museveni himself, to give questions of justice in northern Uganda sufficient priority.

One of the most contentious issues in northern Uganda is that of forced displacement. From the perspective of local people, being displaced from their homes is one of the most important facts in their current struggle for survival. Since 1996 the number of displaced persons has quadrupled. According to the World Food Program, at the most recent peak of displacement, in June 1998, over 320,000 persons were displaced in Gulu District, the majority in 20 official camps, one containing over 30,000 people. There are at least seven other camps in Kitgum District, where by June 1998 nearly 80,000 people had fled their homes.³ Displaced people have also sought refuge in Gulu and Kitgum towns and other parts of Uganda.

² The UPDF was known as the National Resistance Army (NRA) until the introduction of the new Constitution in September 1995.

³ WFP Emergency Report No 25, 19 June 1998, and WFP Emergency Report No 23, 5 June 1998.

Many people have moved to camps “spontaneously”, fleeing from the LRA. Others feel that the authorities gave them no choice about leaving their farms and livelihoods. Yet others were physically forced by government soldiers. Few people are happy to be in camps, which appear to have become semi-permanent, regarding them as punitive. However, the extreme violence of the LRA poses a real dilemma. Returning to the countryside may provide more opportunities (for example, for cultivation) but may increase the risk of being killed, either by the LRA or by patrolling government soldiers.

International law allows that people should be moved for their own safety or for imperative military reasons. However, this does not mean that either government or opposition forces have a free hand. The rights that people have and the protection they should receive are defined in international treaties of humanitarian law such as Common Article 3 of the *Geneva Conventions of 12 August 1949* and *Additional Protocol II to the Geneva Conventions, Relating to the Protection of Victims of Non-International Armed Conflicts*. The treaties of international human rights law that apply include the *International Covenant on Civil and Political Rights*, the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, the *Convention on the Rights of the Child* and the *African Charter on Human and Peoples’ Rights*.

In the context of gross human rights abuses by the LRA against unarmed civilians, Amnesty International does not believe that the creation of camps for internally displaced people, or a policy of moving people into camps by the authorities, is intrinsically a violation of international human rights or humanitarian law by the Uganda Government. However, the organization is concerned at the manner in which human rights abuses, in some areas by government forces as well as the LRA, have been a key factor in forcing people out of their homes.

Displaced people have the right to expect protection, in terms of their physical conditions of life (such as, at minimum, shelter, nutrition, sanitation and clean water), their safety and their human rights. The authorities have only partially lived up to their

obligations under international humanitarian law to provide for basic physical needs. Food security in camps remains poor. Since camps were first created local people have consistently complained that the army has failed to protect them from assault by the LRA seeking to abduct children and loot food. Further, in many cases cited in this report UPDF soldiers have themselves been directly responsible for human rights violations against people in camps.

Faced by poor conditions and unimpressed by the degree of safety afforded by camps, some villagers have returned to their homes to cultivate or to forage for food. Human rights violations by government forces have taken place during military operations in the countryside, both in areas supposedly cleared of civilians and areas where villagers have remained in their homes. There have been many incidents in which unarmed civilians caught in the countryside by UPDF soldiers have been extrajudicially executed or beaten. Amnesty International believes that incidents of rape by soldiers are significantly under-reported and that this form of violation is widespread. The aim of some military activity appears to have been to force people back into camps. In some areas villagers have been indiscriminately shelled.

These are human rights violations in any situation. Further, in addition to the continuing failure to guarantee food security and safety from violence, the authorities have not demonstrated that they are taking steps to minimize displacement in Gulu District or effective steps to bring about an end to the situation that has led to displacement in the first place. This raises serious questions about whether action by the authorities to compel people to leave the countryside remains consistent with Uganda's obligations under international humanitarian law.

Meanwhile, the LRA continues to raid villages to abduct children and loot food in areas where people have not moved. This includes extending operations against civilians into the neighbouring districts of Lira, Apac, Soroti (May 1998) and Kotido (December 1998).

The dynamic of human rights abuse in northern Uganda is therefore complex. This report focuses on four main sets of issues. The first, described in chapter 2, is the responsibility of both sides for internal displacement in Gulu District and the role that violence has played.

The second set of issues is the protection of civilians from human rights abuses since the creation of camps. This is discussed in Chapter 3, which starts by briefly discussing physical conditions in camps. The main focus of the chapter, however, is the violation of human rights by government forces in the countryside and in camps.⁴ It closes by describing attacks by the LRA on unarmed villagers in camps and villages in neighbouring districts where people have remained in their homes. One of the consequences of camps in Gulu District has been the increased vulnerability of people in other areas to abuse by the LRA.

The third issue is the treatment of alleged LRA collaborators, described in chapter 4. Although many fewer persons are currently detained without charge or trial than in the late 1980s and early 1990s, the practice still exists. Over the past three years Amnesty International has found cases of torture and ill-treatment. Furthermore, in some instances serious criminal charges have been laid on persons against whom it appears there is little or no evidence. Such charges are assumed by the authorities and the judiciary to preclude the granting of bail for set periods. This raises concern that criminal charges may be being abused as a way of temporarily detaining people.

In some of the incidents cited in these sections, the authorities have taken action to arrest soldiers alleged to have been responsible for human rights violations. The fourth set of issues is therefore the way in which the state has addressed the issue of human rights violations by UPDF soldiers. This is discussed in chapter 5. The chapter includes an

⁴ Amnesty International has not visited Kitgum and as a result has less information from that area.

analysis of the wider administration of justice in Gulu District. It identifies the avenues open to the public to bring reports of human rights violations to the attention of the authorities. It considers the ways reports are investigated and what happens once an alleged perpetrator or other alleged criminal has been arrested. Currently the system is locked in a circle of institutional failure that allows soldiers from high rank to low rank to commit human rights violations with impunity.

Since 1992 there appears to have been a general improvement in military discipline on the part of the NRA/UPDF. However, as this report demonstrates, there are still serious problems to be tackled. Few are new. Many also exist in other parts of Uganda. In the context of war in northern Uganda, however, these human rights issues come together in a concentrated and integrated manner with significant political as well as human rights consequences for ordinary people -- and for those in authority interested to improve relations between government and the people of the north.

Indeed, the war as whole has created a vicious circle of violence with human rights abuses against the civilians at its heart. Human rights abuses by each side play a role in perpetuating the conflict. This report challenges both the Uganda Government and the Lord's Resistance Army to break that circle.

1.1 Aims and methods

It is easy and perhaps inevitable for allegations and counter-allegations about which side has done what to whom to become part of the propaganda of war. Each incident is used as evidence of the evil of the enemy. The fact that the LRA has carried out many more unlawful killings than the UPDF is used by some government supporters to exonerate the state. On the other hand, some LRA supporters, especially those in exile thousands of miles from northern Uganda, claim that it is the UPDF that abducts children.⁵

⁵ In a public meeting in London on 27 June 1998 LRA leaders in exile made the statement that human

The aim of reporting human rights abuses is not to argue over which side has the moral high ground but to identify what is happening in order that appropriate measures to improve the situation can be introduced. Whatever the level of abuses by the LRA, under international law the government has the main legal responsibility to ensure the protection of human rights.

The main emphasis of this report, therefore, is on human rights violations by government forces. Although at present in northern Uganda the LRA is subjecting unarmed civilians to gross human rights abuses, this does not exonerate the government from addressing human rights violations by its own forces and from taking action where its duty to protect civilians has not been fully discharged.

rights are at the core of the armed group's program.

Furthermore, many northerners believe that central government is hostile to them.⁶ There may be a general rejection by northerners of the methods of the LRA, but there is little trust for the government.⁷ Most civilians that Amnesty International has spoken to doubt that either party is much concerned about the impact of war on rural people. Caught at the heart of the military strategies of both sides, villagers have little confidence that they live in a society where there is justice, either in the narrow sense of whether the mechanisms of justice work or in the wider sense of whether they live in a just society.

Increasingly the agenda of civil society in northern Uganda is to find a way forward towards peace. The churches and several non-governmental organizations are exploring different initiatives aimed at the peaceful resolution of conflict. The central government appears less whole-heartedly committed to this. In public, at least, it emphasizes that it is seeking a military solution to the war. In 1997 it sought to discredit prominent church voices for peace by accusing seven priests in the north of being “rebel collaborators”. Northern members of parliament opposed to the government periodically face the same accusation.

Trying to move forward towards peace or respect for human rights requires looking back and taking into account the events of the past. If human rights abuses or their perpetrators remain hidden and unacknowledged, justice can appear forgotten and deep-seated problems can go unresolved. However, arguing over the past can itself become an obstacle to moving forward. The use of the past by government and its opponents to indulge in a round of self-justification and accusation does little to help the

⁶ p52 and p56, *Parliamentary report on the war in the north*, Sessional Committee on Defence and Internal Affairs, Parliament of Uganda, February 1997.

⁷ In the presidential elections of 1996, 90% of votes cast in Gulu and 89% of votes cast in Kitgum were for Paul Ssemogerere, who advocates a negotiated settlement to the war. In contrast, at a national level 74% of votes were for Yoweri Museveni and 24% for Paul Ssemogerere.

people of the north. One of the challenges facing Ugandans is to find a framework within which the past can be addressed as a way of opening up the future.

Finding agreement on what might constitute justice is therefore one of the hardest tasks for both the authorities and the people of northern Uganda. This is a matter for dialogue between government and the people of the north, among northerners themselves, and between northerners and wider Ugandan society.

This report is intended as a contribution to that dialogue. It is an attempt to look forward by analysing the human rights situation in the recent past with the aim of identifying issues and procedural problems that all parties seeking to resolve war need to address. In Amnesty International's view securing protection for human rights is not just a requirement in itself but also a key step towards creating the conditions for peace. In other words, the protection of human rights is not something to be left to a future period of post-war reconstruction but is an intrinsic part of securing the end of conflict.

The report deals with the period since 1996 because it is since then that the current massive dislocation of people from the countryside has taken place. However, it should be noted that there are many unresolved human rights issues from before that date that many Ugandans continue to regard as important. Some of these are described in the contextual history of the war given at the end of this introductory chapter. Amnesty International has reported on many of these incidents in previous reports.

The report is largely based on three field missions to Uganda by Amnesty International. Two teams of researchers visited Gulu and Apac in May and July 1997. In May 1998 another team visited Gulu to follow up issues explored the previous year. During each visit the organization also met organizations and individuals in Kampala. Over 200 interviews were conducted with a wide range of persons from different walks of life. In July 1998 the organization was invited to attend the *Kacoke Madit*, a gathering of Acholi of diverse political opinions from around the world which was held in London.

This provided a further opportunity to hear diverse views about the way forward for northern Uganda and to meet both officials and exiles. Amnesty International would like to acknowledge the cooperation that it has received from many institutions and individuals of extremely varying views both inside and outside northern Uganda in researching and writing this report.

1.2 Obligations under international law

The obligations and duties that exist for both government and armed groups under international human rights and humanitarian law and armed groups under international humanitarian law provide a framework for discussion of human rights abuse that reduces the risk of falling into a debate on which side is somehow “worse” or “better” than the other. Human rights abuses by one side, no matter how gross, do not provide legitimacy to abuses by the other side. Looking at human rights abuses in relation to an objective set of legal standards is the first step towards breaking the circle of violence.

All parties to the war in northern Uganda are bound by the fundamental principles of international humanitarian law. Article 3, common to all four *Geneva Conventions*, extends protection to "*persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause...*". It requires that at minimum such persons be treated humanely and prohibits "*at any time and in any place whatsoever*" certain acts including violence to life and person, in particular, murder of all kinds, mutilation, cruel treatment and torture, the taking of hostages and humiliating and degrading treatment.

Additional Protocol II to the *Geneva Conventions*, which relates to the protection of the victims of non-international armed conflicts, develops and supplements the provisions of Common Article 3, and creates obligations for all parties to a conflict. It also defines prohibited acts, some with a specific focus on the civilian population. For

example, in addition to the acts banned by Common Article 3, Article 4 of *Additional Protocol II* prohibits slavery and the slave trade in all its forms, rape and pillage. Article 13 states that the civilian population as well as individual civilians shall enjoy general protection against the dangers arising from military operations. To give effect to this, the Article prohibits making civilians the objects of attack and bans acts or threats of violence the primary purpose of which is to spread terror. Article 14 prohibits the use of starvation as a method of combat.

Article 17 prohibits the forced movement of civilians. This, however, is not an absolute prohibition because it allows for forced movement where the party to the conflict can show that the security of the civilians involved or imperative military reasons so demand. In an important clause, the article goes on to define positive obligations, stating “*should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition*”. The general intention of Article 17 is to prohibit forced movement except in the most exceptional situations and to ensure that if it does take place certain safeguards are implemented for the physical protection of civilians affected.⁸

⁸ Uganda acceded to the *Geneva Conventions of 12 August 1949* on 18 May 1964 and to the two *Additional Protocols* on 13 March 1991. *Protocol II* relates to the *Protection of Victims of Non-International Armed Conflicts*.

In addition, as a state party the government is also bound by the more complex and far-reaching set of legal principles enshrined in international human rights law. Uganda has ratified or acceded to all the major international human rights treaties and is accordingly bound by them.⁹ One of the most important international treaties, the *International Covenant on Civil and Political Rights (ICCPR)*, allows the derogation of certain rights in the context of an officially declared public emergency that threatens the life of the nation (as long as the derogation is not inconsistent with other international legal obligations). Uganda has not declared a public emergency in northern Uganda and has not made any derogations from the *ICCPR*. Further, specific rights, including those prohibiting arbitrary killings and torture, cannot be derogated from, even in times of war. The *African Charter on Human and Peoples' Rights*, the most important regional human rights instrument, does not allow derogation.

In July 1998 a United Nations conference in Rome adopted the *Statute of the International Criminal Court*, marking an important development in the protection of the human rights of people in war zones. This creates a permanent international criminal court complementary to national jurisdictions with power to bring to justice persons accused of the crime of genocide, crimes against humanity and war crimes. The statute of the court brings together the fundamental principles of international humanitarian law and international human rights law in one place. In the future major breaches of international humanitarian law may be the subject of international criminal prosecution.

⁹ International Covenant on Civil and Political Rights, 21 June 1995; 1st Optional Protocol to the ICCPR, 14 November 1995; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 3 November 1986; International Covenant on Economic, Social and Cultural Rights, 21 January 1987; UN Convention on the Rights of the Child, 17 August 1990; UN Convention on the Elimination of All Forms of Discrimination against Women, 22 July 1985; African Charter on Human and Peoples' Rights, 10 May 1986; African Charter on the Rights and Welfare of the Child, 21 October 1994.

In April 1998 the Representative of the UN Secretary General on Internally Displaced Persons presented the *Guiding Principles on Internal Displacement* to the UN Commission on Human Rights.¹⁰ These set out the rights of internally displaced persons and the obligations of governments and armed opposition groups in all phases of displacement. Although the *Guiding Principles* are not a legally binding instrument, they bring together the essential principles of international humanitarian law, international human rights law and international refugee law in one document with the intention of reinforcing and strengthening existing legal provisions.¹¹ They provide a practical guide to the rights of internally displaced people tailored specifically to their needs.

In relation to displacement, international legal principles are clear on the following. First, it cannot be discriminatory. Secondly, it may only be undertaken exceptionally and in the specific circumstances provided for in international law. Displacement of civilians cannot, for example, be used as a tactic in warfare. Thirdly, these circumstances can be assessed on the basis of necessity and proportionality. In other words, the situation must be such that displacement is absolutely required. For example, can the safety of civilians be provided for by other reasonable means? Is the extent of displacement proportionate to the situation? Fourthly, displacement should last no longer than is absolutely required. Fifthly, all persons are protected against genocide, murder, summary or arbitrary executions, abduction and all other acts that violate the rights to life, dignity and liberty. Such acts would include direct or indiscriminate attacks on unarmed civilians, rape, torture and cruel, inhuman or degrading treatment. Sixthly, governments are obliged to make provision for the basic physical needs of displaced persons.

¹⁰ UN document E/CN.4/1998/53/Add.2.

¹¹ *Recent trends in protection and assistance for internally displaced people* by Roberta Cohen, in *Internally displaced people: a global survey* edited by Janie Hampton, Earthscan Publications Limited, London, 1998.

Based on these principles, should the circumstances be such that international law allows displacement there is an obligation on states to demonstrate that they are taking reasonable steps, first, to keep it to a minimum and, secondly, to create the situation in which it can be brought to an end as quickly as possible. If over a reasonable period of time there is little sign that the state or other parties are moving forward on these issues, the degree to which the authorities are entitled to compel displacement is put in doubt.

1.3 The war and human rights abuse: a contextual history

The origins of the war lie in the early 1980s in the military struggle between the government of Milton Obote and the armed opposition National Resistance Movement/Army (NRM/A) led by Yoweri Museveni. This was a war characterized by the gross violation of human rights by the government army, then known as the Uganda National Liberation Army (UNLA), including the mass killing of tens of thousands of civilians in parts of Mpigi, Bushenyi and Luwero Districts. A significant proportion of the UNLA was made up of troops from the Langi and Acholi ethnic groups of northern Uganda.

In July 1985 a power struggle between Langi and Acholi troops culminated in the Acholi senior army officers Tito Okello and Basilio Okello seizing power. The military government, however, only lasted a few months and in January 1986 the primarily southern and western-based NRA seized power and Yoweri Museveni became President. The Okellos and many other troops fled northwards. Some soldiers buried their weapons and uniforms and returned to their homes. Others passed beyond Kitgum and Gulu Districts into Sudan. There the troops regrouped and in August 1986 reinvaded Uganda calling themselves the Uganda People's Democratic Movement/Army (UPDM/A). The NRA victory did not end conflict in Uganda; it moved it to more outlying areas.

Since 1986 the war in Kitgum and Gulu has gone through many phases involving different fighting groups. The abuse of human rights by one side or the other has been a

consistent theme. In late 1986 human rights violations by government troops deployed in the north fuelled the conflict. In 1987 raiders from Karamoja east of Kitgum decimated cattle herds, which were both a social and economic resource for the Acholi. This took place, allege many Acholi, with the collusion of NRA soldiers who did little to intervene and in some cases looted cattle themselves. The UPDA did not last long as a military force. In June 1988 most UPDA troops came out of the bush after peace accords were signed with the government. A small section remained in bases inside Sudan. Other UPDA leaders reconciled with the government in 1990.

Meanwhile a woman called Alice Auma, also known as Lakwena (Acholi for messenger), created a force that became known as the Holy Spirit Movement. Alice Lakwena was already mobilizing deserting UPDA soldiers, former members of the UNLA and Acholi and other Luo civilians by late 1986, using a powerful combination of local ideas about the spirit world and Christian beliefs. Her forces were eventually defeated outside Jinja in November 1987.

Following her defeat, an armed group led by Joseph Kony, initially known as Lakwena Two before also becoming known as the Holy Spirit Movement, emerged as the focus of military opposition to the NRA in Gulu District. Like Alice Lakwena, Joseph Kony claims to be possessed by religious forces that use him as a medium.

From the very beginning, forces led by Joseph Kony have committed serious human rights abuses against civilians. For example, in 1988 Kony's forces hacked and clubbed to death hundreds of villagers in raids in Koch Goma and many other parts of Gulu and Kitgum, including in February bed-ridden patients in a dispensary. The abduction of children and adults to be soldiers has been consistent practice, although not at the levels that began in 1995. For example, on 6 March 1989 over 300 civilians were abducted in Ngai in Apac District. Scores of villagers were killed in incidents in Kitgum District in early 1990; for example, 43 villagers were hacked to death at Alwi in Acholibur near Kitgum town. In 1991 and 1992 the group, now known as the United Democratic Christian Army (UCDA), went through a period of mutilating villagers by

cutting off their hands, ears or lips or by putting out their eyes as punishment for joining or supporting vigilante groups known as “Arrow Brigades”.¹²

¹² For a fuller description of incidents, see *Uganda: The failure to safeguard human rights* (AFR 59/05/92), published by Amnesty International in September 1992.

Government soldiers were also responsible for gross human rights violations. In one of the most intense phases of the war, between October and December 1988 the NRA forcibly cleared approximately 100,000 people from their homes in and around Gulu town. Soldiers committed hundreds of extrajudicial executions as they forced people out of their homes, burning down homesteads and granaries.¹³ People flocked to the town and nearby trading centres -- but nothing had been prepared to receive them. For months displaced people had inadequate shelter, sanitation and water, and insufficient supplies of food.

During 1991 the NRA mounted another major military offensive which included sealing the north from the rest of the country. Although militarily effective, it was again tarnished by significant human rights violations. For example, in April 1991 NRA soldiers are alleged to have extrajudicially executed over 30 villagers at Komyoke in Atanga Sub-County in Kitgum. In the same month soldiers at Burcoro in Paicho Sub-County in Gulu tortured 34 prisoners by confining them in a pit. Three men were reportedly beaten to death and four others suffocated.¹⁴

¹³ For example, a report dated 29 December 1988 by the chairman of Koch Goma Resistance Council (RC) III submitted to the chairman of Gulu District RC V details the alleged extrajudicial execution of over 90 villagers and looting by NRA soldiers in the villages of Pakawera, Orum, Koch Amar, Lukutu, Ima and Ongako trading centre between 7 December and 25 December 1988. In a report headed *The board of inquiry progress report 1991* a committee made up of Acholi elders, RC members, officials from the office of the Inspector General of Government and the legal officer of the 4th Division of the NRA describes evidence of another 47 alleged extrajudicial executions by NRA soldiers in November and December 1988 in villages around Atiak, Pabo, Bungatira, Palaro, Patiko, Paicho, Koch Goma and Odek. The committee never finished its work and its reports have not been made public. Amnesty International documented yet other human rights violations in a report *Uganda: The human rights record 1986-1989* (AFR 59/01/89) published in March 1989.

¹⁴ See *Uganda: Human rights violations by the National Resistance Army* (AFR 59/20/91), published by Amnesty International on 4 December 1991.

In a number of incidents where off-duty soldiers or men who had deserted committed rape or murder the military authorities tried and convicted them at field courts martial leading to almost immediate execution. These trials were unfair (they did not afford the internationally recognised rights to defence or appeal). After protests from within Uganda and elsewhere, in late 1992 reforms were made to the military justice system and field courts martial were discontinued.¹⁵ The military justice system, however, remained problematic. From a human rights perspective, the system still did not conform to international standards (for example, there remained inadequate provision for appeal). At a unit level, the system was secretive and did not inspire confidence among the public that soldiers arrested for alleged crimes against civilians would actually be tried. Further, in many key incidents involving the violation of human rights during military operations little action was taken to bring soldiers to justice.

In 1992 new NRA commanders in the north developed a counter-insurgency strategy that improved collaboration with the civilian authorities. The next two and a half years saw a reduced level of military activity from both Joseph Kony's forces and the army. In late 1993 and early 1994 government officials held peace talks with Lord's Resistance Army (LRA) leaders, as the armed group was by then known.

The latest phase of the war began in early 1994. In February the peace talks collapsed after President Museveni gave LRA leaders seven days to lay down their arms. Meanwhile, the Sudan Government began to provide the LRA with military and logistical support, which gave the movement the means to intensify its activity. This support, which remains a key element in the LRA's ability to sustain intensive military activity, was described in the report "*Breaking God's commands: the destruction of childhood by the Lord's Resistance Army*", published by Amnesty International on 18 September 1997.

¹⁵ See *Uganda: The death penalty: a barrier to improving human rights* (AFR 59/03/93), published by Amnesty International in May 1993.

In 1995 the scale of violence and child abduction by the LRA increased dramatically. The LRA intensified the use of anti-personnel and anti-vehicle landmines throughout Gulu and Kitgum Districts causing hundreds of deaths and injuries. Some attacks on civilians involved large-scale loss of life. For example, in April 1995 the LRA raided Atiak trading centre in northern Gulu District. Several hundred people were rounded up and taken approximately 10 kilometres to a river bank. There the LRA shot dead 130 adolescents and young adults. In all, over 200 civilians are believed to have been killed in the raid. Church sources in Kitgum report that by the end of 1995, 730 children had been abducted in Pajule, over 250 in Puranga, 502 in Patongo and over 600 in Atanga.

As 1996 began Kitgum and Gulu were already badly affected by insecurity largely caused by LRA attacks on civilians. The end of 1995, however, was relatively quiet. This proved to be a temporary lull. The LRA was regrouping in Sudan and in February 1996 new units crossed into Uganda.

2. Civilians at the heart of war: internal displacement

Civilians -- and the relationship of each side with them -- are at the very heart of the way the war is being fought. As a result, at the start of 1999 there were approximately 400,000 persons displaced from their homes in Gulu and Kitgum Districts. The worst affected area is Gulu, where approximately 80% of the population is displaced.

These people have abandoned their homes, become largely dependent on relief assistance and lost most of their possessions. Most have congregated in crowded camps, quite unlike the dispersed farms and homesteads surrounded by fields that are the usual settlement pattern in the Gulu and Kitgum countryside. Others have fled into Gulu and Kitgum towns. Tens of thousands more have gone to neighbouring districts, particularly across the Nile to Masindi.

The manner in which displacement is characterized is part of the propaganda battle associated with the war. Given the scale of displacement, it is not surprising that the processes through which people have come to be displaced, the conditions in which they are living and their vulnerability to human rights abuse once in camps have become highly political issues. The very words used to define displaced camps are heavily charged with political meaning. Government officials and others tend to call them "protected villages". Some government opponents, including the LRA, use the phrase "concentration camps". These slogans obscure rather than illuminate the events that led to the creation of the camps and the daily reality of people's lives now that they exist. Amnesty International has chosen to use the word "camps" in an effort to find a term that has neither positive nor negative implications.

Since the war began the number of internally displaced persons has risen and fallen according to events. There is no single or simple pattern to displacement. In some areas during the 1997 and 1998 planting and cultivation seasons some villagers returned

to their fields. In some places people sleep in the camps but spend the daylight hours at their nearby homes. The times when most people have moved are when one side or another have put civilians in the countryside at the centre of their military tactics.

In Gulu District the current massive degree of displacement began in 1996. There are two main reasons for it. The first is intensive military action by the LRA directed against villagers. The second is the implementation by the government of a policy of putting people in camps. This has included incidents in which the UPDF has violated human rights to enforce movement. In Kitgum District, where large scale displacement began in 1997, the authorities have not placed such a policy emphasis on the creation of camps and fewer persons are displaced.

In human rights terms the movement of people into camps in Gulu and Kitgum Districts presents a series of dilemmas. Villagers are being attacked with extreme violence by the LRA, in breach of Common Article 3 of the *Geneva Conventions*. The authorities have an obligation to protect people from violence perpetrated by the LRA and, of course, by UPDF soldiers and other government agents. The authorities argue that providing protection from the LRA is not possible if people remain dispersed throughout the countryside.

On the other hand, persons living in camps are trapped in the war zone almost totally dependent on the authorities, who many do not trust politically. Camps, like villages, are a focus of LRA attacks. Villagers in camps are even less in control of their own destiny than they were when they were in the countryside, where they could at least cultivate and try and negotiate their security and survival through their own efforts. The result has been that in some places people have been very reluctant to enter camps.

In the context of the gross human rights abuses of the LRA, Amnesty International does not believe that the creation of camps by the authorities, or a policy of moving people into camps, is intrinsically a violation of human rights or humanitarian law.

However, the organization is concerned that human rights violations by government forces have been a factor in forcing people to move. For example, in some places people have been indiscriminately shelled or beaten by ground troops.

The first section of this chapter lays out the aims of LRA insurgency and UPDF counter-insurgency -- the reasons for displacement.

The second describes the wave of violence in Gulu District unleashed on civilians by the LRA in 1996 that preceded the decision by central government in September 1996 to create camps for internally displaced persons. Although on a lesser scale than abuses by the LRA, UPDF soldiers were also responsible for human rights violations in the period before camps were created. In one particularly infamous incident, a lynching in Gulu town in August 1996, senior army officers were implicated.

The third section describes human rights violations by UPDF forces in Gulu District to enforce movement into camps as they were being created in late 1996 and early 1997. While the authorities may have the right to move people, international humanitarian law and human rights law forbids attacks on unarmed civilians and other forms of human rights violation.

2.1 Control of civilians: insurgency and counter-insurgency

The LRA and the UPDF are competing for control of the civilian population. Statements made by LRA leaders and warnings given to villagers indicate that control is a key overall objective. Through it the LRA aims to acquire recruits or abducted children to replenish losses in their ranks, food and labour to carry supplies and stolen property. In 1996 part of this involved forcing people away from roads in order to give villagers less opportunity to contact the UPDF or civilian authorities and to facilitate ambushes and mine laying. In 1998 it involved forcing people out of camps created by the government (discussed in chapter 3). In addition, attacks are intended to disrupt road communications

and to punish individually or collectively villagers suspected of passing information to the authorities or otherwise opposing the LRA.

In response to the evolution in LRA tactics, UPDF tactics in Gulu included, by September 1996, the creation of camps and the removal of people from strategically important areas or places where the army was unable to prevent LRA activity. The decision to create camps was taken at the highest level. On 27 September 1996 President Yoweri Museveni informed members of the Parliamentary Committee on the Offices of the President, Prime Minister and Foreign Affairs that the authorities were going to establish “protected villages”. However, from interviews with villagers and others, it appears to Amnesty International that some UPDF units were already moving people out of their homes a number of weeks before the top-level decision to create camps was communicated to the Parliamentary Committee.

Overall UPDF aims appeared to be, and to remain, to prevent the LRA achieving its objectives and to allow the government a freer hand in military action. This was made clear, for example, by the Presidential Advisor on Political Affairs, Major Kakooza Mutale, who in October 1996 deployed in Gulu the Popular Intelligence Network (PIN), an intelligence service that reports to the Office of the President through the Major. One of its early tasks was to persuade people to move into camps. Towards the end of October the Major told journalists that President Yoweri Museveni’s idea was that the camps would enable the destruction of the “*intelligence centres of insurgency*”.¹⁶

*“The depopulation of the villages removes the soft targets and logistics for the survival of the rebels. They will lack food, information, youth to abduct and people to kill. Desperation will drive them to attack the army and the camps. That will be their end”.*¹⁷

¹⁶ Major Kakooza Mutale, quoted in *The Monitor*, 30 October-1 November 1996.

¹⁷ *The New Vision*, 13 November 1996.

Reporting President Museveni's decision, *The New Vision* newspaper said that the President had indicated that the measure would leave the countryside "*open for UPDF confrontation with the marauding remnants of the rebels now terrorizing innocent people*".¹⁸

¹⁸ *The New Vision*, 29 September 1996.

2.2 Human rights abuses against civilians in Gulu District in 1996

At the start of 1996 most of Gulu District was militarily relatively quiet. In February 1996, however, new LRA units crossed into Uganda from Sudan. They issued an edict banning settlement within two miles (three kilometres) of roads and prohibiting the use of bicycles. The units split into smaller groups and fanned out through Gulu District to enforce the edict through ruthless attacks on villages and trading centres and the murder of villagers using roads.

For example, on 19 February 1996, Pupwonya near Atiak in Kilak County was attacked; 10 civilians were deliberately and arbitrarily killed. In the week starting 27 February over 520 houses were burnt down in Pabo south of Atiak. On 17 March villages on the Gulu-Moroto road in Paicho Sub-County, Aswa County, were raided after the LRA warned people in the area not to ride bicycles. Between 17 and 20 March 48 civilians were deliberately and arbitrarily killed in villages north west of Pabo and around Pawel to the south of Atiak. On 22 March the LRA burnt down 30 houses at Lukome, some 12 kilometres north of Gulu town, and attacked Atiak trading centre, scene of a major massacre in April 1995.

There were many other similar incidents in both Gulu and, from March onwards, in Kitgum in which villagers were killed and burnt out of their homes and in which children were abducted. In April, however, the LRA declared a temporary cease-fire, ostensibly to allow campaigning in the presidential elections.¹⁹ Although poorly observed, there was a reduction in violence. Then on 14 May 1996 over 100 houses were destroyed at Laroo, three kilometres east of Gulu, forcing people to flee to the town. In the days that followed there were ambushes on the Kitgum-Lira road and the Gulu-Pakwach road.

¹⁹ The LRA held many rallies at this time urging people to vote for Paul Ssemogerere, the main rival to Yoweri Museveni.

Although by far the bulk of the violence directed against civilians at this time was by the LRA, UPDF mobile troops were also responsible for attacks on civilians and other human rights violations. These contributed to the state of insecurity in the countryside. For example, on 19 February 1996 troops pursuing the LRA unit responsible for the attack on Pupwonya are reported to have extrajudicially executed nine civilians suspected of supporting the rebels. Four were shot dead and the others beaten to death. After the LRA drove back a UPDF attempt to occupy the Atoo hills about 15 kilometres east of Gulu, UPDF soldiers are reported to have beaten civilians and looted their property. In mid-June a woman and three men suspected by soldiers to be members of the LRA were extrajudicially executed at Rwot Obilo near Bwobo in Alero Sub-County.

In late June 1996 parliamentary elections were concluded. Almost immediately the LRA began a comprehensive series of attacks on villagers. As the month unfolded villagers in Alero, Koch, Nguu and Aging in Nwoya County and close to the Opit hills in Omoro were threatened

with death if they did not move away from roads. Some assaults involved major loss of life. For example, on 28 and 29 July the LRA burnt down villages along the Gulu-Atiak road where they suspected civilians of informing the UPDF about newly laid landmines.²⁰ Seventy eight civilians were slaughtered; 18 were clubbed to death and laid along the road as a warning to others.

²⁰ In early July 1996 Major General Salim Saleh, who at this stage was overall coordinator of the government's war effort in the north, announced that civilians who provided information leading to the discovery of LRA arms or landmines would receive financial rewards.

Villagers were now streaming in to Gulu for safety or moving closer to trading centres and military posts (known as detachés in Uganda). Many who remained in their homes were sleeping in the bush at night, only going to their homesteads during the daylight hours. After the raids in March the number of internally displaced people in Gulu town had risen to approximately 10,000. It now increased yet further. Many people from nearby villages came into Gulu each evening to sleep in the town, outside Lacor hospital or around the two cathedrals and other churches. The LRA encircled Gulu town and appeared to be able to move at will within kilometres of the municipality. In late July the suburbs of Gulu were regularly raided and outlying military detachés attacked. One reason appears to have been to demonstrate to both villagers and the authorities that not even the town was safe.

LRA attacks on civilians continued throughout August, deliberately and arbitrarily killing scores of villagers. For example, on 2 August eight villagers were captured and killed by LRA soldiers at Ongako trading centre south of Gulu. The next day Labwoch and Pageya on the Gulu-Kampala road were raided; the bodies of 11 victims were laid out along the roadside as a warning against using the road. A boy soldier with the LRA, J.O., told Amnesty International about military operations at that time:

"At 11, we crossed Omoro road. We found three boys riding bicycles. The rebels arrested them and we were told to beat them with an axe on the head. But teacher A. stopped us. Instead, they were tied and brought with us. We reached a certain home, about three kilometres from the main road. Commander O. started talking to the people and preached them not to go on the road. The order was then given to kill these three boys in front of the people from the house".²¹

²¹ J.O., Gulu, May 1997.

The UPDF responded by going on the offensive. Operation Clean, which began at the start of August 1996, involved attacks on LRA strongholds and the shelling of LRA units in the countryside, often as they camped in villages. On 4 August bases in the Guru Guru hills were captured and the next day camps along the Unyama river attacked. On 8 August the UPDF shelled villages in Ongako where the LRA was suspected to be camped. By mid-August the struggle for control of the civilian population was intense. Security officials were reported to be advising villagers to leave “rebel-infested” areas “to avoid crossfire”.²² According to district officials, approximately 30,000 people in villages surrounding Gulu were leaving their homes at night to seek shelter in the town.

While not on the same scale as those of the LRA, human rights violations are also reported to have been committed by UPDF soldiers as they pursued the rebels. For example, in early August 1996 men and women were rounded up for questioning about the LRA at the village of Kalang Opok in Ongako, Omoro County. A number of women were allegedly raped. A man named Janario Odoki is reported to have died after being tortured by having a stick pushed into his anus.

The LRA responded to pursuit in Ongako by mounting further raids on Gulu municipality, abducting 10 people from Pece Labourline on 9 August 1996 and burning down houses in Kironbe and Cere-Lendo suburbs on 11 August. In turn, the UPDF responded to raids on Gulu town by temporarily rounding up approximately 10,000 people in the municipality for “screening” (an operation known as a *panda gari*) on 11 August.²³ People were beaten if they responded too slowly to orders from soldiers. Scores of others were beaten in front of senior police and civilian officials. One hundred and ninety people were arrested. Most were released on the weekend of 24 August but six suspected members of the LRA and 18 alleged collaborators remained in detention.

²² *The Monitor*, 16-18 August 1996.

²³ *Panda gari* can be loosely translated from kiswahili as “get on the truck”.

The atmosphere in Gulu was extremely tense. On the night the screening operation took place, the LRA again raided the outskirts of the town, burning down 18 houses in the Industrial Area village one kilometre west of the town centre. On 15 August the LRA raided the housing area around Gulu Railway Station. Eleven LRA soldiers were killed in fighting and at least one seriously wounded rebel was captured.

The next day this man, named Samuel Anywar, with Otim John, Odoki John Bosco and 15 year-old Okello George, who had been abducted by the LRA 24 hours earlier, were thrown to a lynch mob by UPDF soldiers including senior officers in command of the 4th Division. The government argues that the soldiers were overpowered by a mob. This is at odds with the testimony of eye-witnesses. The incident shocked Gulu and was reported in the national press. Amnesty International believes that the lynching was effectively an extrajudicial execution. No soldiers or civilians have been arrested and no investigation with the aim of establishing criminal responsibility has taken place.

In late August 1996 the LRA in Gulu District was operating in several highly mobile small groups carrying out ambushes on roads and raids on villages in which children were abducted, property looted and homesteads burnt down. For example, on 1 September nine civilians were deliberately and arbitrarily killed at Pamin-Yai in Alero Sub-County, Nwoya County. On 4 September 11 people were killed in three separate attacks at Tochi in Ongako, Keyo on the Adjumani road in Kilak and in Bungatira, Aswa County -- bringing to 53 the number of civilians killed by the LRA in Gulu District over previous 11 days.

Impunity at the top: the August 1996 killings

In a meeting with Amnesty International representatives in May 1997, the then commander of the 4th Division, Lieutenant Colonel James Kazini, who was reportedly present when at least one of the killings took place, denied that he had sanctioned the killing of George Okello and the others. Asked if there had been an investigation into the incident, he said that he had received a message from the Army Commander asking him to explain what had happened.

He went on to say that he had not felt it necessary to respond because he “had not done anything wrong”. In December 1997 Lieutenant Colonel Kazini was promoted to Brigadier. Shortly afterwards he was appointed Army Chief of Staff. Since August 1998 he has run UPDF operations in the Democratic Republic of the Congo (DRC).

In January 1999 the state accepted responsibility for the killings, without agreeing to the facts of what happened. This was in response to a High Court ruling in November 1998 awarding 42 million Ugandan shillings (\$US 42,000) damages in a civil case for compensation brought by the families of George Okello and Odoki John Bosco. There has still not been an investigation with the aim of establishing criminal responsibility.

At the start of September 1996 the Gulu District Local Council announced that at least 100,000 people in the district were now displaced. Throughout the month the LRA distributed leaflets banning the use of roads, the use of bicycles and any habitation within four kilometres of roads. On 10 September survivors of an ambush of a civilian vehicle at Koro Abili said that the LRA had told them the attack was to enforce the ban on movement by road. There were more raids on Gulu town (and Kitgum). For example, on 12 September four civilians were murdered in an attack on Tegwana Pece, Gulu suburbs, and two more were killed by the LRA at Unyama near Gulu. Again at Unyama, on 19 September three women were axed to death. The next day 11 men were deliberately and arbitrarily killed by the LRA at Oding village in Paicho, their bodies lined up along the road and the village burnt down:

*“Olyech Dennis, Acaya Godfrey, Oketta Caesar, Oceng George, Oketta Alba, Akera Charles, Lokwat Aldo. There were four others too. The bodies were not retrieved for a week. Their relatives had fled and other people were too scared”.*²⁴

²⁴ Interview with R.R.O., Gulu, 25 May 1997.

Also on 20 September 1996 seven men riding bicycles were captured and killed at Atede on the Gulu-Moroto road and civilians were killed in Awac and Lalogi. The next day 13 villagers were murdered by the LRA in Pabo, Awac and the Abera Forest in Paicho -- including six men using bicycles. On 23 September 22 civilians were deliberately and arbitrarily killed at the villages of Opidi, Lurala, Ojul, Lugumu and Opok. Another 157 families were reported to have fled to Gulu.

Meanwhile, the UPDF shelled villages they suspected contained LRA units. For example, on 15 September 1996 the UPDF shelled Patiri, 11 kilometres west of Gulu, killing seven people the army later said were LRA members. However, the shelling also destroyed much of the village and caused scores of civilians to flee. On 18 September the army shelled villages around Bwobo on the Gulu-Alero road. Four thousand families are reported to have fled Ongako after parts of the Sub-County were shelled on 19 September following a failed LRA ambush at Koro Abili.

2.3 Enforcing movement: human rights violations by UPDF soldiers

The Uganda Government has used the forcible removal of villagers into camps as an element in counter-insurgency on at least two previous occasions. Forced displacement in Gulu District in late 1988 has already been described in the Introduction. The other major program took place between February and October 1990 in Soroti and Kumi Districts in the context of the war against the armed opposition Uganda People's Army (UPA).

In Soroti and Kumi over 120,000 people were moved into camps. There were many reports of NRA soldiers beating and killing villagers reluctant to leave their homes and looting property left behind. Once areas had been cleared, people found within them were considered to be rebels and were shot on sight.²⁵ Many camps, such as the camp at

²⁵ Incidents were documented by Amnesty International in the report *Uganda: The failure to*

Ngora in Kumi District where in March 1990 there were approximately 35,000 people in a small area, had limited access to clean water and sanitation until humanitarian relief was provided by NGOs. Approximately 1,000 people died of disease in the camps between February and September 1990.

In many areas in Gulu District in September 1996, notably Nwoya County to the southwest of Gulu, villagers were already fleeing the violence of the LRA. However, in the light of previous forced displacements, it is not surprising that an immediate concern for villagers, community leaders and politicians was whether abuses by government forces and the inadequate preparation of facilities by the authorities was going to be the situation once again.²⁶

In Aswa and Kilak Counties in Gulu many villagers were reluctant to abandon their homes, fields and possessions. Some villagers, especially those distant from roads, were concerned that movement might make them more rather than less likely to be attacked by the LRA. They were concerned that their homes and property would be left unguarded and that their crops, which by this stage of the year were already maturing, would be unharvested, leaving them destitute. They were also concerned about the living conditions in the places that people were to be concentrated. For example, in early November 1996 local councillors in Bungatira told journalists:

safeguard human rights (AFR 59/05/92), published in September 1992.

²⁶ Acholi members of the Parliamentary Committee on the Offices of the President, Prime Minister and Foreign Affairs protested to the President that government had not made provision for the infrastructure and supply of camps. They were also concerned at the possibility of forcible removals (interview with Okumu Ronald Reagan MP and Okello Kolo MP, Kampala, 26 May 1998).

*“People fear that they will starve in the camps. They prefer army deployment in their villages”.*²⁷

In general, government forces appear to have committed fewer human rights violations clearing villagers from the countryside in 1996 than were committed during clearances in late 1988. However, recognizing this does not exonerate the UPDF from responsibility for the human rights violations that have taken place.

Amnesty International has interviewed a number of villagers from Aswa and Kilak Counties who report that the UPDF used force constituting the violation of human rights to make them move, and that this began well before the end of September 1996. Officially the UPDF denies that it has used force to move civilians. However, in February 1997 a military source who requested anonymity told journalists that the army would *“forcefully evict villagers in areas where they are easy targets of Kony rebel attacks”*.²⁸

Local Council officials have reported to Amnesty International that on 11 September 1996 villagers in Omel parish in Paicho were forced out of their homes by UPDF soldiers and told to move to the sub-county headquarters in neighbouring Odek. Those who refused were beaten and their arms tied. The villagers were allowed to collect what they could carry. Property they could not take with them was looted by soldiers.

Elsewhere the UPDF is reported to have used indiscriminate artillery and mortar fire to force people to move. The UPDF does not deny that it has shelled villages but claims that artillery fire has always been directed at LRA units. For example, on 17 September Pabwo in Bungatira, north of Gulu, was shelled. Local leaders from Patiko Sub-County, some 30 kilometres north of Gulu in Aswa County, interviewed by Amnesty

²⁷ *The New Vision*, 13 November 1996.

²⁸ *The New Vision*, 27 February 1997.

International in May 1997 said that Pugwenyi parish was shelled in October 1996 because the villagers had decided they did not want to move:

“We met the elders to talk about going to the camps. It was discussed. We were asked can the government provide food? What about sanitation? What about medical care? Can the government guarantee that we will be safe? And what would happen to our homes? It was decided not to go. A few days later the villages were shelled with heavy weapons. Two women were killed and a boy was hurt. The people moved. Some went to the division headquarters, others went to Gulu”.

On 29 October UPDF troops stationed at Unyama Teacher Training College are reported to have shelled and mortared the villages of Ngomrom, Agung and Lukome in Aswa to persuade people to move the camp at Unyama. A three month-old baby boy was killed.

In Awac, also in Aswa County, villagers holding open air prayers ran away when they saw soldiers in the distance on 3 November 1996. The catechist, Peter Olanya, remained. He was reportedly captured and shot dead.

In another example, on 1 November 1996 the army cleared villages around Bibia and Atiak in Kilak County, telling people to move into Atiak trading centre. Some refused to move. On 4 November local councillors wrote to the Resident District Commissioner (RDC), the President’s representative in the district and effectively the senior civilian official, to report that soldiers and policemen had beaten people reluctant to leave their homes and had looted livestock. They alleged that a number of youths were detained until they paid bribes to be released.

Elsewhere in Atiak Sub-County some villagers were not moved until early 1997. For example, on 28 April 1997 civilians in the villages of Toloyang and Lagotoywec in

Okidi in the eastern part of Atiak were ordered to move by UPDF troops. O.N., a community leader interviewed by Amnesty International in May 1997, described what happened:

“They gathered people from their homes. If you were in the field, they gathered you too. We were not allowed to collect things. They told us to move. We were made to move through the bush for the whole day, carrying the soldiers’ packs and food. Near sunset we reached Lagotoywec where they collected people as well.

They set fire to the grass between our homes. This was where we hid our belongings and food so that it was not stolen by the LRA. Everything was burnt. In the homesteads they pushed over the granaries and took food for themselves. They took and killed chickens.

We reached the Atido river. There we stopped. Some soldiers began to beat some men. They struck women on the head with a switch. Four women were raped”.

On the second evening O.N. was able to complain to the officer commanding the unit and their treatment improved. No action, however, was taken about the alleged beatings and rape.

Such incidents are outlawed by Common Article 3 of the *Geneva Conventions* and by Article 13 (2) of the *Additional Protocol II* which prohibit attacks on civilians not taking part in hostilities. Those responsible should be held accountable.

3. Failures in protecting human rights

Two aspects of protection that flow from international humanitarian law and human rights law are particularly important in northern Uganda. The first is the issue of the physical conditions of life, particularly of shelter, hygiene, health and nutrition. The second is the issue of safety from violence and human rights abuse.

The first section of this chapter is a brief discussion of the physical conditions in camps. While this has not been the primary focus of Amnesty International's research, the government itself has admitted serious shortcomings in physical conditions. In the words of Major General Salim Saleh, formerly overall coordinator of the government's war effort in the north, the evacuation of villages was done in a "*haphazard and uncoordinated*" manner and the authorities did not "*put in place basic amenities for their (the people's) livelihood*".²⁹

Faced by poor conditions in camps, in particular inadequate or intermittent food supplies, villagers have gone to their homes to forage for food and in some cases in 1997 and 1998 to plant and harvest. This has exposed them to human right abuses by both the LRA and the UPDF. One of the UPDF's aims of clearing the countryside is to separate civilians from the LRA. A key dimension of this is denying the LRA access to food. The army therefore does not want to see cultivation in fields where crops could fall into the hands of the LRA.

The second section below describes human rights violations by UPDF soldiers against villagers in Gulu District who have returned home without official sanction. Hardly any soldiers alleged to have been responsible for such incidents have been arrested.

²⁹ Press release from Major General Salim Saleh dated 21 October 1997, reported in *The Monitor*, 26 October 1997.

The third section describes human rights violations in 1997 and 1998 in Kitgum District, where fewer villagers have gone into camps. There have been several incidents in which mobile UPDF patrols have beaten villagers and looted property. In one important incident children held captive by the LRA were shot dead at close range by ambushing UPDF soldiers.

Villagers in camps are vulnerable to human rights violations by the soldiers supposed to be protecting them. This is described in the fourth section. There have been some arrests of soldiers in this context, but hardly any have actually been brought to justice.

Finally, the fifth section describes the way the LRA in 1998, apparently suffering from the lack of food in the countryside, attacked camps with the aim of looting food and driving villagers back to the fields. Camp residents in Gulu in particular are highly critical of the UPDF's record in protecting them from LRA attack. Meanwhile, in 1997 and 1998 the LRA extended its military operations into neighbouring Apac, Lira, Soroti (May 1998) and Kotido Districts (December 1998) where food is more freely available. Here they have also engaged in the deliberate and arbitrary killing of villagers and the abduction of children. A consequence of the majority of the population of Gulu District being in camps is the increased exposure of people in nearby areas to LRA attack.

In the words of a man from Odek in Gulu District, who in April 1998 was ordered back to his fields by the LRA and then rounded up again by the UPDF:

*“People are torn between two deadly orders. The LRA does not want people in the protected camps, while the UPDF does not want anyone in the countryside. We don't know what to do”.*³⁰

³⁰ *The Monitor*, 29 April 1998.

Inadequate protection from violence, poor physical conditions in camps, the failure of the authorities to demonstrate that they are taking steps to minimize displacement in Gulu District and little sign that the government is taking effective measures to end the circumstances that have brought about displacement have legal consequences. In these circumstances, the longer displacement lasts the more questionable it is whether compulsion to leave the countryside, even that which does not involve the abuse of human rights, remains consistent with international humanitarian law.

3.1 Poor physical conditions

Major General Salim Saleh's acknowledgement that the government had not made adequate provision in terms of the supply and physical infrastructure of camps was made in the context of an appeal for relief assistance 13 months after the government began to put people in camps. It followed the publication of a report by the United States Embassy that was highly critical of the way the camps policy had been implemented:

*"In sum, the Gulu protected villages have caused significant economic losses, were inadequately organized and have increased dissatisfaction from (sic) the government at a time when public support for the insurgents was at its lowest ebb".*³¹

The authorities describe the process of camp creation as being one in which the local military and civil authorities worked as partners. The reality was that the army told the civil authorities what to do. Major General Salim Saleh has indicated that the UPDF acted alone in creating camps because it "*suspected bureaucracy and politicking over the*

³¹ Gersony *ibid*, p53.

issue".³² It seems that almost no lessons had been learnt from the two previous times the army had moved people into camps -- in late 1988 in Gulu District and in 1990 in Kumi and Soroti Districts.

³² Major General Salim Saleh, quoted in *The Monitor*, 26 October 1997.

In Gulu in 1996 the media reported the authorities began “intensive mobilization” to move people from remote villages to close to army detachments (posts) on 30 September, only three days after President Museveni announced that camps were to be created.³³ Other evidence, already cited, suggests that army officers had started encouraging people to move even before this. Almost no provision was made for food, shelter, water supply or sanitation.

³³ *The New Vision*, 3 October 1996.

In late October 1996, four weeks after the policy of creating camps was announced, the authorities met to develop an overall strategy for running camps. On 29 October a meeting chaired by Third Deputy Prime Minister and Minister of Labour and Social Services Paul Etyang drew up plans for the authorities to provide food for 100,000 people in Gulu District for a six month period. The UN and NGOs were to provide health care and sanitation. However, the army's drive to move people was implemented much faster than preparations to receive them. By the end of November 1996 Gulu Local Council figures suggest that the number of displaced people had already doubled to around 200,000. Three months later, in February 1997, the Council was reporting that an estimated 280,000 people in the district were living in camps.³⁴

Most people arriving in camps had to create their own shelter. Very few locations had clean water supplies -- or at least supplies that were sufficient for the large numbers of people needing to use them. Seven months after it was created, Pabo, the largest camp in Gulu District containing approximately 33,000 people, had only two water pumps.³⁵ A survey by the Gulu District Medical Officer in August 1997 reported that drugs had run out and that there were still no latrines in many camps, especially those which had been rendered inaccessible by insecurity. This was eleven months after the camps had been created.

³⁴ *Uganda Humanitarian Situation Report*, UN Department of Humanitarian Affairs, 15 March 1997.

³⁵ Interview with J.J. Odur, Chairman Gulu District Disaster Management Committee, Gulu, 23 May 1997.

Food supply has been a problem from the very beginning. In 1996 people moved from their homes shortly before harvest with what they could carry. Few camps, especially the larger ones, have sufficient land around them to enable cultivation in safety. The supply of relief food has often been rendered intermittent by military activity by the LRA. In August 1997 the Gulu District Medical Officer estimated that 50% of children in camps were malnourished. Between January and September 1997 179 children admitted to Lacor Hospital in Gulu town died as a result of malnutrition. As recently as December 1998, food distributions by NGOs providing relief food were cancelled after ambushes on roads ended a period of around four months in which there had been little military activity. Local truck-owners cancelled their contracts because of fear of LRA attack.³⁶

Conditions in camps have changed and developed as time has passed. Improved food supply to camps during 1998 led the UN to estimate that by May 1998 overall malnutrition rates in the north had dropped to around 20%. In December 1998, however, the UN concluded that malnutrition was continuing at an unacceptably high rate in the camps.³⁷ There is little food security. If relief food deliveries are disrupted for even short periods people go hungry.

Conditions also vary from place to place. Camps close to Gulu town, where access has been generally possible, are relatively better off than camps in distant locations isolated by insecurity. For example, the people at Awer, approximately 20 kilometres north west of Gulu town, which when Amnesty International visited in May 1998 had a population of approximately 3,700, had been able to build reasonably decent houses and had adequate water supplies. Sixty pit latrines had been dug. However, these were

³⁶ World Food Program Emergency Report 49 of 1998: East and Central Africa, December 1998.

³⁷ p16, *United Nations Consolidated Inter-Agency Appeal for Uganda*, December 1998.

reported to be filled and there was said to be an urgent need for new sanitation. Awer is reported to be a showcase compared to other places.

In 1996 in Gulu, the UPDF acted with speed to achieve the objective of moving people. It appears to have handed over responsibility to the civil authorities to provide for them with almost no regard for whether this was actually possible. The authorities enlisted the intervention of the UN and NGOs to work with them to try and redeem the situation of ordinary villagers. For villagers in most camps physical conditions remain a continuing subject of complaint.

3.2 Human rights violations by UPDF soldiers in cleared areas in Gulu

The UPDF has indicated that persons encountered in areas supposed to have been cleared of people will be assumed to be members or supporters of the LRA. The military approach to a “cleared area” was revealed by Major General Salim Saleh on 7 August 1996. At a time when extreme LRA violence was driving people out of the countryside, he told journalists that once people have left the countryside:

*“This time we know that the people we come across in the countryside are rebels”.*³⁸

However, suspecting that persons found in the countryside are members or supporters of the LRA does not mean that violating their human rights is legitimate and is a highly questionable assumption on which to base military practice. Incidents in which unarmed civilians have been indiscriminately shelled, extrajudicially executed, raped or beaten are human rights violations in any circumstance.

³⁸ *The Monitor*, 9-12 August 1996.

In reality, even the most cleared areas are rarely free of civilians. Many villagers try and go back periodically to check that their possessions have not been looted or their homes burnt down or damaged by wind and rain. People have returned to salvage food from stores. Especially in late 1996 and 1997 many people went back home to try and harvest what they could from their maturing crops. In 1997 and 1998 some people returned home to plant and cultivate. In some places UPDF soldiers have been sympathetic to civilians and have given permission or an escort. In other places, soldiers have refused to allow people to go to the countryside -- but desperate people go anyway. There they run the risk of encountering UPDF mobile patrols (and the LRA).

Attacks to restore camps

Amnesty International has received a number of reports of human rights violations in the context of action by the UPDF to compel back into camps communities who have gone home to cultivate. For example, in August 1997 civilians who had returned to their homes in northern Odek in Gulu District were beaten to force them to return to camps. On 3 August, as they walked towards the camp of Acet, they were ambushed by another UPDF mobile patrol and at least five were reported to have been shot dead.

On 9 September 1997 a UPDF unit located in the Abera Forest, approximately 10 kilometres north east of Gulu town, is reported to have shelled villages at night in Aswa and Omoro Counties after villagers had returned home to cultivate. At daybreak hundreds of civilians streamed into Gulu town. The RDC protested to the army that the shelling was "indiscriminate". The then commander of the 4 Division, Lieutenant Colonel James Kazini, denied this and said that the shelling was of LRA units. He is reported to have expressed irritation to the media that civilians did not obey orders to leave areas to allow room for military activity.

A few weeks later in the same area villagers left Unyama camp and returned to Ngomrom to cultivate. On 16 October 1997 a UPDF mobile patrol is reported to have gone to the village and beaten villagers, ordering them to return to the camp. They then burnt down houses and granaries.

In mid-December 1997 many villagers from the area around Anaka, approximately 50 kilometres west of Gulu town, returned to their home in order to harvest standing crops. However, on 15 December the UPDF is reported to have shelled villages including Paduny, Pangora, Pabali and others, reportedly to force people to

return to Anaka camp. Again the UPDF claimed it was targeting the LRA.

Foraging for food

There has been a consistent pattern of extrajudicial executions and rape of people in areas that the UPDF considers to have been cleared. In October 1996 three women in Omel Kuru east of Gulu were raped by soldiers from a mobile patrol based at Cwero. M.L. described her experience:

“The soldiers were looking for rebels. One saw me. He left the others. He caught hold of me and began to strangle me. Then he raped me...

I told my mother-in-law. My husband wanted to stay with me but his other wives refused him to have sex with me. I went with my children to Gulu”.

In November 1996 Oryang, an elderly tobacco farmer, returned to his village south of Gulu from Goma camp to tend his plot. He was arrested at night by patrolling soldiers reported to be from Koch Goma. The next day he was found bayoneted to death. Also in November, Layobel (phonetic) Owedi and his two daughters returned with others to their village in Ongako to collect food. Layobel Owedi and the girls were caught by soldiers and killed.

In December 1996 Okot Janario “disappeared” after being seen in the custody of soldiers in Omel in Paicho. Odong Alex, a 15 year-old youth, was shot dead on 26 December 1996 just outside Anaka trading centre. Odong Alex who had planted a small plot of sugar cane just beyond the edge of the camp, is reported to have been cutting cane with his younger brother when a soldier came over, ordered him to stop harvesting and then shot him three times. The younger boy ran and escaped. A soldier was arrested. When Amnesty International representatives visited Gulu in May 1998 he remained remanded in custody.

Southeast of Gulu in Omoro County, Geoffrey Odong, a school student, was captured by troops from a mobile patrol while harvesting honey near Wang Lobo in

Lalogi on 2 March 1997. He too was bayoneted to death. Local councillors wrote to the army Public Relations Office in Gulu demanding an explanation of the killing from the unit commander. Reportedly they did not receive a response. On 13 March 1997 A., a married woman, was raped by patrolling soldiers near Unyama, a few kilometres from Gulu.

Okiya David was extrajudicially executed by soldiers at Acek-Pabo on 6 August 1997. Murder charges against a home guard were later dropped and no other arrests made. Richard Apeya was shot dead at Kalabimo village on 24 August. Soldiers from Pagak detach were in the area and on 2 September one was charged with his murder.

On 13 May 1998 Oyet David, a youth displaced to Katikati on the outskirts of Gulu, returned with two friends to his home area of Langol in Alero, about 26 kilometres west of Gulu, to harvest cassava. Soldiers on patrol saw the boys and opened fire. Oyet David was injured but able, with his friends, to flee. He was left at the house of an elderly female relative who had risked staying in the countryside rather than living in a camp. Three soldiers followed the trail of blood to the house. One is reported to have called Oyet David out, made him lie face down and then extrajudicially executed him by a shot through the head.

On 10 December 1998 Korina Atuk was reportedly extrajudicially executed by patrolling UPDF soldiers as she cultivated land at Coo-Rom, approximately 20 kilometres southwest of Gulu.

3.3 Human rights violations in the countryside in Kitgum

In Kitgum District UPDF soldiers pursuing LRA units have also committed human rights violations against villagers. The dynamic of abuses in countryside both east and west of Kitgum town in May 1997 is an example of the problems facing villagers who have stayed in their homes.

On 17 May 1997 a UPDF mobile patrol came to Lakwor in Kitgum Matidi, Chua County, ostensibly in pursuit of an LRA unit. Although the LRA was reported to be camped near the village, instead of engaging with it the troops are reported to have turned on villagers, beating people and looting food and livestock. On 20 May an LRA unit arrived at the village of Orima, some kilometres further north, in the Mucwini area. They camped there for four days. In that time they killed two civilians and abducted eight children. On the fifth day a UPDF patrol arrived. Instead of going on in pursuit of the LRA, they are reported to have stopped at the village and themselves looted food.

In the Pajimu area west of Kitgum town, the LRA abducted four men from Tumangu on 24 May 1997. A UPDF patrol that arrived shortly afterwards looted food and arrested a youth for reasons that remain unclear. Amnesty International does not know what has happened to him since. On 26 May the LRA beat people working in the fields at Toro and Lanyaa-Tong. This time a UPDF patrol did pursue them, but some hours later it returned through the villages and also beat villagers.

In another incident, Ojara James was among several men beaten unconscious by mobile troops near Cam Cam close to Kitgum town on 31 December 1997. The motive for the beating is not known. Ojara James reported the incident to the police, who sent him for medical treatment, but no arrests were made.

The shooting of abducted children

One of the most serious incidents involving UPDF troops in Kitgum District took place on 1 March 1998 at Ogole, eight kilometres west of Wol in Agago County. The LRA sent about 80 children, many of them such recent captives that they were bound together, to collect water under the guard of approximately 20 LRA soldiers (many of them also children). Many captives were carrying jerrycans. UPDF soldiers waiting in ambush opened fire. Villagers from nearby reported that at least 30 child captives were killed.

According to persons who visited the site afterwards, the distribution of cartridge cases indicated that the soldiers' positions were within 10 metres of the nearest bound children -- in other words, there can be little doubt that the soldiers knew they were opening fire on persons held captive. Abducted children who escaped described being chased by UPDF soldiers firing at them as they ran. Some of those bound became tangled up with each other and were unable to flee. On or around 9 March 1998 military sources said that "19 LRA rebels were killed" in the incident.³⁹ However, on 11 March *Rupiny*, a Luo-language weekly newspaper, broke the story about children being shot.⁴⁰ A spokesman for the 4th Division responded with a blanket denial that any children had been killed.⁴¹

Impunity on operations: the killings at Ogole

³⁹ *The New Vision*, 10 March 1998.

⁴⁰ *Rupiny*, 11-17 March 1998.

⁴¹ *The New Vision*, 18 March 1998.

This incident -- and the direct denial of children being killed -- makes clear the necessity for independent investigation of reported killings. At the very least, the killings raise serious questions about the rules of engagement followed by UPDF soldiers encountering LRA units holding abducted children. For example, do soldiers take steps to try and discriminate between captives and combatants?

While it is clear that by abducting children the LRA exposes them to almost certain military assault, why in this particular incident, when the fact that so many of the children were captives appears to have been clear, did the army engage in the manner that it did?

So far there have neither been official independent investigations nor effective criminal investigations into the incidents listed in this and the previous section. In the absence of investigations it is not possible for human rights violators to be brought to justice. Neither is it easy for procedures to be assessed to work out how such incidents can be prevented.

Above all, the limited action gives a message to people in northern Uganda that justice is not a priority. In the case of villagers killed, raped or beaten when found in areas cleared of population this may be deliberate. The army does not want civilians in these areas; those that go into them can expect the worst.

3.4 Human rights violations by UPDF soldiers in camps

Many, but not all, camps are close to UPDF detachments. Three categories of troops are deployed in the camps; regular UPDF, Local Defence Units (LDUs) and home guards. All are under the overall umbrella of the 4th Division and are subject to the same disciplinary regime. LDUs and home guards are generally locally recruited as irregular soldiers. Many are former members of the UPDF. Often they are known to the people in the camps around them, even if they do not come from the same immediate neighbourhood. When Amnesty International representatives visited Gulu in mid-1998 no camps had a permanent police presence. The police, who are LRA

targets, are neither sufficiently numerous nor sufficiently strong to protect themselves and so tend only to pay visits to camps in response to specific demands. Camp leaders and elected local councillors (LCs) provide civilian administration. They are an important but limited channel through which camp residents can raise complaints about their treatment, including about the violation of human rights. This is discussed more fully in chapter 5.

Camp residents are vulnerable to abuse by soldiers -- especially in camps in remoter areas and those which are difficult to leave. Amnesty International has collected information from both official and unofficial sources about human rights violations by soldiers in camps between September 1996 and July 1998. The information mainly

relates to accessible camps and locations from which people have been able to journey to Gulu to take complaints to local LCs or the police. In other words, the information collected does not provide an exhaustive account of the human rights situation but goes some way towards demonstrating the ubiquity of problems confronting civilians.

Women who spoke to Amnesty International about rape had left camps and villages for Gulu and were only prepared to talk after being introduced by trusted friends. Their testimony is convincing evidence that there is an extensive pattern of rape that has remained largely hidden.

In many of the incidents described below soldiers were arrested. However, hardly any have been brought to justice. There remains, therefore, a serious problem of impunity for soldiers who commit human rights violations. This is not only manifested in incidents that largely involved low ranking soldiers but also in events, such as the August 1996 lynching in Gulu town described in chapter 2, in which senior officers played a role.

Human rights violations in Opit

In May 1997 Amnesty International met many people from Opit who were then in Gulu. They reported a series of incidents in late 1996 and early 1997 in which soldiers in Opit were responsible for cases of illegal detention, rape and other forms of torture. In October 1996 a man named Otima was arrested in Opit trading centre, which is the focus of a camp, on suspicion of being an member of the LRA. He was taken to a nearby detach where he was beaten and held underground in a pit. Local councillors tried to intervene with the unit commander but were denied access to the detach. They then told the police in Opit about the arrest but they are reported to have refused to take action. After three days Otima was released uncharged. He died in December 1996, reportedly as a result of his injuries.

Between August 1996 and April 1997 soldiers raped at least 13 women in and around Opit trading centre and nearby Lujorongole parish, an alleged LRA stronghold. After one of them, A.M., was raped in August, her husband tried to report the case to the unit commander in Opit but was turned away. Local councillors got no further pursuing the cases of three women raped later in the month. The rape of a 17-year old girl, N.A., on 8 October was reported to the police but no arrest was made. LCs pursued the case of a woman, A., raped in Lujorongole on 17 October, but again the authorities took no action.

K.A. was raped by a soldier from Opit on 4 November. Her husband went to the detach to complain and was detained for 24 hours. A. was raped shortly afterwards in Opit trading centre. She wished to pursue her case with the military but her husband refused to allow it because he feared that the soldiers would retaliate. This demonstrates both the consequences of impunity and the social obstacles facing women seeking to report rape. Other rapes attributed to soldiers stationed at Opit took place in December 1996, February 1997 and March 1997. On 20 April 1997 15 year-old H.A. was raped by a soldier. Even though she knew the man's name and took the case to the police and the RDC in Gulu no action was reportedly taken. When Amnesty International representatives inspected record books in Gulu District police headquarters in May 1998 nothing had been entered about the incident.

Two soldiers were arrested, however, after the extrajudicial execution of Okello Jimmy Peter in Opit on 28 November 1996. Soldiers from a unit patrolling the camp shot the youth in his hut at around 11.30 pm. Hearing the shooting, the unit commander sent out a second patrol to find out what was happening. They found Okello Jimmy Peter still conscious but badly injured and took him to the health centre where he died. In the morning LCs, police officers and the UPDF unit commander conducted an on-site investigation. It emerged that he had been shot from point blank range while lying, probably asleep, on a grass bed. The police officers are reported to have attempted to charge Okello Jimmy Peter's father and an LC with the murder. The UPDF intervened and

secured the transfer of the policemen back to Gulu. Four days later the army arrested two soldiers who were taken to Gulu, handed over to the police and charged with murder.

A month after Okello Jimmy Peter was killed, in December 1996, soldiers in Opit were reportedly responsible for torturing a man named Otto by melting a plastic jerrycan onto his buttocks. Badly burned, he was transferred to Gulu Barracks. From there he was taken to Gulu police station to be charged. The police refused to accept him and he was taken to Gulu Hospital where he died in February 1997. His family was reportedly reluctant to make a formal complaint to either the UPDF or the police. However, an NGO based in Gulu wrote to the commander of the 4th Division. No reply was received.

Human rights violations in other parts of Gulu District

Extrajudicial executions and rape are also reported from elsewhere in Gulu. For example, on 24 December 1996 Komakech Charles and Orinya Charles were shot dead by soldiers from the Aparanga detach in Purongo, Nwoya. A month later three home guards were arrested and charged with murder. They remained untried in May 1998. A former soldier suspected of being a member of the LRA was shot dead in Palaro trading centre in January 1997. On the evening of 12 January 1997 two men were arrested by soldiers as they sat drinking with friends outside a house in Olwal camp. As they were taken towards the detach, one man broke free and ran away. The other, Neko Odongyik Michael, was taken into the detach where he was shot dead. LCs wrote to commander of the 4th Division complaining but no investigation or other action is reported to have followed.

In March 1997 two girls and a woman were raped by various soldiers in Lugore, Palaro. On 27 May 1997 five women among civilians sleeping at a detach at Alokolum near Gulu were raped by soldiers. Their husbands reportedly tried to raise the cases with the unit commander but were not able to get a response. On 27 October 1997 a woman, A.A., was raped at Pabo. A soldier was charged one month later. On 25 December 1997 a

group of friends were celebrating Christmas at Pawel Angany in Bungatira. A.B., a 28-year old woman, described what happened:

“We saw a torch being flashed...My husband went nearer to find out what was happening. He discovered armed soldiers talking in kiswahili. He came back and warned us to be careful because those flashing the torch are soldiers.

No sooner was the warning given than people fled, save for a few who were too drunk to take heed. These were thoroughly beaten. They include Odur Orunya -- with a broken collar bone -- Apire Santo, Oloya Orunya and Acire Stephen.

I couldn't run because I have two children. I stayed in the house with them. After a while someone pushed the door open and flashed a torch at me. I realized he was a soldier. He threatened me with death if I made an alarm or noise. He then dragged me aside from the sleeping children and raped me inside my own house. I was gang-raped by four soldiers who took their turn one after another. In all I was raped eight times that same night so I almost became unconscious without ability or energy to walk”.⁴²

Her father pursued the case. She went to the police and made a statement. The UPDF is reported to have organized an identity parade in which she picked out four men, who were then charged with rape. As far as Amnesty International is aware, the case has not yet come to trial.

In early 1998 soldiers from Katikati detach gained a notorious reputation for beating and flogging displaced people while extorting money. In one of many incidents, a man named Obita alleged that on 11 February 1998 he was lashed 35 times. A police constable was beaten in another incident. Displaced people reported the incidents directly

⁴² Statement by A.B. recorded in Gulu on 13 February 1998.

to the Minister of State for the North during a rally at Lacor. Police officials also raised the incidents with the army. In March the UPDF Public Relations Office said that the army “had taken measures”. However, no independent investigation nor arrests appear to have followed.

In Amuru camp two soldiers burnt Acaa Alice to death after covering her with *enguli*, a form of locally distilled spirit, during an argument about payment for the drink on 23 February 1998. The soldiers were handed over to the police who charged them with murder. On 11 March 1998 Okoch Martin was shot dead by a home guard at Goma camp. On 26 April 1998 Florence Canyero was shot dead by a soldier at Olwal camp. A home guard was arrested and charged with murder. On 16 May 1998 at Amuru, patrolling troops reportedly from Battalion 118 entered the house of a middle-aged married couple and extrajudicially executed them. No arrests are reported to have been made.

3.5 Attacks by the LRA: the response to camps

In 1996 the Ugandan authorities were under no illusion about the likely LRA response to the creation of camps. In the words of Major Kakooza Mutale, the Presidential Adviser on Political Affairs, “*desperation will drive them (the LRA) to attack the army and the camps*”.⁴³ Attacks on camps began as soon as they were created and have continued to the present day. Often the purpose appears to be theft of relief food. In 1998 attacks were made to drive people out of camps and back to their fields in order to produce food that could be more easily expropriated by the LRA later in the year.

Amnesty International is not in a position to assess whether camps have actually afforded villagers protection from assault that could have been achieved equally well or

⁴³ *The New Vision*, 13 November 1996.

better in other ways. Many villagers evidently feel safer in camps. As comments from villagers already quoted indicate, many others would prefer to be protected in their villages. There are frequent complaints that when the LRA attacks camps the soldiers do little.

Further, in 1997 and especially in 1998 the LRA made major incursions into the neighbouring districts of Apac and Lira to loot food and abduct children. These attacks may be a consequence of the majority of the population in Gulu District being in camps and therefore not cultivating. Facing shortages of food, the LRA has visited its violence on communities hitherto less affected by the war.

Attacks on camps

It is not possible to list all the instances of attacks on camps reported to Amnesty International. The pattern is illustrated by some of the attacks that took place between January and August 1997. For example, there were attacks on camps at Koch Amar and Anaka trading centres on 16 January 1997 in which children were abducted. On 27 January 1997 two displaced people were deliberately and arbitrarily killed at Coo-pii camp close to Gulu town as the LRA looted huts. The camp was attacked again in mid-February.

On 20 March 1997 children were abducted from camps at Pabo and Opit. The next night the camp at Atiak trading centre was attacked. The UPDF detach fought back with the loss of four soldiers; ten adults were abducted and the camp population of some 10,000 people fled into the bush. On 16 April 1997 the LRA attacked the camp at Palabek Gem in Kitgum. Ten villagers and four home guards were killed. The camp was attacked again eight days later; two villagers were deliberately and arbitrarily killed.

On 25 July 1997 the LRA looted Labongo-Ogali camp in Kilak County, two days after a food distribution had taken place. On 17 August 1997 six children were abducted

from Lugore (Patiko) camp in Aswa County. Relief supplies were looted and 46 houses burnt down in Pabo on 24 August.

In 1998 the aim of many LRA attacks was to force people back to their farms. A series of attacks were mounted on camps in April and May 1998, the period when farmers would normally be preparing and cultivating their fields. On 6 April 1998 Anaka trading centre was attacked, then the centre of a camp of approximately 30,000 displaced people; five people, including a four-year-old boy, were wounded by gunfire. On 12 April the LRA representative based in London warned non-governmental organizations providing humanitarian assistance that they would be considered military targets if they continued to supply the camps.

Attacks intensified after a new LRA unit crossed into Uganda from bases in Sudan on 19 April 1998. On 28 April Koch Goma camp was attacked and three people were abducted, shortly after a food distribution had taken place. On 11 May 1998 12 adults were abducted from Awer, 20 kilometres from Gulu town. Eight were released within 24 hours. On 13 May 1998 Pabo camp, which then contained approximately 33,000 people, was raided. A woman taken by the LRA was beaten to death but other adult captives were released with orders to tell people in the camp to leave. Palema, only 10 kilometres from Gulu, was raided the same night by a small group of LRA who abducted 15 people and looted goats. Twelve adults were later released.

On 27 May 1998 six people were abducted from Pabo. Three days later an LRA unit beat civilians they found cultivating land near the camp, ordering that they should return to their homes and cultivate there. After 20 people were abducted from Lacekocot on 18 June 1998, where approximately 25,000 people were living, camp residents complained to the authorities that they did not feel protected and wished to return to their villages. On 29 June 1998 LRA leaders based in London issued another statement demanding that the camps be dismantled.

After a lull in military activity, attacks renewed towards the end of 1998. For example, on 5 December 1998 Anaka camp, approximately 50 kilometres southwest of Gulu, was attacked by an LRA unit that reportedly abducted 18 people and looted recently distributed relief food. The LRA returned six days later and abducted over 50 other persons, most of whom were children.

Each LRA attack on a civilian target is, as described in previous sections, a breach of international humanitarian law. However, each attack also represents a failure by the UPDF to discharge their legal obligations and their stated objective of protecting people from violence.

The exposure of neighbouring areas to LRA violence

In 1997 and especially in 1998 the LRA extended its operations involving human rights abuses against civilians into the neighbouring districts of Apac, Lira, Soroti (May 1998) and Kotido (December 1998). It is plausible to suggest that these operations, like attacks on camps, were a result of the LRA finding it difficult to get food in Gulu District. A consequence of camps in Gulu is therefore the increased vulnerability of people in neighbouring areas to attack by the LRA. As the Ugandan authorities and public consider the effectiveness of camps in Gulu as a method of protection, this is a factor that ought to be included in their calculations.

Apac, which lies to the south of Gulu District, has seen military action involving the abuse of human rights on many occasions in the past. For example, the now infamous abduction of girls from St Mary's School at Aboke was one of several incidents in Apac District in October 1996. However, Lira, which lies to the south of Kitgum District and which like Apac is largely inhabited by people from the Langi ethnic group, was less directly affected until 1997.

At the end of June and start of July 1997 there was intense activity by the LRA in southern Kitgum District and nearby parts of Lira. Children were reported to have been abducted in the sub-counties of Aromo, Ogur, Okwang, Apala and Adwari. For example, on 4 July 1997 the LRA abducted three children and an adult in raids on Apala trading centre and Okwang hospital.

In January and February 1998 there were renewed incursions into Lira. Over a two week period an LRA unit deliberately and arbitrarily killed over 20 civilians, abducted scores of others and burnt down hundreds of houses in northern parts of the district. For example, on 21 January Ayami trading centre was looted and around 20 civilians captured by the LRA were made to carry away stolen goods. On 23 January 30 youths were abducted in a raid on villages in Agweng. On 27 January the LRA reportedly killed six civilians as they looted Aliwang mission hospital in Adwari. Thirteen villagers were unlawfully killed as the LRA opened fire on a wedding party at Agala on 5 February. The bridegroom and his father were abducted and an old man beaten to death. Over 20 villagers were abducted on 7 February from homes in Ayami. Meanwhile, other attacks on civilians were reported from Apac District.

There were further assaults on civilians in Lira beginning in late April 1998. On 29 April 1998 50 children were reported to have been abducted from Adwari. On 1 May Abia trading centre was raided. Heavy UPDF deployment forced the LRA to withdraw into Kitgum District but in mid-May 1998 there were renewed raids. Landmines were planted in Apala on 14 May 1998. Approximately 20,000 villagers fled towards Lira town. Four unarmed adults were deliberately and arbitrarily killed by the LRA on 16 May 1998. The next day four children were abducted from the suburbs of Lira itself. The group continued eastwards and on 21 May raided villages around Katakwi in Soroti District, the first incursions into Soroti since Kony's group became active. Eight villagers were abducted. On 22 May a medical assistant, a nurse and child were abducted as the LRA looted Ococia hospital in Orungo.

The LRA unit responsible for these attacks withdrew into Kitgum District (where many similar raids were also taking place) at the end of May 1998. However, raids into Lira continued over the next month. For example, on 3 June 1998 10 children were abducted from villages in Ogur. On 29 and 30 June the LRA abducted another 20 children in villages in Okwang.

4. The treatment of alleged LRA suspects

As Amnesty International described in the report *Breaking God's commands*, the UPDF is following a policy of encouraging LRA soldiers to give themselves up. The authorities emphasize that the majority of LRA fighters are abducted children who have fought against their will. Although they may have committed gross human rights abuses, the fact of abduction and childhood allows the government to follow a policy of reintegration rather than punishment. Officially escaping or captured LRA soldiers remain only a short time in military barracks before being transferred to the non-governmental organizations World Vision or GUSCO for counselling and therapy. It appears that this official policy is in general what happens in practice.

The treatment of persons suspected to be collaborating with the LRA, many of whom have been arrested in camps and others in mass “screening” exercises (known as *panda gari*), is different. Most people arrested in this context are adults. The authorities argue that such people know what they are doing, have freedom of choice and should therefore experience the full weight of the law.

In the past, the authorities in the north have made extensive use of illegal detention without charge or trial in military barracks of suspected supporters of armed groups. Detention without charge or trial is a violation of human rights that brings the additional risk of torture and ill-treatment.

In the late 1980s thousands of alleged rebel suspects arrested in the north were held in military barracks and civil prisons (where they were known as “lodgers”). Since 1992 there has been a significant reduction in the numbers of alleged supporters of Joseph Kony illegally detained. This reduction may be linked to the growing hostility of people in the north towards the LRA. For example, in late 1994 over 160 detainees were

known to be held for several months in Gulu barracks.⁴⁴ As far as Amnesty International has been able to establish, all were released in 1995. There has been a further welcome reduction in the use of detention without charge or trial in the north since then.

However, the practice of detention without charge or trial still exists, albeit on a reduced scale. Amnesty International also remains concerned about reports of torture and ill-treatment. These come especially from detachments in the countryside, but some instances have followed operations in Gulu municipality in which the army and the police have carried out mass round-ups (*panda gari*) to search for members of the LRA and army deserters. Incidents are described in the first section below.

In the process of reducing the number of illegal detainees, the authorities, in 1995 and 1996 at least, appear to have slightly increased the number of people against whom criminal charges were brought. In principle, this represents a step forward in respecting human rights. However, in practice there have been many shortcomings in the use of criminal charges, some of which have involved the violation of human rights. This is discussed in the second section.

4.1 Detention and torture

On 14 February 1997 Pastore Oloya, Akot Janet, Robert Nyeko, Pica Lalobo and a fourth man whose name is not known to Amnesty were arrested in Pabo and taken to a detachment in Atiak. They were reportedly arrested because the son of Pastore Oloya and Akot Janet was with the LRA. According to the family, he was abducted in January 1997. However, the UPDF suspected him to be a key member of the LRA who had joined voluntarily. The five were beaten as they were arrested. The men spent several weeks detained in the detachment, where they were reportedly caned each day to pressure them into contacting the

⁴⁴ See *Uganda: Detentions of suspected government opponents without charge or trial in the north* (AFR 59/04/94), December 1994.

son to persuade him to come out of the bush. Eventually Pastore Oloya was transferred to Gulu Barracks from where he was immediately transferred to hospital. The others were released.

On 16 February 1997 Kagwa Lawrence p'Owot, a teacher, was arrested by soldiers in Lacor near Gulu. Again, he was beaten as he was arrested. The soldiers took him on foot to Gulu Barracks where he was reportedly thrown over the perimeter fence. His family traced him at the barracks but soldiers denied he was there. An elder eventually secured his release in April, after writing to the UPDF Public Relations Office, local councillors and the police.

On 14 May 1997 Albino Okoya, Onona James and Opira Bosco were arrested at Paicho after they were discovered in possession of a magazine of bullets. They were beaten and detained in an underground bunker. Opira Bosco was tortured by soldiers melting a plastic jerrycan over his body. Priests and an NGO took reports that the men were being held in Paicho to the civilian authorities and an Amnesty International delegation visiting Gulu raised the situation of the men with the commander of the 4th Division. They were released two days later. Two soldiers were arrested and charged with grievous bodily harm. On 29 July 1997 they were granted bail.

On 10 June 1997 home guards beat to death Tobia Okello at a detach in Minakulu. He had been arrested following allegations that his son was a member of the LRA and had been seen in the bush nearby. The soldiers wanted Tobia Okello to show them where the boy was hiding. The entire detach was arrested; three men were charged with murder.

On 20 June 1997 soldiers from Goma detach dumped Olweda Santo, unconscious and apparently dead, in countryside close to Goma camp. He had been arrested because the soldiers suspected he had contact with the LRA. He was found and taken to hospital where he recovered. He has now left Gulu District. Julio Agesa was reportedly beaten

after being arrested by soldiers from the 65th Battalion pursuing an LRA unit towards the Atoo hills in Paicho. He was later charged with misprison of treason (the failure to report treasonable activity).

Eighteen men and women from Agulukero in Lamogi were arrested on 20 July 1997 by soldiers searching for a UPDF deserter suspected of links with the LRA. They were taken to Awer camp detach where they were beaten. Three days later nine were hospitalized after they were brought by soldiers to the office of the RDC. Four home guards were subsequently arrested and charged with actual bodily harm.

An early morning *panda gari* mounted by the UPDF and MPPU in Gulu municipality on 7 September 1997 involved people being beaten and lashed by soldiers to drive them out of their homes to Layibi Central Primary School for screening. This involved papers being checked and former LRA soldiers, known as “computers”, inspecting people to identify LRA members. Those ill-treated included a journalist whose ears were pierced by a bayonet. Others included a disabled man who reported that he was beaten and kicked because he could not run to the assembly point.

Incidents continued throughout 1998. For example, on 14 May 1998 Ilario Otim and Simon Okot “disappeared” after they were arrested at Alokolum trading centre. In early July 1998 soldiers at the Paicho detach illegally detained Francis Ochora and five other men. The soldiers claimed that they suspected the five of being members of the LRA. The men were beaten and soldiers tortured one, Chris Bitiko, by burning his hands and piercing his body with needles. Five soldiers were arrested and charged with unlawful arrest and torture. Also in July 1998, 21 people from Amyel in Agago County in Kitgum were beaten after being arrested by soldiers. In mid-July, 14 of them were charged with practising witchcraft.

On 2 September 1998 shots were fired at a UPDF detach at Pageya. Soldiers made a patrol and found William Odong, Philips Odong and Oloya cultivating. The three men were tied in the painful manner known in Uganda as *kandooya*. This involves tightly

tying the victim's arms together above the elbow and behind the back. It constitutes a form of cruel, inhuman or degrading treatment and was banned within the army in 1987. The men were taken to the detach and beaten. An officer intervened to free them and two soldiers were reported to have been arrested. However, local sources reported that as of mid-October 1998 the soldiers had not been charged.

Torture and ill-treatment is prohibited not only by the *ICCPR* and the *African Charter* but also under the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* to which Uganda acceded in November 1986. This treaty stipulates that no justification, not even a state of war, may be invoked as a justification for torture. It places an obligation on the authorities to investigate all allegations of torture and to bring the alleged perpetrators to justice.

4.2 The use of criminal charges

In May 1998 Amnesty International reviewed police and court records in Gulu and found that in Gulu between 1 January 1996 and 1 May 1998 charges of treason (waging war against the state), misprison of treason (the failure to report treasonable activity) and terrorism had been brought against 51 men and one woman. The majority of the charges (five treason, 28 misprison of treason and six terrorism) were brought in 1996. Ten (two treason and eight misprison of treason) were laid in 1997 and two (one treason and one terrorism) in 1998.

It is current practice in the courts to interpret Article 23 (6) of Uganda's Constitution as prohibiting the granting of bail for persons charged with certain serious offences for set periods. Persons charged with offences that can only be tried in the High Court (for example, treason, murder and rape) are only granted bail if they have been on remand for 360 days and have not yet had their case committed to court. Persons on charges that can be tried in both the High Court and a lower court (for example,

misprison of treason or terrorism) are only granted bail after 120 days. This means that such charges can be abused as a way of holding people apparently legally when in reality there is little evidence against them. This is particularly the situation in northern Uganda where there are significant problems in the functioning of the criminal justice system (discussed in chapter 5).

Amnesty International believes that this interpretation of Article 23 (6) is open to legal challenge. If successful, this would remove an apparent loophole in the judicial process that can be used to violate human rights.⁴⁵

In the vast majority of the 52 cases of political charges Amnesty International is not in a position to assess one way or another whether the charges are appropriate. However, in many cases before they were charged, suspects were held in illegal detention, often in remote detaches, for periods ranging from a few days to several months.

The law states that criminal suspects should be charged within 48 hours of arrest. While it is possible to understand that in periods of intensive military activity by the LRA it may sometimes be difficult for units in remote places to comply with this time limit, the authorities are still obliged in all circumstances to comply with the law. In addition, there can be absolutely no excuse for the length of detention experienced, for example, by Simon Onek, Yakobo Okwonga and Omono Sisto. They were arrested on 26 December 1995 in Pabo but were not brought to the police station in Gulu to be charged with misprison of treason until mid-June 1996. Similarly, Otwoda Ronald was arrested in Palabek in Kitgum District on 18 December 1996. He was eventually charged with treason on 13 May 1997.

⁴⁵ Amnesty International believes that a legal challenge could clarify whether the Article defines a mandatory period when bail cannot be granted or whether its intent is to oblige the courts to grant bail after a set period if bail has not already been granted within that period. The first interpretation creates a situation in which serious criminal charges can be abused in a manner that violates human rights. The second transfers the emphasis onto the granting of bail as a right -- and reduces the scope for serious criminal charges to be abused as an alternative form of detention.

In 1997 the Gulu Chief Magistrate threw out five cases because of the repeated failure of the prosecution to produce witnesses and dismissed charges against another three men because the prosecutor repeatedly failed to attend the court. As regards the latter cases, the failure of the prosecution to attend court suggests that the evidence against the accused may have been weak or non-existent. This may also be the situation in relation to other cases as yet not tried. In only one case known to Amnesty International, that of Ocaya Odoch accused of misprison of treason, has a conviction been secured. In March 1997 he was sentenced to four months in jail.

In March and April 1998 a series of arrests took place in Gulu that point to a degree of contempt for the legal process at the heart of central government. The arrests were carried out by members of the Popular Intelligence Network (PIN) run out of the Office of the President by the Presidential Advisor on Political Affairs, Major Kakooza Mutale. The Major was reported to be directly involved in the arrests, which the local authorities claim were unjustified. The timing was deeply ironic. The first set of arrests occurred on the day President Yoweri Museveni visited camps in Gulu District and apologized to the people of the north for failing to end the war, an act that was intended to give a message of goodwill to northerners.

Under the terms of the Constitution of Uganda creating an intelligence service requires an Act of Parliament.⁴⁶ This has not taken place with reference to PIN and the organization is therefore unconstitutional and illegal. This lack of basis in law means that it can operate without scrutiny or accountability. International standards require that arrest, detention or imprisonment be carried out strictly in accordance with the law by competent officials.⁴⁷

⁴⁶ Article 218 (2), Constitution of the Republic of Uganda.

⁴⁷ *Body of Principles for the protection of All Persons under Any Form of Detention or Imprisonment.*

On 17 March 1998 ten men and a woman were detained in Gulu on, according to Major Kakooza Mutale, suspicion of treasonable activity. They were not taken to the police station or Gulu barracks but were held in a government building before being put, at night, into two cars and driven to Kampala. One man alleged to Amnesty International that he was threatened by having a gun held to his head while he was questioned about alleged rebel activity. In Kampala they were illegally detained in a room in the private offices of the Presidential Advisor on Political Affairs.

Local officials and the Uganda Human Rights Commission (UHRC) spent the next four days trying to find the detainees. On 21 March Kelementina Okello, the only woman among the detainees, Okello John Samuel, Robert Okello and Robert Ocen were released. Seven others, Okello Layoo (LC Chairman for Anaka sub-county), Santo Bongomin, Oyul Sezi, Vincent Otukene, Kidega pa Yolam, Vincent Okema and Martin Gazi, were charged with treason.

The PIN team claim that on 2 March 1998 the men were involved in the murder of Justin Kidega and 10 members of his family at a village in Paicho after he had informed the UPDF that some of the accused were LRA collaborators. The perspective of the local authorities is that the arrested men were victims of an inter-clan dispute over land.

On 3 April 1998 PIN personnel led by the Major arrested three more men, Mzee Obwolo Okobo, Obel Alanya and Makamoi Justin, at Awer camp. The next day two men, Opobo Kajeroni and Otto Stanley, were arrested in Parabongo camp and others, Celsio Otim, Celsio Akena, Oruk Odongpiny and Serapino Oneka, at Pabo. Once again the men were brought to Gulu and then transferred to Kampala. Again they were held in illegal detention in a private location for several days before six were freed on police bond and the others charged with treason.

On 20 May 1998 five of those freed on police bond, including Otto Stanley, Mzee Obwolo Okobo, Makamoi Justin and Opobo Kajeroni, were re-arrested by police in Gulu. They were charged with treason and also transferred to Kampala, this time to an official place of detention.

Amnesty International is not in a position to assess whether or not these charges are appropriate. However, the manner in which the arrests were made on the 17 March, 3 April and 4 April and the subsequent detention in private offices is a deeply disturbing development. In the words of one worried local official, referring to the way security personnel under Idi Amin used to throw bound detainees arrested in Gulu off the road bridge into the Nile at Karuma:

“This is close to what used to happen under Amin. It is only one small step to people not getting past Karuma Falls”.

The detention of suspects in unofficial places of detention is in contravention of international standards and increases the risk of torture and “disappearance”.

5. The administration of justice: addressing impunity

In the midst of the devastation caused by this war, the police, the courts and the prisons are all represented in the north. However, despite the efforts of many people working within them, the police and the courts in particular do not function effectively. This poses serious difficulties for those in the area trying to ensure respect for human rights.

The symptoms of institutional failure include the failure to deal with human rights violations when they arise and the perpetration of further human rights violations by the institutions themselves. An important consequence is that few people have confidence that the police or the courts will deliver justice. Many people that have spoken to Amnesty International take it as given that human rights violators will walk free. Some argue that this is further evidence of official disinterest at the level of central government in solving the problems that underlie the war. Justice, they say, is neither a possibility for people in the north nor a priority for those in high authority.

The war inevitably creates problems for the effective administration of justice. Social disruption and insecurity make policing and criminal investigation a challenge in these circumstances. Politically motivated allegations and counter-allegations are rife. The obstacles to locating and protecting witnesses are immense. The police are lightly armed and are a target of the LRA. They need the protection of the UPDF if they are to function outside the main towns. In Gulu District the last police station in a rural area (Opit) closed in early 1998.⁴⁸ All sub-courts are closed. Senior judicial officials acknowledge that they are failing to take justice to the people. The result is that the courts are only for those who live in Gulu or Kitgum -- or who can afford to travel to the towns and are prepared to take the security risk of so doing. This is true of most legal issues that people might want to take to court. It is especially true of allegations of human rights violations, especially if the alleged perpetrators are soldiers.

⁴⁸ Senior Superintendent Sam Epodoi, Gulu District Police Commander, 19 May 1998.

However, not all the problems facing the administration of justice in Gulu and Kitgum are an inevitable result of disruption, dislocation and insecurity. These factors can too easily be used to obscure a number of other factors in relation to which the authorities, locally and nationally, could and should take action.

5.1 Holding soldiers to account

UPDF officers say that they have responded to past criticism that the army fails to take action in relation to human rights abuses.⁴⁹ Amnesty International has been told by senior military personnel that, while the army does not accept that such criticism was ever really correct, on review the military recognized that there were procedural failings in the manner of bringing soldiers to justice. In some situations, say UPDF officers, the system of internal investigation and prosecution was closed and secretive, which meant that civilians did not see that justice was being done, while in others the desire that action should be visible and rapid meant that the human rights of soldiers were disregarded. This was especially the case in field tribunals in which execution quickly followed unfair summary trials that did not allow the right of appeal.

Army officers, the district authorities, the police and the courts have all described to Amnesty International the system in Gulu and Kitgum Districts for dealing with reports of human rights violations by soldiers.⁵⁰ The army says that on receiving a complaint it moves quickly to arrest the soldiers alleged to have committed the crime. They are then handed over to the police who are responsible for all aspects of criminal investigation. The police bring criminal charges and the cases are then tried in the civilian courts. The stated aim is for justice both to be done and for it to be seen to be done by civilians and soldiers. All the officials to whom Amnesty International spoke said that this was an important element in building trust between the army and the civilian population.

⁴⁹ See, for example, *Uganda: The failure to safeguard human rights*, Amnesty International (AFR 59/05/92), September 1992.

⁵⁰ Lieutenant Shaban Bantazira, Director UPDF Public Relations Office, 22 May 1997; Lieutenant Colonel (now Brigadier) James Kazini, Commander 4th Division, 23 May 1997; Mr Okello Olanya, Gulu Assistant Resident District Commissioner, 27 May 1997; Senior Superintendent Sam Epodoi, Gulu District Police Commander, 26 May and 10 July 1997; Mr Peter Odok W'Ochieng, Gulu Resident District Commissioner, 10 July 1997; Lieutenant Khelil Magara, UPDF Public Relations Officer - Gulu, 18 May 1998; Brigadier Edward Wamala Katumba, Commander 4th Division, 21 May 1998.

In principle, such cooperation by the army with the civilian justice system is to be welcomed in so far as it contributes to maintaining respect for human rights. However, in practice there are several elements within the process that do not work well. This is demonstrated by the pattern of alleged incidents and arrests.

Police records examined by Amnesty International in Gulu in May 1998 reveal that between January 1996 and April 1998 the police charged 82 soldiers with a variety of serious crimes against the person. These included 40 charges of murder, six charges of attempted murder, 16 charges of rape, 12 charges relating to assault or bodily harm and three charges of threatening violence. Five soldiers were charged with defilement in violent circumstances that suggest that if the victims had been over the 18 years old the charges would have been rape.⁵¹ Many of these incidents have been described in chapter 4.

However, in only three cases -- two soldiers accused of attempted murder in July and October 1997 respectively and four home guards accused of actual bodily harm in July 1997 -- have there been trials and convictions.⁵² Although it is denied by the UPDF, there is evidence that soldiers released on bail are redeployed back to their units. Furthermore, Amnesty International has also collected reports of a further 63 killings, over 40 rapes and scores of assaults where no soldiers were arrested, let alone prosecuted.

In other words, despite the action taken by different institutions at different stages, there remains a problem of impunity for soldiers who are alleged to be perpetrators of human rights violations. There are several institutional reasons for this

⁵¹ In relation to rape of girls under the age of 18, the police prefer to use the charge of defilement (unlawful sexual intercourse with a girl under 18) because it side-steps the defence of alleged consent.

⁵² In one case -- that of three soldiers accused of assault -- the defendants have been tried and acquitted.

that include the working relations between the UPDF and the criminal justice system and the capacity of the police and Department of Public Prosecutions.

Amnesty International believes that the fact these institutional problems have not been adequately addressed in an area as politically sensitive as northern Uganda indicates that government at the highest level has not deemed justice in Gulu and Kitgum a priority. In the end, as the killing involving senior UPDF officers in Gulu municipality in August 1996 also suggests, this raises a question mark over whether there is serious interest in the Office of the President in seeing soldiers brought to justice in northern Uganda.

5.2 Reporting alleged human rights violations: accountability for action

The first reason for impunity is the difficulty faced by those who wish to report allegations of human rights abuse. Several avenues theoretically exist. However, many can be inaccessible to victims in remote areas and some involve persons who are vulnerable to intimidation by soldiers. There is no official or community leader who is really accountable for following up reports of human rights abuse.

Although senior military and civilian officials state clearly that human rights violations by soldiers will not be tolerated, in practice many cases do not get reported and many others receive only limited follow up and investigation.

Especially in rural areas and camps villagers have severely limited options open to them when it comes to reporting human rights abuse. LRA assaults on the police mean that law enforcement officers only visit camps intermittently. It can therefore be difficult to bring a case of abuse to the attention of the police.

When the alleged violators are soldiers, the problem of who to complain to is especially acute. A local UPDF detach has very real power. Villagers, like the family of

Otto who died after being tortured in February 1997 or the husband of K.A. who was raped in November 1996, may have a justifiable fear of exposing themselves to retaliation (which could include anything from physical assault to allegations that the complainants are LRA collaborators). In addition, they rely on the detach to protect them from the LRA. If an officer wants to ignore complaints against his soldiers (or if he himself is involved) there may be little that people feel they can do.

Many persons wanting to report allegations of human rights violation take the matter to their local councillor (LC), a respected elder or their parish or sub-county chief.⁵³ LCs, chiefs and elders (usually LCs) may intervene directly with the commander of a local UPDF detach. Alternatively, they may report an alleged incident to the RDC, the President's representative in the district, who, depending on the nature of the allegation, is likely to take up the matter with the army. Another route is for LCs to contact the commander of the 4th Division in Gulu directly. The official way of doing this is through the UPDF's Public Relations Office (PRO).

Contacting the RDC or the PRO is, of course, dependent on being able to reach Gulu. This is not always possible, especially for people in the most isolated areas. In the town a direct approach to the police is also a way forward. Villagers and LCs who reach Gulu municipality sometimes approach NGOs working on human rights issues. In 1996, three Gulu-based NGOs were taking forward cases on behalf of alleged victims of human rights abuses as a priority activity. The Legal Aid Project, which helps villagers bring cases to court, became less active in 1996 when its leading activist was elected to parliament. Organizational difficulties within the Uganda Human Rights Activists led to their closure in 1997. At the start of 1999 this left Human Rights Focus the most active NGO. The organization writes to the authorities on behalf of victims of alleged human

⁵³ Local councillors are elected at village (LC I), sub-county (LC III) and district (LC V) council levels. One of the functions of LCs at each level is to be the representatives of the community in dealings with the civil and military authorities. Informally, respected elders often play the same role. Chiefs are government employees, the representatives of the administration at the levels of parish and sub-county.

rights violations calling for their intervention. Some members of parliament also raise cases with the authorities on behalf of their constituents.

In the situation in northern Uganda, where stated government policy is to promote respect for human rights, making it widely known that a complaint has been made is seen by many activists and LCs as a safety measure reducing the risk of retaliation by particular units or individual soldiers. Often, therefore, LCs and elders copy complaints to as many officials as they can. This also ensures that no single official can claim that they did not receive information about an alleged incident.

However, like other civilians LCs are themselves vulnerable to abuse by soldiers. This may intimidate them from taking a case forward -- especially in remoter areas or camps where it is difficult to get word out to Gulu or Kitgum. LCs, like everyone else, rely on the detach for their protection from the LRA. In these situations the power of the soldiers is nearly absolute. Additionally, the targeting of LCs by the LRA has caused many of the former to flee to Gulu, and so they may not be accessible to people who wish to take forward complaints.

There is, in fact, no single official really accountable for following up reports of human rights abuse and for ensuring that action is taken. For example, the RDC has power and commands respect but RDCs also have innumerable other responsibilities that require direct cooperation with the army. These may compete in priority with pursuing the issue of human rights violations with the UPDF.

While LCs are accountable to their communities, in the sense that they have to stand for re-election, in reality they are intermediaries without power. The wider community may want some situations drawn to the attention of the authorities but may prefer others to be kept low-key to avoid antagonizing soldiers. This might prevent LCs from following up cases, despite the wishes of immediate relatives.

The UPDF states that it is committed to maintaining good relations with civilians as part of its overall counter-insurgency strategy and accepts that this involves a degree of accountability. However, this only goes so far. The UPDF's PRO is not accountable to the public but to more senior military officers. The pattern of official action and response to reports of human rights violations by soldiers suggests that action is unlikely where an alleged incident has taken place in the context of a military operation. The blanket denial, without investigation, of the apparently unlawful killing by the UPDF of 30 child captives of the LRA in March 1998 is a case in point.

5.3 The weakness of criminal investigation

The second set of reasons why there is *de facto* impunity for soldiers lies in the weakness of criminal investigation. These weaknesses exist in relation to all criminal investigations but are perhaps at their most acute when they involve the investigation of soldiers alleged to have committed human rights violations.

The general legal position is as follows. Under Ugandan law a criminal charge has to be brought within 48 hours of arrest. A charge has to contain a statement of the specific offence together with "such particulars as may be necessary for giving reasonable information as to the nature of the offence charged".⁵⁴ This means that sufficient investigation should have taken place prior to the charge being brought to establish details of the alleged offence.

However, this does not always happen. Many arrests, in relation to all forms of crime, appear to be made because a complainant is either powerful or vocal. Also, while it is essential that investigation and the collection of evidence should continue after a

⁵⁴ Section 83, The Magistrate's Courts Act, 1970; see also *A guide to criminal procedure in Uganda*, p.49 by Hon. Mr Justice B.J. Odoki.

suspect has been charged, various obstacles and disincentives mean that this is not always done quickly -- or sometimes done at all.

Arrests by soldiers or security officers

With outlying police stations in Gulu District closed and the police concentrated in Gulu town, it is common for the UPDF to be involved in making arrests, especially of persons suspected of political offences or soldiers alleged to have been involved in human rights violations. Three intelligence organizations, the UPDF's Directorate of Military Intelligence (DMI), the Internal Security Organization (ISO) and PIN are also sometimes involved. While neither the DMI nor ISO is trained or equipped (or officially authorized) to collect evidence in a manner that might enable criminal prosecution (and PIN does not have any constitutional or legal status at all), this has not stopped the institutions from arresting people they suspect of criminal offences. The manner in which this has been done has often resulted in both the abuse of human rights and the failure of subsequent prosecutions.

Within the UPDF Military Police there is a specialist department, the Special Investigation Branch (SIB), that is trained in criminal investigation. The SIB is used to investigate offences internal to the army for trial within the military justice system.⁵⁵ The SIB does not appear to be a particularly well-resourced department within the army. In the words of a senior police officer in Kampala, "*they are thin on the ground and are needed everywhere. They are constantly moving from unit to unit*".⁵⁶ It seems that in Gulu the SIB works only rarely in association with the police Criminal Investigation Department (CID).

⁵⁵ Brigadier Edward Wamala Katumba, Commander 4th Division, 21 May 1998.

⁵⁶ Mr Ganyahandere, Assistant Commissioner of Police - Crime, CID Headquarters Kampala, 16 July 1997.

In practice the police have found that when soldiers or other security officers make arrests, the lack of information about an alleged offence given to the police can make it difficult for a charge to be brought in the correct manner. In May 1997 a police officer discreetly drew Amnesty International's attention to procedural shortcomings in military investigations:

"Sometimes the army does a preliminary investigation opening a case file. But we get other cases just brought to us. If there is a case file, we find they have used "different" means of investigation. Sometimes it is not clear whether the case warrants investigation. Sometimes we start to fill in the gaps to see if the case can be pursued. The military are not trained to investigate".

Sometimes, the police said, soldiers are unable (or unwilling) even to give a statement about why a person brought to the police has been arrested. Junior police officers can feel under considerable pressure from the soldiers to continue to hold prisoners without charge beyond the 48 hour time limit. In the words of a senior court official interviewed in May 1998, *"there are problems in the quality of evidence from soldiers"*.

Recognition by the police, the courts and the army of the problem of the quality of evidence collected by soldiers led to changes in procedure in 1997. These appear to have reduced (but by no means eliminated) the number of cases where the police have found prisoners suspected of both political crimes and human rights violations effectively dumped on them with minimal information. According to the police, regular meetings between themselves and the army have been instituted where, among other issues, the handling of criminal suspects is discussed.⁵⁷ Soldiers have been informed that they have

⁵⁷ Senior Superintendent Sam Epodoi, Gulu District Police Commander, 10 July 1998.

to make statements when handing over suspects to the police -- and that failure by soldiers to do this should be raised with the PRO.⁵⁸

However, the power of the army means that police officers are still intimidated by soldiers. The Uganda Human Rights Commission (UHRC) found a number of people detained in Gulu Police Station in 1997 who had been brought to the police on suspicion they were LRA members:

“The arresting soldiers tended to leave without recording statements or leaving their contact address. Such people then remained in detention in the police station. Although they did not openly admit to it, the police appeared to keep their suspects in detention for fear of annoying the UPDF. They could not take the detainees to court because they had no facts on which to base a charge”.

⁵⁸ Lieutenant Shaban Bantazira, Director UPDF Public Relations Office, addressing a conference on *Challenges to reconciliation and the protection of human rights* in Gulu on 8 July 1997, organized by the Foundation for Human Rights Initiative.

Cases included Olobo Orach, arrested by the army on 13 April 1997 and brought to Gulu Police Station on 13 May 1997 as a “suspected rebel”. The UHRC found him in police cells in June, still detained without charge.⁵⁹ When in May 1998 Amnesty International looked at police records of persons charged, the organization did not find his name. It is not clear, however, what happened to him.

Arrests by police officers

Despite their training in criminal investigation, the police themselves also often make an arrest as the first step and supposedly preliminary investigation only afterwards. Further, the police do not always receive sufficient cooperation from the armed forces to make it possible for them to carry out investigations effectively. The police rely on the army for transport and protection. In Gulu the police have only one vehicle. If they are to investigate an incident that has taken place beyond the municipality limits they need the cooperation of the army. Military and police priorities do not always coincide and the police may not get transport and protection when they need it. Especially where the police are investigating alleged human rights violations by soldiers, loyalty within the unit may mean that they do not get information from other soldiers. When incidents have taken place out on patrol, other soldiers are likely to be key witnesses. Human rights violations committed in these situations do not often end in arrests (let alone prosecutions).

⁵⁹ Uganda Human Rights Commission, *Annual Report 1997*, pp 17-18.

Further, the CID is poorly resourced and has limited investigative capacity (including in the area of forensic science).⁶⁰ The result is that most investigations use two methods of inquiry. The first is finding witnesses who know or recognize the defendant. The second is getting a confession. The reliance on confessions increases the risk of torture.

Allegations against individuals known by name

Many investigations appear to start -- and end -- with an allegation against a named individual. In relation to some of the cases cited above, Amnesty International asked persons reporting human rights violations whether they had reported the incidents to the police or the army. In a number of cases people said they had not. The reason given was they did not know the name of the soldier who had committed the crime. Rather than indicating an ignorance of police procedure, this appears to mark a realistic assessment of its true nature.

It is striking that of the 82 soldiers charged with serious crimes against the person between January 1996 and April 1998, 56 of them have names that suggest they are Acholi. While many may be Langi (who have similar names to the Acholi), 40 are either home guards or LDUs (in other words, they are likely to be locally recruited and deployed close to their home areas). The majority appear to have been deployed in detachments rather than mobile units. These men will be known to the community around them. Combined with the reluctance of soldiers to give evidence about other soldiers, this probably means that local soldiers are more likely to be identified when they commit serious crimes than

⁶⁰ This is not just a problem in the north of Uganda. A study of the criminal justice system by the United Kingdom Government's Department for International Development drew attention to serious shortcomings nationwide in the collection and analysis of scientific evidence (*Uganda: Review of Uganda criminal justice system -- Final Report*, pp 9-10, Section Four, Volume I, Department for International Development, December 1997).

those who are not from northern Uganda or who are on mobile patrol when they commit the offence.

The use of torture by police

Once a person has been arrested, the emphasis on confession as a central part of investigation is a factor likely to contribute to the violation of human rights. While this report has focused on human rights violations by soldiers, the beating of criminal suspects by police officers is common. For example, Onek Jackson was arrested by a police patrol in Gulu in May 1996 and badly beaten. He was unconscious when he was brought to Gulu Police Station. The officer in charge ordered that he be immediately taken to hospital where he died the next day. On 17 May 1997 Olwedo Ogal Jabal was arrested at night by the Mobile Police Patrol Unit (MPPU) in Gulu. He was taken to the MPPU barracks near Gulu Prison primary school where he was reportedly beaten while being questioned:

“They ordered me to remove my shirt. They gave me beatings on my back, buttocks. They hit me with a bat and kicked me on the legs...At least two were beating me”.

In July 1997 a Commissioner from the UHRC made a surprise visit to Gulu Police Station where he found several prisoners who had been beaten in the cells. Some had been held for several days and required hospital treatment. On 1 July 1997 Atabi Charles was beaten after he was arrested when he himself brought in a suspected thief to Gulu Police Station. His left arm was broken. Okello Robert, a suspected thief, was arrested by the MPPU on 5 July 1997. The MPPU took him back to their barracks and are reported to have beaten and stabbed him in the shoulder while questioning him about a firearm he

was alleged to be hiding.⁶¹ Francis Okello, arrested on 6 July 1997 for suspected robbery, was reportedly beaten and kicked by police.

On 2 July 1997 Philida Okello, an elderly woman from Kanyagoga in Gulu town, was arrested by MPPU officers in Gulu market who were searching for her son who they suspected of illegal possession of a gun. She was taken back to her house. The UHRC's description of what happened is worth quoting in full:

“The police dug up the floor of her hut, claiming that guns were buried there. None were found. The police then beat her severely to get her to disclose the whereabouts of her son and the alleged guns. She suffered broken ribs and a fractured wrist. When the UHRC found her at Gulu Police Station, she had been unlawfully detained for three days without medical treatment. The UHRC insisted that she be taken to Gulu Hospital. She was later released without charge.

⁶¹ Uganda Human Rights Commission, *Annual Report 1997*, p17.

This case again shows the police's use of torture as a method of investigation. This method is both illegal and flawed: the elderly lady was innocent".⁶²

The police appear to have developed a culture that accepts torture and ill-treatment as conventional investigatory practices. This is illustrated by the failure to arrest police officers alleged to be responsible for beating suspects in their custody. None of the police officers who beat Onok Jackson were brought to justice. In July 1997 the UHRC brought the beating of Atabi Charles to the attention of senior police officers in Gulu who promised that the policemen responsible would face "disciplinary action". However, Amnesty International could find no record of criminal charges being brought against the police officers when the organization inspected police records in May 1998. While other disciplinary action may have been taken, the failure to bring criminal charges suggests the incident was taken lightly.

Indeed, the police's own records show that between January 1996 and April 1998 only three police officers were charged for serious crimes against the person. One was charged with the murder of Otoo Santo at Lala Obara in Bobi in early 1996 after a complaint by ISO personnel. The case was later dismissed for lack of evidence. In January 1998 two police constables were charged with rape. The two men were on remand when Amnesty International visited Gulu in May 1998. Over the same period there were dozens of incidents in which police officers beat up criminal suspects. Not one officer has been brought to justice.

The failure to investigate and prosecute the perpetrators of torture is in contravention of Uganda's obligations under the *Convention against Torture*.

5.4 Delayed prosecutions and trial

⁶² Uganda Human Rights Commission, *ibid*, p17.

The third set of reasons for *de facto* impunity for soldiers is found at the stage of prosecution and trial of defendants accused of serious crimes. These include the lack of a State Attorney and serious problems surrounding witnesses.

In cases of serious crime the Director of Public Prosecutions (DPP) is responsible for the decision whether to prosecute. The sufficiency of evidence is an obvious and important factor in deciding to proceed. If there is not sufficient evidence (s)he may withdraw charges or direct the police to collect further evidence. The Resident State Attorney, a professional public prosecutor, is the DPP's legal officer in the district.

Since the death of the last incumbent in late 1996, Gulu has not had a Resident State Attorney. This has caused significant delays in the prosecution of soldiers accused of serious crimes and of civilians accused of political offences.

The absence of a Resident State Attorney in Gulu means that case files have to be transferred from Gulu to Kampala. This is not only time-consuming but reduces the DPP's on-site ability to ensure that the police are collecting sufficient evidence to support the prosecution. In turn this results in major delays in the preparation of cases -- above and beyond the delays caused by the problems that the police already face in the collection of evidence, described above. Furthermore, those arbitrarily detained have to remain in custody for long periods pending a decision on whether they should be prosecuted or released for lack of evidence.

The State Attorney is responsible for handling prosecutions of serious cases before the High Court and the Chief Magistrate's Court. Shortages of staff in the DPP's office mean that less serious cases in lower level Magistrate's Courts are usually prosecuted by police officers (who are often poorly trained in prosecution).⁶³ Police

⁶³ According to a UK Government study, 85% of criminal prosecutions in Ugandan courts are carried out by police officers (*Uganda: Review of Uganda criminal justice system -- Final Report*, p 13, Section Four, Volume I, Department for International Development, December 1997).

officers acting as prosecutors may not act independently in cases involving their colleagues as accused, witnesses or complainants. The blunt fact is that if there is no State Attorney the trial of soldiers accused of serious human rights violations (eg soldiers charged with murder, rape and defilement) or of civilians accused of serious political offences (eg treason, misprison of treason and terrorism) cannot proceed.⁶⁴

While the obvious solution to there being no Resident State Attorney in Gulu would be to appoint one, in May 1998 the DPP told Amnesty International that the nationwide ban on public service recruitment then in force meant that this was not possible.⁶⁵ After the Resident State Attorney in Gulu died in late November 1996 the Resident State Attorney in Lira was ordered to take on work in Gulu. However, in July 1997 the vehicle in which he was travelling back to Lira was ambushed by unknown persons. Since then a State Attorney from Kampala has been occasionally sent to Gulu, but this is not a sufficient response to the amount of work to be done.

The first, and most obvious, consequence of prosecutions not proceeding is that a backlog of trials builds up which in turn causes further delay in new cases coming to court. The second is that persons accused of serious crimes are remanded in prison for, at the minimum, the set periods for which the constitution is currently interpreted as precluding the granting of bail. This means that prisons become over-crowded with remand prisoners. A third is that once a case is brought to trial there can be significant difficulties in locating witnesses who in the intervening period may have moved away or died. Again, this causes further delay.

Missing witnesses

⁶⁴ The same, of course, applies to civilians on charges of murder, rape, defilement etc.

⁶⁵ Mr Richard Buteera, Director of Public Prosecutions, Kampala, 28 May 1998.

In the war zone of northern Uganda the problems surrounding witnesses are especially extreme. Internal displacement and disruption since 1996 means that locating witnesses who have given statements in order to summons them to court is not straightforward. Even when their location is known, summoning them can be dangerous. A senior judicial officer told Amnesty International how a policeman he once sent to serve a summons on a witness was caught by the LRA and killed. If a witness lives in a camp or an outlying area he or she has to risk travelling to Gulu. If other witnesses do not show up the case may be adjourned and the risk taken for nothing -- a considerable disincentive to being found to receive the summons in the first place.

Soldiers who are witnesses may be on operational duty in a remote detach (army post) or have been transferred out of northern Uganda altogether. As a senior police officer in Gulu put it in May 1998, "*many of the soldiers who are witnesses in cases brought in 1996 and 1997 are likely by now to be in the mountains*" (in other words, in western Uganda where the government is also fighting against an armed opposition group).⁶⁶ The Minister of State for the North, himself formerly a practising lawyer, told Amnesty International that in his experience the UPDF does not always perceive getting witnesses to court as a priority.⁶⁷ Other lawyers who have dealt with the UPDF have suggested to Amnesty International that army records of the posting of individual soldiers are poorly kept, to the extent that the UPDF does not always find it easy to locate soldiers.

⁶⁶ Many are now likely to be in the Democratic Republic of the Congo (DRC) since the deployment of UPDF troops in support of the Congolese armed opposition in August 1998.

⁶⁷ Mr Alphonse Owiny Dollo, Minister of State for the North, Kampala, 26 May 1998.

This interpretation of the army's priorities was borne out to Amnesty International by UPDF officers in Gulu who acknowledged that transferring soldiers to new postings when they are witnesses in court cases causes problems for the judicial process. However, they do not regard this as their problem. The Commander of the 4th Division told Amnesty International "*they (soldiers) are going to be transferred. The answer lies in speedy trials*".⁶⁸ While it is possible to understand the army's frustration with the slowness of the court process, the notion of a "speedy trial" is a dangerous one if it overrides guarantees of fair trial. It is, however, clear that the current situation does little to secure the protection of human rights.

5.5 Impunity

The starting point of this analysis was the UPDF's strategy of handing over soldiers accused of committing human rights violations to the civilian criminal justice system in order that civilians might see that soldiers are made to account for their crimes. However, the fact of the matter is that few soldiers actually end up in court.

First, as this report has described, those who commit human rights violations in remote or rural areas are rarely arrested. Secondly, the weaknesses within the criminal justice system and the military's response to it mean that there are serious delays in dealing with soldiers that have been arrested.

Out of the 82 soldiers arrested between January 1996 and April 1998 facing criminal charges relating to human rights abuse, it is only those charged with offences that can be tried in the Chief Magistrate's Court that have been brought to trial. In February 1997 three soldiers were acquitted of assault charges. In October 1997 the four home guards who beat up 18 civilians in a detach at Awer camp were fined 10,000

⁶⁸ Brigadier Edward Wamala Katumba, Commander 4th Division, Gulu, 21 May 1998.

Ugandan shillings (\$US 10) for actual bodily harm. Two soldiers were convicted of attempted murder and sentenced to periods in jail.

As is their internationally recognised right, arrested soldiers awaiting trial are eventually released on bail. What the public sees is soldiers they suspect of violating human rights walking apparently free. Releasing soldiers on bail, however, is not the problem. The issue is that few soldiers are being brought to trial.

Further, although the army denies it categorically, soldiers released on bail are reabsorbed into their units and sent back on active service. When Amnesty International brought the detention and torture of three men by soldiers at Paicho to the attention of the UPDF in May 1997, the army's Public Relations Office cited the incident as a good example of the prompt reaction of the UPDF to problems brought to it by human rights organizations.⁶⁹ Amnesty International also welcomed the rapid action taken. However, when Amnesty International representatives visited Gulu in May 1998 they found that in the intervening period the detach commander had been restored to the Paicho detach in his former position, with still no sign of a trial.

The events that followed are a clear lesson in the dangers of impunity. In late June 1998 the same man was again arrested, this time because he allegedly accepted a bribe to release a treason suspect. A few weeks later the Ugandan press reported that five soldiers from the detach had been charged with the unlawful arrest and torture of six treason suspects. While Amnesty International has not been able to establish if the detach commander was among them, the fact that he had escaped punishment for the May 1997 incident can only have demonstrated to his men that the consequences of being caught violating human rights are limited.

A problem of credibility

⁶⁹ Lieutenant Shaban Bantazira, quoted in *The Monitor*, 28 May 1997.

Few of the problems discussed in this chapter are peculiar to Gulu. Nationally, approximately 60% of prisoners are on remand, many beyond the set periods currently interpreted as mandatory. In May 1998 the average period prisoners spent on remand was two and a half years.⁷⁰ Gulu is not the only district in Uganda without a Resident State Attorney. However, the difficulties of the war zone bring these various factors together in an acute manner to mean that the justice system faces an especially serious problem of credibility.

The courts in Gulu have made a number of initiatives to try and address problems confronting the administration of justice in the north. For example, a professional court users committee has been established that includes representatives from the courts, the police, the prisons, the legal community and, on occasion, the army. It is reported to meet once a month to review practices and work targets for investigation, prosecution and trial. In May 1998, however, there was still a backlog of approximately 1,600 cases (of all kinds) in the district, some dating back to 1993.

In 1996 and 1997 the courts made a serious effort to reduce the number of prisoners who had over-stayed the perceived statutory period in which bail cannot be granted. This led to bail being granted to many persons facing serious charges. Despite this, out of 389 prisoners in Gulu Prison at the end of 1996, 80% (313) were on remand.⁷¹ In addition, during 1997 the Chief Magistrate took a firm line with the failure of the army to produce prosecution witnesses in trials of prisoners on political charges, throwing out five cases. Charges in another three were dismissed when the prosecutor repeatedly failed to attend the court.

⁷⁰ Mr Joseph Etima, Commissioner of Prisons, Kampala, 28 May 1998.

⁷¹ Regional Commander of Prisons, Gulu, 26 May 1997; Mr Allan Okello, Officer-in-charge, Gulu Prison, 27 May 1997. These figures are of all prisoners, not just soldiers or those charged with political offences.

These initiatives are by people working within the existing political and institutional parameters. They are important and welcome. However, they are limited in scope and will only have impact on some aspects of the overall problem of how to secure the protection of human rights in the war zone.

6. Conclusion and recommendations: breaking the circle

The challenge facing the Uganda Government, the Lord's Resistance Army and Ugandan civil society is to break the circle of human rights abuse. The challenge facing the international community is to find ways to help facilitate positive action. This report is intended as a contribution to finding ways forward.

The conclusions and recommendations that follow should be read in conjunction with those made in the report *Breaking God's commands*, published in September 1997. In that report Amnesty international put forward proposals for the protection of the human rights of children to be taken by the Uganda Government, the LRA, the Sudan Government, Ugandan civil society and the international community. Many remain relevant.

6.1 Action at the highest level

There is an urgent need for central government to define the protection of human rights in northern Uganda a national priority. This report has demonstrated how different problems inter-lock. Unless government at the highest level makes a decisive and integrated effort to address the political and institutional issues that lead to impunity for perpetrators, the vicious circle of human rights abuse is unlikely to be broken.

Amnesty International is calling on President Yoweri Museveni to give the human rights situation in northern Uganda urgent and immediate attention in a manner that sends the unequivocal message that action must be taken to the UPDF, the police, government departments, civil society and the people of northern Uganda.

In particular, the organization is calling on the **President:**

- to take decisive action to create and implement a coordinated program of action by the UPDF, the police, the Ministry of Justice and the courts to address human rights violations by soldiers and police officers in northern Uganda. This includes taking preventative action, addressing institutional failings in the justice system and providing resources for the implementation of action programs;
- to take action in relation to PIN, which reports to officials in his office, by issuing immediate directives that it should not effect arrests or hold persons in custody;
- to make a public commitment that all perpetrators of human rights violations will be brought to justice;
- to issue invitations to the various human rights mechanisms of the United Nations, identified below, to visit Uganda to investigate the violation and protection of human rights.

6.2 The Ugandan call for peace with justice

The opinion of many Ugandans is that the best way to end human rights abuse is to remove the context in which the abuses are taking place. People from many different walks of life and of many different political hues appear increasingly united around the principle that the best way forward is through peace. Many people from the north, the churches, non-governmental organizations and many others in civil society are making calls for a negotiated solution to the war. Increasingly individuals and NGOs from other parts of Uganda, among them Ugandan human rights organizations based in Kampala, are also calling for peace through negotiation. At the *Kacoke Madit* in London in July 1998 many exiles strongly opposed to the government spoke out in favour of a negotiated peace. The question these voices are posing for both government and the LRA is “are you prepared to respond”?

In late 1998 there appeared to be a slight softening by the government in its stated position that negotiations with the LRA are out of the question. For example, during a visit to Kitgum in December 1998 Steven Kavuma, the Minister of State for Defence,

announced that the government would help facilitate initiatives by “anyone” who wanted to talk about peace with the LRA. However, there is little sign that the government itself is prepared to take the lead in setting up a negotiated peace process.

There is equally little sign that the LRA would be prepared to respond if it did. Statements by the LRA remain aggressive. The large scale abuse of human rights continues to characterize its military action.

There is a danger that the Uganda Government may have concluded that the level of human rights violation by its own forces is somehow “sustainable”. In other words, that because in relative terms violations by its own forces are less widespread than human rights abuses by the LRA, the government believes that the current situation can continue.

If this is the government’s conclusion, it is flawed. While securing protection for human rights is an end in itself, in Amnesty International’s opinion protecting human rights is additionally part of the process of creating the conditions for peace. Each incident of abuse creates further bitterness and mistrust. Each time government forces violate human rights the relationship between the authorities and the people of the north is further undermined.

Rebuilding justice in northern Uganda is part of the process of creating conditions for peace. In part this means establishing a functioning criminal justice system. In part it means finding agreement around how to deal with the legacy of bitterness created by past human rights abuses by all sides in order to move forwards. This is not something to be left to future post-war reconstruction but an intrinsic part of bringing the war to an end.

Amnesty International is calling on the government to work with civil society:

- to develop a long-term plan for conflict resolution and rehabilitation in northern Uganda which includes establishing respect for human rights and confronting the legacy of past human rights abuse.

6.3 Challenging impunity

Challenging impunity involves public and official recognition of the fact of human rights violations, official action to introduce procedural mechanisms within institutions to ensure that human rights violations do not continue, and action to hold individual human rights abusers to account.

Public acknowledgement and institutional response

As Amnesty International observed in the report “*Breaking God’s commands*”, if there is to be justice for the people of Gulu, Kitgum and neighbouring districts the fact that serious human rights crimes have been committed has to be confronted in a way that allows the victims of human rights violations to have their experiences publicly and officially acknowledged. In addition, institutional practice that has led to human rights abuse has to be identified and measures taken to ensure that abuses do not continue.

Amnesty International therefore recommends that an independent and impartial inquiry be set up into human rights abuses by all sides in the north from 1986 until the present day. The three main objectives should be:

- to enable public and official acknowledgement of the experiences of victims of abuse;
- to identify practical steps that need to be taken to improve respect for human rights;
- to compensate victims of human rights abuses in a manner nationally agreed to be appropriate.

Individual accountability

The government and people in Kitgum and Gulu recognize that many serious crimes have been committed by abducted children. Upon escape or capture, children are being given psycho-social therapy and support by NGOs with the overall aim of bringing them back into society. This involves a degree of confrontation with what they have done. Increasingly the NGOs working with the children are seeking to include the wider community around the child as part of the process.

Such a process appears to at least partially fulfil the objective of holding abducted individuals accountable for their human rights crimes. Amnesty International has expressed its support for the principle of providing culturally appropriate psycho-social therapy for abducted children in order that they are helped to confront what they have done.

However, there is less consensus about how to hold accountable adults who have abused human rights, in particular the leaders of the LRA. In late 1998 the government produced a draft Amnesty Bill and set in motion district consultations all over Uganda. The bill is intended to give legal formality to the current *de facto* situation which is that persons who are fighting against the government who give themselves up are given amnesty for political offences. However, they are not protected from prosecution for acts of genocide, murder, kidnapping with intent to murder, rape or defilement.

Some Ugandans have suggested that there should be a blanket amnesty not just for waging war against the government but also for human rights abuses. Some have voiced the opinion that if there is to be peaceful negotiation aimed at ending the conflict, LRA leaders have to believe that they will not be prosecuted for their actions. Others argue that the scale of the atrocities for which LRA leaders have been responsible makes the idea they should escape prosecution out of the question.

Amnesty International believes that individuals who abuse human rights should go through a process of being made to account for what they have done. The organization believes it would be a mistake to grant a blanket legal amnesty to adults for serious crimes that constitute human rights abuses. It might be tempting to achieve a short-term political objective by granting an amnesty for human rights abuses, but in the longer term this will do nothing to prevent other armed groups or government agents from pursuing their agendas through gross breaches of international humanitarian and human rights law.

The Uganda Government and civil society together need to arrive at an agreement based on international and national legal principles about what mechanism of accountability might be appropriate. They should also agree on what forms of sanction or punishment should follow, again within the framework of international human rights principles.⁷²

Further, Amnesty International stresses that the dilemma expressed by many Ugandans -- how to square accountability for human rights abuses with political negotiation to end the war -- should not prevent immediate steps being taken to hold soldiers and other state agents accountable for their alleged human rights violations. The arrest of soldiers for the alleged violation of human rights is to be welcomed, but the fact that so few are brought to trial means that impunity effectively continues.

Amnesty International is therefore calling on the **Uganda Government:**

- to set up a task force dedicated to the investigation of incidents of alleged human rights violations by UPDF soldiers and police officers in Gulu, Kitgum and

⁷² For example, some countries, most notably South Africa, have made use of Truth Commissions in which persons are only given amnesty once they have confessed fully and publicly to all the human rights crimes for which they are responsible. In other countries, national or even international criminal prosecution has been the preferred mechanism.

neighbouring districts affected by the conflict with the LRA. The aim would be to prepare criminal prosecutions against alleged human rights violators. The task force should therefore include all the appropriate personnel with the necessary skills;

- to ensure that the task force is specifically mandated to investigate the alleged role of senior UPDF officers in the lynching of four men in Gulu town in August 1996 and the alleged role of the Presidential Advisor on Political Affairs in the illegal detention of treason suspects in March and April 1998;
- to ensure that the UPDF takes immediate steps to suspend alleged human rights violators from duty;
- to ensure that the UPDF takes steps to make soldier witnesses in court cases available when required;
- to take steps to strengthen the criminal justice system in the north as a matter of national priority, in order to reduce the problem of delay in court cases. Strengthening the system would include increasing the capacity of the police in Gulu and Kitgum to mount criminal investigations (for example, by improving their forensic capability);
- to take immediate steps to improve the capacity of the Director of Public Prosecutions to mount prosecutions by appointing or transferring a Resident State Attorney to Gulu.

In addition Amnesty International is calling on the government to:

- ensure that the Uganda Human Rights Commission has sufficient resources to open an effective investigatory office in Gulu;
- facilitate and support the work of human rights NGOs in the war-affected parts of northern Uganda;
- in coordination with concerned NGOs and other elements of civil society, develop a national campaign against rape and sexual violence.

Many of the offences that cover human rights violations in Uganda (for example, murder, kidnapping with intent to murder and rape) carry a mandatory death penalty. Amnesty International opposes the death penalty as a matter of principle. The organization is therefore calling on the Ugandan authorities:

- to reduce the number of capital offences and to end the mandatory nature of the death penalty, as part of a process towards its eventual abolition.

6.4 Granting bail: interpreting the Constitution

This report has described how the existing interpretation of Article 23 (6) of Uganda's Constitution creates a situation in which serious criminal charges can be abused as an apparently legal way of detaining suspected political opponents against whom there is little or no evidence. Amnesty International believes there may be scope for Uganda's legal community to challenge this interpretation.

6.5 Reporting human rights abuse

People need to be able to bring reports of human rights abuses to the attention of the authorities without risk of retaliation. This report has described the limits to existing mechanisms, especially in rural or remote areas, and has pointed out that there is no single official or body accountable for ensuring action is taken in relation to alleged incidents of abuse.

In Amnesty International's view, the Uganda Human Rights Commission (UHRC) has an important and potentially powerful role to play in respect of human rights in northern Uganda. It could fulfil the need for a vigorous, independent body with the capacity to follow up reports of human rights abuses in order to ensure that action is taken. To be truly effective, the UHRC needs to be accessible to people in the north.

Amnesty International reiterates the recommendation made in the report *Breaking God's commands*:

- that the UHRC open offices in Gulu and Kitgum.

As this report has made clear, even this would not guarantee access for people living in remoter parts of the war zone. There is, therefore, also a need for the UHRC to work out ways of enabling rural people to make contact with it.

The UHRC's presence would only be effective if it was sufficiently resourced and if it received support and cooperation from the authorities. Its presence would not take away responsibility from the UPDF, the police and the civilian authorities for investigating and intervening in cases of human rights abuse. The UHRC would be there to provide a constitutionally guaranteed complement to existing methods of reporting human rights violations -- a complementary institution with the power to monitor official response and to demand action.

6.6 Addressing displacement

The forced displacement of hundreds of thousands of people in northern Uganda has been characterized by the violation of human rights and international humanitarian law.

Amnesty International concludes that in the context of the extreme violence of the LRA and the serious obstacles to providing effective protection in villages, the question "should camps exist" in Gulu and Kitgum is unanswerable. People have the right to expect their government to protect them. Under Article 13 of *Additional Protocol II* to the *Geneva Conventions* the authorities have the obligation to provide that protection. Camps may be a mechanism for providing it.

However, Amnesty International is not convinced that the authorities have demonstrated they are taking adequate steps to minimize displacement in Gulu District nor that they are addressing adequately the issue of security (including food security) in camps. Neither is the organization convinced that the government is demonstrating effective steps to bring to an end the situation that has caused displacement in the first place. In the light of this, Amnesty International concludes that there is now a serious question about whether action to compel people to leave the countryside remains consistent with international humanitarian law.

Further, a result of camps in Gulu is LRA violence against civilians in other neighbouring areas. In other words, when looked at from the perspective of the overall protection of civilians in northern Uganda, the use of camps in one place appears to cause increased vulnerability to abuse elsewhere. This, of course, does not exonerate the LRA from direct responsibility for perpetrating those human rights abuses.

Amnesty International recommends:

- that an urgent investigation be mounted into the effectiveness of camps in northern Uganda as a means of protection from violence. This should be carried out by an independent body, perhaps the Uganda Human Rights Commission (UHRC), with appropriate expert backing.

While the authorities are obliged to offer protection, if people decide they do not wish to make use of it, the authorities should not compel them to do so. Further, there are no circumstances under international humanitarian law that allow the use of attacks on unarmed civilians or other abuses to be used as a method of compelling people to move:

- if people wish to return to the countryside to cultivate they should not be prevented from doing so -- and should not be subjected to attack or harassment by the UPDF.

The authorities are obliged under international humanitarian law to ensure that physical conditions within camps are satisfactory. This means:

- ensuring that food supplies satisfy the nutritional needs of camp populations, that there is clean water and adequate sanitation facilities, and that medical facilities are available.

A key demand of people within camps is that they should be able to cultivate:

- the authorities should investigate how land for cultivation can be made available in ways that guarantee security and respect communal land ownership.

Further, a generation of children in northern Uganda is not able to receive a full education:

- the authorities should seek ways of providing for the educational needs of children, taking complete account of the LRA's practice of attacking vulnerable schools in order to abduct children.

6.7 Action by the LRA

Amnesty International is calling on the LRA to:

- end all forcible abduction of children and release all children currently held as captives or child-soldiers;
- put a stop to rape, sexual abuse and other forms of torture or ill-treatment;
- cease cruel or degrading punishment;
- end deliberate and arbitrary killings.

- make a public commitment to observing the *Universal Declaration of Human Rights* and the *UN Convention on the Rights of the Child*;
- allow the International Committee of the Red Cross access to places where children and other abducted persons are being held.

6.8 International action

This is no longer a hidden or “forgotten” war. Since 1997 the fact of conflict in northern Uganda, and specifically the brutalization of children by the LRA, has become more widely recognized at the international level.

For example, Worldvision and GUSCO, the two non-governmental organizations that provide counselling and a “halfway house” for children who have managed to escape from the LRA before they return to their homes, and UNICEF can attest to the large numbers of international journalists who have visited Gulu to report on the situation of children. At the political level, in April 1998 the UN Commission on Human Rights took the unprecedented step of passing a resolution dealing specifically with child abduction by the LRA. This was the first time in history that a resolution dedicated solely to the behaviour of an armed opposition group has been passed at the UN Commission. It gives a clear indication of the international revulsion to the LRA’s methods of operation. In December 1998 Angelina Acheng Atyem, a member of the Concerned Parents Association, won the UN Prize in the Field of Human Rights. The association is made up of Ugandans whose children have been abducted by the LRA. It campaigns nationally and internationally for their release and to draw attention to the plight of all children in Uganda caught up in war.

The Sudan Government has come under pressure from governments and UN officials to take action against human rights abuses by the LRA by stopping the provision of arms, supplies and bases for the armed group as long as it continues to abuse human rights. For example, Olara Otunnu, the UN Secretary General’s Special Representative on

children and armed conflict, who is himself originally from northern Uganda, has raised the plight of abducted children in visits to Sudan.

In 1998 the Sudan Government cooperated on two occasions with the UN to facilitate the passage home of a small number of Ugandan children who had managed to escape from the LRA. This cooperation is welcome and to be encouraged. However, there is little sign of really significant action by the Sudanese. The small number of children returned to Uganda should not divert attention from the fact that the Sudan Government continues to arm and provide bases for the LRA. The LRA even has houses in Juba, the main city in southern Sudan. As the report "*Breaking God's commands*" described, the Sudanese authorities use the LRA as a militia in their own war against the Sudan People's Liberation Army (SPLA). For example, in mid-September 1998 Sudan Government troops fought alongside abducted LRA child soldiers inside Sudan defending the approaches to Juba and the Torit-Juba road from the SPLA (supported by the UPDF). The Sudan Government's active engagement with the LRA means that it can be held responsible for the abduction of children and other serious human rights abuses carried out by the armed group.⁷³

Some governments have raised the issue of how to prevent human rights violations in the north with the Uganda Government. At various stages in the past three years concern has been expressed about the situation in the camps and countryside of Gulu and Kitgum. Assistance to those in camps has been provided in the form of humanitarian relief. The Uganda Human Rights Commission (UHRC) appears to be on the verge of receiving donor government support to expand its work in rural parts of Uganda. In August 1998 it published a high quality annual report on the human rights situation in Uganda during 1997.⁷⁴ On a wider scale, some European Governments are working with

⁷³ See pp 7-9 "*Breaking God's commands: the destruction of childhood by the Lord's Resistance Army* (AFR 59/01/97).

⁷⁴ As of January 1999, the UHRC has showed a willingness to address human rights violations by powerful state actors that provides encouragement to the community of Ugandan non-governmental organizations

various ministries to implement a long-term integrated plan to strengthen the criminal justice system nationwide. If the aims of this plan are fully achieved, it will have, in the longer term, an impact on some of the basic institutional weaknesses in the administration of justice in the north described above.

However, it appears that the scale of LRA violence has muted foreign government concern about the acute failures that exist in the government's protection of human rights in the war zone. Indeed, to those outside the area these failures have remained largely hidden. There does not appear to have been significant engagement with the Uganda Government about the priority the government is giving to the search for solutions to the continuing violation of human rights.

Action

Member states of the United Nations and the Organization of African Unity have an important role to play in bringing influence to bear on the various parties responsible for human rights abuses.

Amnesty International is calling on the **Sudan Government**:

- to honour its obligations under international humanitarian and human rights law, including the UN *Convention on the Rights of Child* and the *Slavery Convention*, by taking action to prevent human rights abuses, including the forcible abduction of children;
- ensure that all non-governmental entities within the borders of Sudan over which the government has power, including the LRA, fully observe Article 3, common to all four *Geneva Conventions*;

to do likewise.

- allow the International Committee of the Red Cross access to the Sudan, including access to LRA camps in the country;
- cease providing arms, supplies and bases to the LRA until it has ceased abusing human rights;
- cease joint military operations with the LRA involving child soldiers;
- cooperate fully with international efforts to free abducted children.

The **international community** should convey a clear message to the Sudan Government on these issues. It should also express strong concern to the Uganda Government about human rights violations by the UPDF in northern Uganda, about the inadequate protection of internally displaced persons and about the systemic failure of the criminal justice system in the north. The international community should call for investigation into allegations of human rights violations by soldiers.

Amnesty International is calling on governments to support:

- the Uganda Human Rights Commission (UHRC) should it set in motion the creation of an office in Gulu;
- other Ugandan initiatives, such as an independent and impartial public inquiry, aimed at publicly confronting the legacy of human rights abuses since 1986;
- the creation of a task force to mount criminal prosecutions of soldiers alleged to have committed human rights violations;
- measures to increase the protection of children from abuse in situations of armed conflict, including supporting the draft optional protocol to the UN *Convention on the Rights of the Child* aimed at raising to 18 years the minimum age of recruitment of soldiers;
- initiatives to resolve conflict and rehabilitate northern Uganda that place emphasis on establishing respect for human rights and confronting the legacy of human rights abuses by all parties.

The international community should convey to the LRA that the abduction of children and the deliberate and mass unlawful killing of unarmed civilians constitute war crimes. In particular, governments:

- should investigate persons who claim to be linked to the LRA, especially those who claim to be part of its leadership, for their own direct involvement in human rights abuses and to assess whether or not there are grounds for bringing them to justice outside Uganda.

The various **human rights mechanisms** of the UN human rights system can also play an important role. First, they can provide further objective commentary on the human rights situation. Secondly, they can help draw international attention to the continuing problem of human rights. Thirdly, they can make recommendations to all parties on action to take to secure improved protection. In Amnesty International's opinion, their effectiveness will be enhanced if they cooperate with each other to address human rights issues in an integrated and planned manner.

- Amnesty International is renewing its call to the Committee on the Rights of the Child, the monitoring body of the UN Convention on the Rights of the Child, to mount an investigation on the impact of war *on the human rights of children and on the progress of the Uganda Government in implementing in practice its positive obligations under the UN Convention on the Rights of the Child to protect the rights of children. The committee should come forward with practical proposals to ensure the protection of the rights of children.*
- Amnesty International believes that the UN Secretary General's Special Representative on children and armed conflict should work closely with both UNICEF and the Committee on the Rights of the Child on the situation of children. He is in a position to make representations to the Sudan Government, the Uganda

Government and the LRA aimed at securing the freedom of children abducted by the LRA.

- Amnesty International will be submitting this report to the UN Special Rapporteur on the situation of human rights in Sudan who should also seek ways of addressing the responsibility of the Sudan Government to take action in relation to human rights abuses by the LRA, including by freeing children and by ending arms supplies and other logistical support as long as the LRA continues to violate human rights.
- Amnesty International will also be submitting this report to the UN Special Rapporteur on violence against women. Enabling women and girl children to lead lives free from actual or the threat of violence, including sexual violence, should be a priority. The organization is calling on her to investigate the situation in Uganda with a view to identifying practical recommendations on how this can be achieved.
- Amnesty International believes that the UN Special Rapporteur on summary and arbitrary executions should visit Uganda with the specific aim of investigating killings by the UPDF. The organization believes that she should particularly investigate the lynching of four men in Gulu District in August 1996 and the apparently unlawful killing of 30 children near Wol in Kitgum District in March 1998.
- Amnesty International believes that Representative of the UN Secretary General on Internally Displaced Persons should carry out an investigation into the process of internal displacement in northern Uganda and the protection of internally displaced persons from human rights abuses.