EXTERNAL (for general distribution)

AI Index: AFR 59/04/83
Distr: SC/CO/GR

Memorandum to the Government of Uganda on an Amnesty International mission to Uganda in January 1982 and further exchanges between the government and Amnesty International

April 1983

Amnesty International, International Secretariat, 10 Southampton Street,
London WC2E 7HF, United Kingdom

CONTENTS

Preface

Document I (30 July 1982)

Memorandum to the Government of the Republic of Uganda on a mission by Amnesty International to Uganda in January 1982 (26 pages).

Document II (1 September 1982)

The reply of the Uganda Government to this memorandum, from the Uganda High Commissioner in the United Kingdom (26 pages).

Document III (18 October 1982)

Amnesty International's response to the Government of Uganda's communication dated 1 September 1982 (17 pages).

PREFACE

A delegation from Amnesty International visited the Republic of Uganda in January 1982. The delegates had discussions with His Excellency President A. Milton Obote and government ministers and officials. The delegates expressed the organization's concern about allegations of violations of human rights committed during the government's first year in office in 1981.

A memorandum (Document I) was submitted by Amnesty International to the Government of Uganda at the beginning of August 1982 based on the findings of the mission. The memorandum contains specific recommendations to the government (summarized on pages 24 - 25) which Amnesty International considered necessary and appropriate for the protection of human rights in Uganda.

The Uganda Government's reply to Amnesty International's memorandum, dated 1 September 1982, is reproduced in full as Document II.

Amnesty International's response to the comments made by the Uganda Government in this reply was submitted to the government in October 1982 (Document III). Amnesty International informed the government that it intended to make this document publicly available at the end of March 1983 and undertook to publicize at the same time any further comments from the government received by that date. However, no such comments were received.

Amnesty International's response of October 1982 included an Appendix containing further inquiries to the government concerning over 100 people allegedly imprisoned in 1981, about whom the government had provided information to Amnesty International's delegates in January 1982. Amnesty International received a reply to these inquiries from the Uganda Minister of Internal Affairs in early March 1983. The Appendix to Amnesty International's response and the Minister's reply are not reproduced here because they are the subject of continuing direct exchanges between Amnesty International and the government.

These three documents are now being made available for the public record. They comprise the main direct communications during 1982 between Amnesty International and the Government of Uganda, relating principally to events that occurred in 1981.

Amnesty International is concerned about reports of continuing serious violations of human rights in Uganda. It regards the recommendations made to the government in its memorandum of July 1982 as still highly pertinent. It has renewed its call on the Government of Uganda to implement these recommendations in the spirit of the government's public expressions of commitment to the protection of human rights.

Amnesty International
International Secretariat
10 Southampton Street
London WC2E 7HF
England

MEMORANDUM TO THE GOVERNMENT OF THE REPUBLIC OF UGANDA ON A MISSION BY AMNESTY INTERNATIONAL TO UGANDA IN JANUARY 1982

30 July 1982

MEMORANDUM TO THE GOVERNMENT OF THE REPUBLIC OF UGANDA, ON A MISSION BY AMNESTY INTERNATIONAL TO UGANDA IN JANUARY 1982.

A. This memorandum is addressed by Amnesty International to the Government of the Republic of Uganda. Amnesty International had received numerous reports alleging serious violations of fundamental human rights by security forces in Uganda during 1981. In January 1982 Amnesty International sent a mission to Uganda to express its concerns directly to the government and seek its response. This memorandum is based on the findings of the mission.

The memorandum contains recommendations for measures to protect human rights within Amnesty International's mandate. Amnesty International submits these recommendations to the Government of Uganda in the hope that it will take due note of these recommendations and implement them as soon as possible. Amnesty International requests the government to respond to this memorandum and to provide information on measures taken since the mission or planned for the near future to ensure respect for human rights in Uganda.

B. Amnesty International is a worldwide movement which is independent of any government, political grouping, ideology, economic interest or religious creed. It seeks the release of all prisoners of conscience, that is, men and women detained anywhere for their beliefs, colour, sex, ethnic origin, language or religion, provided they have not used or advocated violence. Amnesty International calls for the fair and early trial of all political prisoners, and works on behalf of such people who are detained without charge or trial. It unconditionally opposes torture and other cruel, inhuman and degrading treatment or punishment, and campaigns against the death penalty and extrajudicial executions.

1. Amnesty International's mission to Uganda in January 1982

1.1. The delegates

A delegation from Amnesty International visited the Republic of Uganda from 11 to 19 January 1982. The delegation consisted of Dick Oosting, Secretary General of the Dutch Section of Amnesty International and former Deputy Secretary General of Amnesty International, and Michael H. Posner, Executive Director of the Lawyers Committee for International Human Rights.

1.2. Amnesty International's current concerns in Uganda

The following violations of human rights within Amnesty International's mandate were reported during 1981:

(1) large-scale arrests of actual or alleged political opponents on the grounds of national security, many of whom Amnesty International believes have been detained for their non-violent political views or activities;

(2) extensive illegal and arbitrary arrest and detention of civilians by the army;

(3) systematic torture and ill-treatment of prisoners in army custody;

(4) "disappearances" and deaths in detention;

(5) harsh conditions of imprisonment, particularly in army custody;

(6) the use of powers of indefinite detention without charge or trial;

(7) widespread extrajudicial killings of civilians by the army;

(8) widespread disregard for the legal and constitutional rights of detainees.

1.3. The mission program

The delegates had two long meetings with His Excellency President A. Milton Obote, at the beginning and end of the mission. They also had meetings with the Minister of Internal Affairs, the Minister of Justice/Attorney General, the Minister of State for Defence, the Minister of State for Foreign Affairs, the Inspector General of Police, the Commissioner of Prisons, and other senior government officials.

The delegates met the Leader of the Opposition, Mr Paul Ssemogerere, together with other Democratic Party officials (three of whom had been recently released from detention), and leaders of the Church of Uganda, the Roman Catholic Church and the Supreme Muslim Council. The delegates were informed by the government that they could go anywhere and meet anyone they wished. However, when they asked for permission to interview two detainees - Chris Kasibayo and Daniel Musisi - this was refused. The limited duration of the mission permitted only one short journey out of the capital, Kampala. The delegates met members of the Uganda People's Congress (UPC) and of the opposition Democratic Party in Iganga and Jinja.

1.4. The protection of human rights in Uganda

Government officials stressed to Amnesty International's delegates the necessity to view the current situation in the light of the disastrous consequences of President Idi Amin's military dictatorship. This lasted from 1971, when President Obote's government was overthrown in a coup, until 1979. Under President Amin's government there had been a complete breakdown of the rule of law and a consistent pattern of gross violations of basic human rights. Officials stated that the government was now committed to human rights, reconciliation and restoration of the rule of law. The police force was being rebuilt, but needed more resources and time before it could deal properly with the necessary investigations and legal formalities concerning people who had been arrested. The prison service faced similar difficulties.

The government stated that the army was not out of its control, and that when occasional abuses did occur, disciplinary and civil legal proceedings were instituted against those members of the army found responsible. Government officials maintained that the international news media had given a totally distorted picture of the security situation. They denied that the army held civilians in detention and rejected allegations that prisoners had been tortured or killed in army custody.

The government stated that security was still a problem in the central areas of the country, around Kampala, but claimed that reports that atrocities had been committed by military personnel were without foundation. It alleged that army uniforms, many of which had been stolen in 1979 and 1980, were being worn by bandits and guerrillas. The government called on Amnesty International to condemn killings by bandits and guerrillas.

Government officials told the delegates that after the December 1980 elections, which brought the present government to power, it had taken steps to ease the security situation and had started to release detained members of ex-President Amin's security forces. However, a series of guerrilla attacks on police

stations and prisons which began on 6 February 1981 had forced the government into exceptional measures such as the use of detention without trial. It claimed that the existence of armed guerrilla opposition within the country required the continued use of such measures.

Amnesty International's delegates pointed out that Amnesty International had campaigned vigorously against human rights violations by former President Idi Amin's government. These included the extrajudicial execution by the security forces of between 100,000 and 500,000 people; the systematic torture and killing of prisoners arrested on "security grounds"; and the destruction of basic civil and political rights. The government's attention was drawn to Amnesty International's publication "Human Rights Violations in Uganda" (1978), its submissions to the United Nations Commission on Human Rights, and its other regular reporting of human rights violations throughout the world.

The delegates stated that the organization was fully conscious of the difficulty of restoring the protection of human rights in the aftermath of such systematic repression and atrocities. They had noted the report of the Commonwealth Observer Group visiting Uganda during the general election campaign of late 1980 which described the situation as "turbulent and troubled .... the signs of economic collapse were everywhere, as were the psychological traumas caused by exposure to brutality on a massive scale".

The delegates affirmed that Amnesty International was fully aware of the armed conflict between guerrilla groups and the Ugandan authorities. Amnesty International had received reports of killings of government and UPC officials, responsibility for which had been admitted by guerrilla groups. Such political killings by anti-government groups in Uganda are treated as serious offences in all countries: Amnesty International does not condone such killings in any circumstances. As Amnesty International's delegates explained to the government, however, the organization addresses itself primarily to human rights violations committed by governments, who are bound by obligations deriving from international human rights instruments and their membership of the United Nations. Governments are responsible for upholding national constitutional and legal rights, and protecting the lives, security and human rights of their citizens and residents, particularly by exercising effective control over the security forces.

The delegates stressed that neither difficult economic conditions resulting in inadequate resources for the police force or prisons service, nor the threat posed by armed guerrilla organizations inside the country, could justify violations of fundamental human rights.

2. Political Imprisonment

2.1. General considerations

The government told Amnesty International's delegates that there were no political prisoners in Uganda. It maintained that all those whom Amnesty International might think were political prisoners had been arrested on suspicion of having committed criminal offences, such as assisting guerrillas. Officials stated that no prisoner was held solely for his or her political opinions or activities.

The delegates replied that Amnesty International had never claimed that all the people "arrested in a security situation" were prisoners of conscience, or that all the prisoners detained under the Public Order and Security Act or held in military custody were prisoners of conscience. Amnesty International's mandate was explained in some detail: Amnesty International calls for the unconditional release of prisoners of conscience, and for the fair and prompt trial of all other political prisoners. Amnesty International distinguishes between prisoners of conscience that it has "adopted", and cases that are being "investigated". "Investigation cases" are prisoners about whom Amnesty International seeks more information after an initial assessment that they could be prisoners of conscience. Such an assessment would be based on information about the political circumstances of the arrest, the alleged offence, the legal status of the prisoner, and other factors.

According to Amnesty International's information, many of those arrested after the guerrilla attacks of February and March 1981 were officials or members of two opposition political parties: the Uganda Patriotic Movement and the Democratic Party.[1] Large numbers were arrested on suspicion of involvement with the guerrillas although it is believed that few of those arrested, if any, were guerrillas captured in action. The majority were arrested by the army, and detained in military custody, without being charged and without legal protection. Others were held in police custody or civil prisons. Some were charged with criminal offences, others detained without charge or trial.

The delegates explained that Amnesty International believed that many of these prisoners appeared in fact to be held for their non-violent political opposition to the government. This view was supported by the extent of illegal detentions by the army, the absence of criminal proceedings against the majority of prisoners held in civil custody, the large-scale use of indefinite detention without charge or trial, and the failure of the authorities to protect their constitutional and legal rights, or their basic human rights.

2.2. Arrests and detention by the army

According to Amnesty International's information, most people arrested in 1981 on grounds of national security, were arrested by the army. Some arrests appear to have been arbitrary or indiscriminate, but the majority were apparently directed at particular individuals.

Most people arrested by the army were taken to army barracks and detained there, contrary to the law. Many were held for weeks or months. In very few cases were people known to have been transferred without delay to police custody. Detentions in military barracks were not recorded for police or legal purposes, and were not officially acknowledged. Such detainees had no legal protection in practice and the courts had no effective jurisdiction over them. In time, many of the detainees who survived were released or transferred to police custody, but it appears that torture was systematic, and many of those in military custody "disappeared" or were known to have died, particularly at Makindye and Kireka barracks.

The government initially told the delegates that all those arrested by the army were transferred to police custody without delay, and that civilians were not detained in military custody. It stated that the army was empowered to arrest people only in situations involving armed conflict and the exchange of fire; it stated explicitly that those detainees arrested by the army were guerrillas captured in action. During the mission officials admitted that Military Intelligence, a part of the army, was empowered also to interrogate those it had arrested. The government denied that the army was "out of its control" and said that every attempt was made to punish any soldier guilty of exceeding or abusing his authority.

Amnesty International's information, however, is that many unarmed civilians were arrested by the army in 1981. Most of these arrests were not connected to armed conflict. Several thousand civilians are estimated to have been arrested and detained illegally in military custody, for periods ranging from days to months. Few of the civilians detained by the army were in fact arrested in the immediate context of an armed attack by opponents of the government.

Under Ugandan law, the army has no authority to hold civilians in detention.[2] The Armed Forces Act (1964) contains a "Code of Service Discipline" covering the conduct of members of the armed forces. It makes no reference to the arrest of civilians or people not subject to the code. Inter alia, it lays down penalties for obstructing officers of the civil power, and for extortion, theft or illegal seizure of property. Offences against the code may

be dealt with by disciplinary or judicial procedure within the armed forces, or through the Civil Criminal Procedure Code and Penal Code.

Amnesty International was disturbed by numerous allegations that prisoners had to pay large sums of money to be released from custody, in particular military custody, and were threatened that they would otherwise be killed. Some prisoners appeared to have been arrested solely in order to extort money from them for their release.

2.3. Indefinite detention without trial

The Minister of Internal Affairs told the delegates that about 500 people had been arrested soon after the February 1981 guerrilla attacks, on suspicion of involvement with the guerrillas. Many had been released in the succeeding months. The Minister stated that fewer than 400 people of these arrested during 1981 were being held in detention at the time of the mission in January 1982. Amnesty International understands that this figure referred to people formally detained or regarded as detained under the Public Order and Security Act. Most of these were held in Luzira Upper Prison as civil prisoners. Some had been charged with treason or criminal offences, but none had been tried. Several people charged with treason in November 1981 were among those released by presidential order in January 1982.

Detention without charge or trial is lawful in Uganda under the Public Order and Security Act (1967). The act permits the President, or any delegated minister (currently the Minister of Internal Affairs), to order the detention of any person:

> "where it is shown to the satisfaction of the President that... (he) has conducted, is conducting or is about to conduct himself so as to be dangerous to peace and good order in Uganda .... or that he has acted, is acting or is about to act in a manner prejudicial to the defence or security of Uganda"[3],

and "that it is necessary to prevent such person from so conducting himself or so acting".[4] A person may be arrested by being served with a detention order. Alternatively,

> "where a police officer of or above the rank of Inspector has reasonable suspicions of such conduct ... (as stated above), that officer may arrest any person without a warrant and detain him for up to 14 days pending any detention order being formally issued".[5]

Anyone detained under this act is held indefinitely without charge or trial as a civil prisoner in police or prison custody. No court may question a detention order made in accordance with this act.

However, the act requires notification of the detention to be published in the Official Gazette within 30 days.[6] Article 10 establishes a tribunal to review detentions, consisting of a chairman appointed by the Chief Justice and not less than two nor more than five other members appointed by the President. Only the President may rescind a detention order or vary it, for example, by imposing lesser restrictions on movement or conduct.[7]

The Uganda Constitution (1966) states in Chapter Three ("Protection of fundamental rights and freedoms of the individual"): "No person may be deprived of his personal liberty save as may be authorized by law".[8]

> "Any person who is arrested, detained or restricted, shall be informed as soon as practicable of the reasons for his arrest, detention or restriction".[9]

Anyone arrested on a court order, or on reasonable suspicion of having committed or being about to commit an offence under the law, and who is not released, "shall be brought without undue delay before a court"; and if anyone arrested or detained without a court order "is not tried within a reasonable time, he shall be released, either unconditionally or upon reasonable conditions".[10]

Article 10(5) refers to prisoners held under special detention legislation (such as the Public Order and Security Act) and states that:

(1) they must be given a written statement within 28 days specifying the grounds of detention, and an opportunity to make representations in writing to the President or Minister responsible;

(2) "their cases shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice ... within two months of detention and thereafter at intervals not exceeding six months".[11]

(3) they may consult legal representatives of their choice who shall be permitted to make representations to the tribunal;

(4) they may appear in person or through their legal representatives when the tribunal is hearing their case;

(5) the tribunal may make recommendations on the necessity or expediency of the detention or conditions of detention.

In practice, most of these constitutional safeguards have not been observed. Few of those detained under the act during 1981 were served with detention orders, or given any verbal or written explanation for their detention. The names of detainees were not published by the government. The review tribunal was said by officials to have been appointed in early 1981, but for reasons not explained to the mission delegates, it had not been convened by early 1982. Very few detainees were allowed access to their legal representatives or relatives.

In some cases, lawyers acting for the relatives of detainees have applied for a writ of habeas corpus. For example, lawyers for member of parliament Yoweri Kyesimira, who was arrested on 18 February 1981, applied for a writ of habeas corpus when he had been held for several weeks without legal authority. Professor Kyesimira was produced in court on 12 March, charged with "incitement to commit violence" and granted bail. Immediately after the hearing, however, he was served with a detention order under the Public Order and Security Act, so that he was not released from custody. His lawyers appealed against this order to the Court of Appeal, which ruled that the detention order was invalid because the procedural requirements of the act had been ignored. He was then immediately served with a second detention order and remained in detention until released by presidential order in January 1982. The authorities did not proceed with the charges. Several other habeas corpus applications were made during 1981 on behalf of detainees believed to be held illegally in civil prisons or police stations, but for reasons not explained to the mission delegates, no such application had been heard in court. The large number of unexplained arrests and detentions, in which the detainee is given no explanation of the grounds for arrest or of his or her legal status, leads Amnesty International to conclude that the rule of law has broken down in this respect. This represents a systematic violation of basic legal and constitutional rights.

2.4. Criminal proceedings

A large number of prisoners were arrested in 1981 by the police, or placed in police custody after arrest or detention by soldiers, UPC party officials or other security officers.

Under the Criminal Procedure Code a police officer normally needs an order from a magistrate and a warrant of arrest to carry out an arrest. However, a police officer may arrest without a court order or warrant "anyone suspected upon reasonable grounds of having committed a cognizable offence".[12] The arresting officer

> "shall without unnecessary delay and subject to the provisions of the Code as to bail, take or send the person arrested before a magistrate having jurisdiction in the case or before an officer in charge of a police station".[13]

The officer in charge

> "must report to the nearest magistrate within 24 hours the cases of all persons arrested without warrant within the limits of the respective police station".[14]

Criminal proceedings are instituted by a police officer bringing an arrested person before a magistrate on a specific charge within 24 hours. The Criminal Procedure Code lays down detailed procedures for the preparation of an indictment, habeas corpus, the granting of bail, remand in custody, committal for trial, legal defence rights, trial and sentencing and right of appeal. A person may be remanded in custody for up to two weeks pending further investigations and the preparation of a formal charge, but must then be produced in court: this procedure may be repeated without limit.

The Uganda Constitution (1966) requires that any person charged with a criminal offence "shall be afforded a fair hearing within a reasonable time by an independent court established by law", and that "every person who is charged with a criminal offence shall be presumed innocent until he is proved or has pleaded guilty".[15] Full legal defence rights are guaranteed, in conformity with the relevant articles of the International Covenant on Civil and Political Rights.

In practice the 24-hour limit of holding an arrested person in a police station without charge has often been ignored. People have been held for months in police custody - for example in the Central and Jinja Road Police Stations in Kampala - without having appeared before a magistrate. Some of those taken into police custody were reported to have been arrested by soldiers or UPC officials (presumably executing a citizen's arrest), rather than by police officers.

During 1981 a small number of those arrested and detained ostensibly on security grounds were charged with treason or related offences, but none had been brought to trial by the beginning of 1982 Several were released by presidential amnesty in January 1982. The government told Amnesty International that the police force, particularly the Criminal Investigation Department and the Ministry of Justice, were experiencing great difficulties in bringing cases to trial owing to lack of proper resources and facilities. This was said to be a major obstacle to observing legal procedures more fully.

In some rural areas during early 1981, arrests appear to have been made by UPC officials or local district administration officials, and those arrested were held for some days or longer

in local administration "lock-ups" designated for petty offenders. This practice seems to have been less in evidence towards the end of the year, when formal procedures for transferring such people to police stations were apparently followed more closely.

2.5. Political prisoners

In its initial investigations into cases of imprisonment which appeared to be political, Amnesty International did not prejudge the matter by adopting these prisoners as prisoners of conscience, but took up their cases as "investigation cases" (see above). Detailed information was often hard to obtain because of the scale of the arrests and the difficulty in knowing the real reasons why many people had been arrested, particularly in view of the government's failure to provide detailed explanations or to institute criminal proceedings.

One of the main objectives of the Amnesty International mission was to obtain more details about prisoners whose cases the organization was investigating. The delegates therefore submitted confidentially to the government a preliminary list of over 350 prisoners reportedly arrested during 1981 on political grounds. Amnesty International asked the government for information on these cases, in view of the absence of previous official information. Some of the prisoners on the list had been taken up by Amnesty International as "investigation cases". At the end of the mission government officials presented the delegates with a detailed written response to their list. The government's document listed the prisoners in the categories of "released", "persons in prison whose charges are being processed", "never arrested", "local cases", "up-country cases - police investigating", "police investigation", "more information needed" and "charged".

Amnesty International gratefully acknowledges the considerable efforts that were made to compile this information. The delegates were pleased to receive an assurance from the Minister of Internal Affairs that future requests for information about prisoners would receive an early response.

Amnesty International welcomes the fact that a considerable proportion of the prisoners about whom it had learned in 1981 had been released by the time of the mission. It recognizes that the information it was able to present to the Ugandan authorities was in some cases insufficient for the authorities to identify the prisoner or investigate the cases. It has reason to believe, however, that several of those stated by the government as "never arrested" had in fact been taken into custody at some time in 1981 - although possibly without any record of their arrest being forwarded to central police or prison records.[16] No satisfactory response was obtained about prisoners who had reportedly "disappeared". No

details were given in the list about the legislation permitting the prolonged detention of prisoners "whose charges are being processed", and the full list of those detained under the Public Order and Security Act was not made available to Amnesty International. The delegates' inquiries about certain prisoners arrested shortly before or during the mission met with no response.

By January 1982 a considerable number of prisoners arrested in 1981 had been released. The government published the names of 35 prisoners released on 1 January 1982, and the names of 155 others released on 19 January 1982 when President Obote announced that a larger program of releases could be expected in 1982. The delegates welcomed these measures.

Amnesty International believes that several of those detained in 1981 and released before Amnesty International's mission were in fact prisoners of conscience, detained solely for their non-violent political opinions or activities. They include Reverend Vincent Okot, a former member of the National Consultative Committee (Uganda's interim parliament from 1979 to 1980); Reverend Christopher Okoth, Vice-Chairman of the opposition Uganda Patriotic Movement (UPM) and Jaberi Bidandi-Sali, UPM secretary general; opposition Democratic Party members of parliament Yoweri Kyesimira, Haji Ali Sserunjogi, and Eliyah Kitaka-Gawera; Makerere University students Paschal Bahikayu, Silvio Ewaku, Charles Mukembo and Joseph Essanyu; and several others, including opposition party officials.

Amnesty International believes that several other prisoners who were still detained at the time of the mission were also prisoners of conscience. They include: Ambrose Okullo, former university lecturer and Deputy Minister of Education (1979 to 1980); John Kaliisa, former ambassador to Ethiopia and Tanzania; James Otto, businessman; Daniel Musisi, a doctor and former deputy director of Uganda's medical services; Jack Maumbe-Mukwana, a member of the former National Consultative Committee; Ben Etiang, a Democratic Party leader in Tororo; John Kabale, a DP branch chairman from Kampala; and Nathan Ruyondo town clerk of Masak.

2.6. The detention of former members of ex-President Idi Amin's security forces

About 5,500 members of ex-President Amin's security forces were detained during or shortly after their capture or surrender in 1979, and were still in detention when President Obote's government came to power in December 1980. They were held without charge or trial, or legal detention order, and without prisoner of war status. They included members of the army, security services and police force. Members of these forces had been involved in serious

human rights abuses under President Amin. President Obote stated that they would be charged and given fair trials in the civil courts or otherwise released. By the end of 1981 over 4,000 had been released unconditionally by presidential order. A small number had been charged and tried for offences such as murder or armed robbery. Less than 1,500 remained in detention without charge or trial. The International Committee of the Red Cross had been granted access to them since 1979.

2.7. Recommendations: political imprisonment

Amnesty International urges that no person be detained for his or her political opinions or activities, and calls for the release of all prisoners of conscience in Uganda. Amnesty International calls for all those arrested in political circumstances and suspected of a criminal offence to be charged in accordance with the law, and to receive fair and early trial, or else to be released unconditionally. Amnesty International opposes the indefinite detention without charge or trial of political prisoners. It requests the government to initiate a full review of the Public Order and Security Act to bring it into conformity with the International Covenant on Civil and Political Rights, particularly in relation to the absence of any limit in the act to the period of detention without charge or trial, and in relation to the use of exceptional powers of detention where no state of emergency has been declared.

2.8. Recommendations: protection against arbitrary or illegal arrest and detention

A. Amnesty International recommends as a matter of the utmost urgency that the government publicly clarify the circumstances under which the army is legally empowered to arrest, interrogate and detain civilians, and that the government take all necessary steps to protect civilians from illegal arrest, interrogation or detention by the army.

B. Amnesty International recommends that when prisoners are detained under the Public Order and Security Act the government ensures full observance of the legal safeguards contained in the act: in particular that

a) the names of all detainees are published by the government within 30 days of detention;

b) no one is held for more than 14 days without a formal detention order;

c) detainees are provided with a written statement specifying the grounds of detention within 28 days;

d) detainees have regular access to their legal representatives;

e) an impartial and independent review tribunal is immediately established and convened to review detentions under the act with a view to making recommendations regarding release or continued detention, or the conditions of detainees.

C. Amnesty International recommends that the government ensure full observance of the legal provision requiring all prisoners in police custody to be brought before a magistrate and charged within 24 hours, or otherwise released unconditionally. Amnesty International requests that the appropriate authorities investigate the failure of the legal mechanism of habeas corpus.

3. Torture

3.1. Allegations of torture of prisoners

Amnesty International has received numerous reports, which include the testimonies of former prisoners, alleging the systematic use of torture in a number of military establishments during 1981, and the ill-treatment of prisoners in other places of detention. Torture methods reported from Makindye barracks in Kampala included beatings with sticks, batons, rifle butts, leather whips (kibokos), electric wire and chains; prisoners being slashed with bayonets; being shot in the legs and threatened with death; and being subjected to sexual tortures. Many torture victims are believed to have died or suffered serious injuries.

A similar pattern of systematic torture has been reported at Kireka military barracks, near Kampala. Torture of detainees had also been reported at Malire, Mbuya and Bombo military barracks in or near Kampala, the army offices and Military Intelligence interrogation centre in Nile Mansions, and Katabi military barracks in Entebbe.

The government denied these allegations of torture. Officials asked Amnesty International's delegates if they had seen scars on any alleged torture victims. In their final meeting the delegates informed President Obote that they had further evidence of the use of torture, and had observed phusical marks on certain people who stated that they had been tortured in custody. They again called on the government to investigate the reports of torture.

3.2. Recommendations: protection against torture

A. Amnesty International urges the government as a matter of the utmost urgency to take effective measures to protect all prisoners - particularly those held in military establishments - from torture or ill-treatment. In accordance with the United Nations Declaration on the Protection of All Persons from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Amnesty International urges the government: to ensure that the training of law enforcement officials takes full account of the prohibition of torture; to review systematically methods of interrogation of prisoners in order to prevent ill-treatment or torture; to publicly affirm that torture and complicity in torture are serious criminal offences; to investigate fully through the competent authorities all allegations of torture; and to bring those found to be responsible for torture to justice.

B. In particular, Amnesty International calls on the government to establish immediately a special inquiry into allegations of torture of prisoners at Makindye and Kireka military barracks, and the army offices and military Interrogation centre in Nile Mansions.

4. Prison Conditions

4.1. Prisons and the treatment of prisoners

Prisoners arrested in 1981 on public order or security grounds were held in army barracks, police stations and civil prisons administered by the Uganda Prisons Service. The main places of imprisonment were:

a) army barracks, including in particular, Makindye, Kireka, Malire and Mbuya barracks in or near Kampala, Bombo barracks, and Katabi barracks in Entebbe; many detainees were held for long periods in 1981 in Luzira Military ("remand") Camp near Kampala;

b) police stations, such as the Central Police Station and the Jinja Road Police Station in Kampala, where many prisoners were held for weeks or even months;

c) Luzira Upper Prison, a maximum security prison under Uganda Prisons Service administration, where most of those detained under the Public Order and Security Act or charged with offences related to national security were held. Many of the detained former members of ex-President Amin's security forces were held in this prison. Others were detained in the adjacent Luzira Lower Prison (also known as Murchison Bay Prison), or civil prisons in Mbale and Jinja.

Amnesty International received allegations that some prisoners had been held in undesignated places of detention in Kampala during 1981. The government denied these allegations, which Amnesty International was unable to investigate further.

On the basis of information received from a variety of sources, including former detainees, Amnesty International believes that conditions for those held in military barracks were extremely harsh. Torture and ill-treatment were reported to be routine, and to have resulted in many deaths. Prisoners were not allowed access to relatives or legal representatives, priests or sheikhs. In addition, prisoners were allegedly denied medical attention; and not given an adequate diet, minimum hygiene facilities, beds, blankets, exercise or reading material. Conditions were reportedly aggravated by severe overcrowding in small and dirty cells.

Conditions in police stations were also reported to be poor, in particular because of overcrowding and the fact that prisoners were held for long periods: police stations generally lacked the facilities for holding prisoners for more than the few days permitted by the law.

Conditions in civil prisons such as Luzira Upper Prison were poor, although they are believed to have been improved considerably as a result of the access granted to the International Committee of the Red Cross (ICRC) since 1979. The government however informed Amnesty International's delegates that it had recently ordered the ICRC to end all its operations in Uganda. Detainees were generally held incommunicado. Shortages of food and water, delays in medical treatment and overcrowding were reported in late 1981. Several prisoners were described as "looking like skeletons", or "emaciated and wearing only rags", when they were released.

The delegates formally requested permission to interview two political detainees about whom there was particular concern. The government had said that the delegation could "go anywhere" in Uganda but this request was refused on the grounds that it was "against the law". The two detainees were: Chris Kasibayo, a lawyer arrested shortly before the mission, whose whereabouts in custody were uncertain; and Daniel Musisi, a doctor who was reportedly seriously ill in Luzira Upper Prison as a result of being shot in the feet during torture at Makindye barracks after his arrest in November 1981.

The delegates were informed that strenuous efforts were being made to improve the conditions of detainees in the civil prisons, including Luzira Upper Prison, as well as conditions in police stations, but that the resources needed were often lacking. The government continued to maintain that there were no detainees in military custody. The delegates were unable to have any meetings with military officers to discuss this further.

4.2. Recommendations: prison conditions and the treatment of prisoners

A. Amnesty International appeals to the government to ensure that conditions in all prisons in Uganda, including both civil and military prisons, conform with the United Nations Standard Minimum Rules for the Treatment of Prisons. Amnesty International urges that all prisoners be provided with regular medical attention and treatment by qualified doctors, and are admitted to hospital where appropriate; that all prisoners be granted access to relatives, legal representatives and religious advisers, including private visits and correspondence; that the prison authorities remedy the overcrowding, lack of proper sanitary and washing facilities, and lack of bedding and blankets in most prisons; that prison diet meets basic nutritional criteria; that prisoners are allowed sufficient daily fresh air, exercise and reading material to preserve a reasonable state of physical and mental health; and that the authorities permit prisoners' relatives or charitable organizations to assist in meeting these basic facilities where prison resources are inadequate.

B. As a matter of urgency, Amnesty International calls on the government to initiate an independent investigation into the conditions of civilians detained in military barracks, and to establish appropriate institutions and procedures to remedy the appalling treatment and conditions of detainees in military custody.

C. Amnesty International requests the government to allow the International Committee of the Red Cross access to all places of detention in the country.

5. "Disappearances" and Deaths in Detention

5.1. "Disappearances"

Amnesty International was informed of the "disappearance" of a number of prisoners held in military custody in 1981. Their relatives had reportedly failed to obtain any information on their whereabouts or fate after they had been arrested and detained, despite exhaustive inquiries through official and private channels. The delegates failed to obtain any information from officials about the fate of these "disappeared" prisoners, except that the government listed them as "police investigation" cases. The cases included the following:

Stephen Mulira, manager of the Lint Marketing Board, arrested at an army road block in Kampala on 4 April 1981, reportedly taken to Nile Mansions army offices in the custody of the Army Chief of Staff, Brigadier David Oyite Ojok and never seen since.

Abasi Kibazo, former chairman (in 1979) of the Kampala branch of the Uganda National Liberation Front, arrested 12 July 1981 in Bukoloto village, Mukono district, reportedly taken to Nile Mansions army offices and never seen since.

Richard Sserunjogi Mulondo, accountant with the United Assurance Company, Kampala, unsuccessful Conservative Party candidate in the 1980 elections, arrested 9 June 1981 in Kampala and never seen since.

E. Kabazaire, former magistrate, arrested 25 May 1981 in Mbarara, reportedly taken to Nile Mansions army offices, then Luzira Military Camp, and never seen since.

George Kananura, former accountant at the Ugandan Embassy in Washington, USA, was arrested at the same time and "disappeared" in the same circumstances.

Beatrice Kyomugisha, lecturer in education at Makerere University, arrested at her university residence (Lincoln Flats) on 10 September 1981, reportedly detained at Kireka barracks and tortured, and never seen since.

5.2. Deaths in detention

Considerable numbers of prisoners held in army barracks, notably Makindye, Kireka and Katabi barracks, are alleged to have died during 1981 as a result of torture or deliberate killing. In some cases the bodies were returned to relatives after being taken to a mortuary. Many other bodies were reportedly thrown into rivers or Lake Victoria, hidden in forests or buried in secret.

Former prisoners from Makindye and other barracks have testified that numerous prisoners were killed arbitrarily, besides those who died from torture or lack of medical treatment. Many of these victims had "disappeared"; their relatives rarely obtained any evidence confirming the death. One recently reported case of a death in military detention was that of Livingstone Kikonyogo, a Democratic Party official and businessman in Bugerere. He was arrested on 2 October 1981 and transferred from Katwe police station to Makindye barracks, where he reportedly died on 10 December 1981.

Detainees have also died, although not in such large numbers, in Luzira Military Camp, civil prisons such as Luzira Upper Prison, and police stations, principally because of the failure of the authorities to provide adequate food and medical treatment. They include Philip Luande who died in Luzira Military Camp in August 1981; Fred Mobulo, who died in Kampala Central Police Station on 18 October 1981; and former Police Superintendent Mark Aliga, who died in Luzira Upper Prison in mid-1981.

To Amnesty International's knowledge no records have been kept of deaths in military custody, and no investigations undertaken. Brief records are reportedly kept of deaths of prisoners in civil custody and of bodies handed over to the civil authorities by the army, but no inquests are known to have taken place, as required by the Inquests Act (1964), to determine whether there was any criminal responsibility for the deaths.

6. Extrajudicial Executions

6.1. Extrajudicial killings by the army

Amnesty International received reports during 1981 of several incidents in which unarmed civilians were illegally killed by military personnel. The four incidents cited here are illustrative: extrajudicial executions appear to have been frequent, resulting in the deaths of hundreds of civilians at the hands of the army.

- About 60 people, including several children, were killed by soldiers in Ombachi mission in Nebbi District on 25 June 1981, apparently in reprisal for the medical treatment given by Red Cross doctors in the mission to wounded guerrillas.

- About 16 unarmed civilians were reportedly killed by soldiers in Wakiso village in Mpigi Northeast District on 5 September 1981, some hours after a guerrilla attack on an army unit there. They were allegedly arrested, lined up, and arbitrarily executed.

- Over 30 unarmed civilians were reportedly killed at Matuga village, not far from Wakiso, on 10 September 1981, in a reprisal massacre some time after a second guerrilla attack in the area.

- At least 60 unarmed villagers were reportedly seized and executed by soldiers in andaround Ssemutto village in Luwero South District between late November and early December 1981, following a guerrilla attack on a nearby army unit.

Under international legal standards, as set out in the Universal Declaration of Human Rights and other instruments, governments are under obligation to prevent arbitrary killings of individuals by government forces. They are responsible for protecting the right to life, liberty and security of person for all the citizens and residents of their countries.

The government denied that the army had illegally killed unarmed civilians and in general attributed the killings to "bandits" or to guerrillas wearing stolen army uniforms. The government did not disclose details of official investigations into the incidents. Instead, it criticized Amnesty International for not condemning killings by the guerrillas. The delegates affirmed that Amnesty International does not in any circumstances condone killings by anti-government forces. The available evidence indicated, however, that although anti-government guerrillas had attacked and killed a number of soldiers, and had assassinated certain civilian government officials, most incidents of the type described above were attributable solely to government forces.

6.2. Recommendations: extrajudicial executions

Amnesty International calls on the government to investigate all reports of arbitrary or illegal killings of unarmed civilians by military personnel, to apprehend and bring to justice those responsible for such killings, and to institute more effective training and disciplinary measures within the army to prevent the occurrence of such incidents.

7. Amnesty International's Conclusions

The Amnesty International delegates found that human rights had been seriously violated in Uganda. The delegates were particularly concerned that the measures known to have been taken by the government had fallen far short of the action that was urgently needed to ensure respect for human rights.

Amnesty International appeals to the Government of Uganda to take all necessary effective measures to end human rights violations in the country. It urges the government to implement the recommendations in this memorandum. It calls on the government to exercise to the full its constitutional responsibility to protect the human rights of all people in Uganda and to ensure that human rights are not abused by any public official - whether military or civil - bearing its authority.

Summary of Main Recommendations to the Government of Uganda

1) Political imprisonment

Amnesty International urges that no person be detained for the non-violent expression of their political opinions or other exercise of their fundamental human rights, and calls for the release of all prisoners of conscience in Uganda. Amnesty International calls for all those arrested in political circumstances and suspected of a criminal offence to be charged and tried in accordance with the law, or released. Amnesty International calls for an end to indefinite detention without charge or trial, and requests a review of the Public Order and Security Act.

2) Protection against illegal detention

A. Amnesty International calls on the government to explain publicly the army's legal powers to arrest, interrogate and detain civilians, and to protect civilians from illegal military detention.

B. Amnesty International urges full observance of the constitutional and legal rights of those detained under the Public Order and Security Act: that all detainees' names be published within 30 days; that no one be held for over 14 days without a detention order; that detainees be given a written explanation of the grounds for their detention within 28 days; that detainees have access to their relatives and legal representatives: and that the independent review tribunal be immediately convened to examine all detentions.

C. Amnesty International requests that the government ensure full observance of the legal provisions requiring all prisoners in police custody to be brought before a magistrate and charged within 24 hours, or otherwise released unconditionally. Amnesty International recommends that the appropriate authorities investigate the failure of the legal mechanism of habeas corpus.

3) Torture

Amnesty International urges the government to establish safeguards against torture in military establishments and to establish a special inquiry into reports of torture at Makindye and Kireka barracks, and the army offices in Nile Mansions.

4) Prison conditions

Amnesty International appeals to the government to make every effort to bring conditions in civil and military prisons up to international standards for the treatment of prisoners.

5) "Disappearances" and deaths in custody

Amnesty International calls for all "disappearances" of detainees to be promptly investigated and for public inquests into all deaths in custody.

6) Extrajudicial executions

Amnesty International calls on the government to investigate all arbitrary or illegal killings of unarmed civilians by military personnel, to bring to justice those responsible, and to strengthen military training and discipline so as to prevent such incidents.

1. One guerrilla group was led by the then Chairman of the Uganda Patriotic Movement (UPM), Yoweri Museveni, who had been Vice-Chairman of the former ruling Military Commission (1979 to 80); the other group included some politicians earlier associated with the Democratic Party (DP). The UPM effectively ceased to exist after the mass arrests of its leaders and rank-and file members. The DP has, to Amnesty International's knowledge, fully disassociated itself from those who fled the country and tried to overthrow the government of Uganda by violence. It coninues to exist as a legal parliamentary opposition party.

2. In 1971 and 1972 President Idi Amin decreed powers to the armed forces and prison officers to arrest and detain civilians for up to 24 hours before handing them over to the police. These powers were annulled after the overthrow of his government in 1979. The further powers given in 1973 to the military police to arrest and hold civilians, and to military tribunals to try civilians on certain political and other charges, were also annulled in 1979 and 1980.

3. Public Order and Security Act, Article 1(1)(a).

4. Public Order and Security Act, Article 1(1)(b).

5. Public Order and Security Act, Article 1(3).

6. Public Order and Security Act, Article 9.

7. Public Order and Security Act, Article 11.

8. Uganda Constitution, Chapter 3, Article 10(1).

9. Uganda Constitution, Chapter 3, Article 10(2).

10. Uganda Constitution, Chapter 3, Article 10(3)(b).

11. Uganda Constitution, Chapter 3, Article 10(5)(b).

12. Criminal Procedure Code (1964), Arrest without warrant, Article 23(a).

13. Criminal Procedure Code (1964), Disposal of persons arrested, Article 27.

14. Criminal Procedure Code (1964), Police to report arrests, Article 31.

15. Uganda Constitution, Chapter 3, Article 15.

16. One case, that of Christopher Tamale-Ssali, Commissioner of Mines, was wrongly included in Amnesty International's list, due to a typographical error during the preparation of the list, transposing 1980 into 1981.

Amnesty International
International Secretariat
10 Southampton Street
London WC2E 7HF
England

REPLY FROM THE GOVERNMENT OF THE REPUBLIC OF UGANDA TO AMNESTY INTERNATIONAL'S MEMORANDUM - OF 30 JULY 1982

1 September 1982

TELEPHONE 01-839 5783/0
TELEGRAMS UGANDACOM
TELEX 915141

HIGH COMMISSION OF THE
REPUBLIC OF UGANDA

UGANDA HOUSE
58-59 TRAFALGAR SQUARE
LONDON WC2N 5DX

OUR REF C.1/100
YOUR REF SGO/MH/CH

THE HIGH COMMISSIONER

1 September 1982

Mr Thomas Hammarberg
Secretary General
Amnesty International
International Secretariat
10 Southampton Street
London WC2E 7HF

Dear Mr. Hammarberg,

1. I have the honour, on instructions from my Government, to acknowledge and comment on the letter dated 5th August, 1982, reference SGO/MH/CH signed by Mr Clayton Yeo and the Memorandum attached thereto.

2. The Government of Uganda is highly disappointed that the platform of a dialogue established in January 1982, when Amnesty International sent two delegates to Uganda is not reflected either in the letter under reference or in the Memorandum.

3. In January 1982, when the two delegates were in Kampala, they gave Government the promise that Government comments on the lists submitted by your Organisation and other comments on wider issues would be studied by your Organisation and that appropriate response would be communicated to the Government. This promise was confirmed to the Minister of Justice/Attorney General in a letter dated 11th February 1982, reference SGO/MH/DB.

4. Instead, my Government has now received a totally different presentation bearing very little relationship to the subject matter discussed between the Government and your delegates in January, 1982.

5. You will recall, that you sent a telex to my President on 22nd December 1981 - paragraph 2 of that telex gave, "the main purposes of the Mission is to hold meetings with the Government to obtain information relating to the use of detention without charge or trial and to inquire into the circumstances of arrests in 1981 and continued detention of particular prisoners whose cases have been reported to Amnesty International ....."

/...2

6 In the Memorandum dated 30th July, 1982, attached to Mr Clayton Yeo's letter, it is stated in paragraph one that, "in January 1982, Amnesty International sent a Mission to Uganda to express its concerns directly to the Government and seek its response." These are two totally different and contradictory terms of reference.

7. I am under direction by my Government, to confirm that when the two delegates arrived in Kampala, it was pointed out to them that the Government agreed to have the delegates in Uganda because the Government had nothing to hide. The delegates were further told that the manner in which you addressed the President in that telex was rather impertinent in that, you did not request Uganda Government to receive a delegation but that you merely told Uganda Government that, "I have the honour to inform you Your Excellency that Mr Dick Oosting, Secretary General, Designate of the Dutch Section of Amnesty International, and Mr Michael H Posner, Executive Director of the Lawyers Committee of the International League for Human Rights with whose work for the International Mission of Jurists in 1974, Your Excellency, will be familiar have agreed to undertake a mission to Uganda ..... They are expected to be in Uganda from 11th to 17th January, 1982."

8. My Government takes grave exception to this tenor of one sided decision by your Organisation. The Government of Uganda after meeting the two delegates in January, came to an honest belief that all matters of concern will be handled with mutual respect and through constant dialogue and with no unfounded accusations. It is of great disappointment that the letter and Memorandum now under reference do not reflect the understanding arrived at between the delegates and the Government and as confirmed in your letter of February 1982.

9. Government is now called upon to comment not really on the matters discussed in January 1982, but on new matters raised both in the Memorandum and the covering letter. In addition, Government has to make comments virtually under threat, in that your Organisation has already taken a decision to issue a statement about Uganda in September 1982, and that whatever comments Government makes on the Memorandum, it will be for you and you alone to decide on the publication both of your Memorandum and of my Government's comments.

/...3

10. I am under instructions to point out once more that Government has nothing to hide on Human Rights in Uganda. On the contrary, my Government is very proud of its achievements in the fields of Human Rights and the restoration of Law and Order within a short period of only 20 months.

11. These great achievements are, most regrettably, not reflected and are completely ignored in your Memorandum. The Government I have the honour to represent, took office on 15th December, 1980. On that day the President stated among other things that, "we shall work for human compassion, rights and dignity. We shall work for reconciliation. We shall insist on no revenge ..... I pledge that I will lead a Government of Law."

12. The above was included in your 1980/81 Report. In the same Report you further stated that one of the President's first acts, "was to release former President Binaisa from detention ..... later ordered the release of 300 detainees arrested in 1979 and stated that the cases of the rest would be reviewed."

13. In your Memorandum of July 1982 on page 12, paragraph 2.6 you correctly state that, "about 5500 members of ex-Amin's security forces were detained during or shortly after their capture or surrender in 1979 and were still in detention when President Obote's Government came to power in December 1980." You go on to recognise in the Memorandum, again correctly that, "by the end of 1981, over 4000 had been released unconditionally by Presidential order." This is a great achievement which regrettably is not given due prominence by your Organisation.

14. Although you recognise in your Memorandum that Amin's soldiers who had been arrested at liberation, "had been involved in serious human rights abuses under President Amin", you do not give due recognition to the very real achievement of releasing such persons and convincing the population to live with them peacefully, without the population taking recourse to dispensing justice against such persons through kangaroo courts.

/...4

15. Uganda has 33 Administrative Districts. When my Government came into office in December 1980, the problem of insecurity involving massive loss of life was uniformly present in every District. The Amnesty International's Report of 1980/81 does not discuss that crucial situation and the Report gives the impression that the only concern for Human Rights in Uganda during 1979/80 were the situation in Karamoja, West Nile Region and the detention of Amin soldiers.

16. While appreciating Amnesty International's concern for Human Rights in Uganda, my Government is of the strong opinion that there is a fundamental difference of approach between your Organisation and the Government on the matter. As stated in the above paragraph your concern before the elections of December 1980 was limited, whereas as far as the Government is concerned, the matter was very wide. There were extensive violations of Human Rights virtually in all the 33 districts of Uganda before the elections, and such violations were not fully appreciated by your Organisation.

17. Secondly, your Organisation appears not to differentiate inadequate security on one hand in some parts of Uganda and on the other, violation of Human Rights. This difference of approach between your Organisation and my Government should not lead to misunderstanding, and should be ironed out through constant dialogue.

18. It is a matter of great pride to the Government that the Memorandum now under reference does not cover Karamoja, West Nile or other matters which were of concern to Amnesty International and were reported on in your Report covering May 1980 to April 1981.

19. The source and meaning of this pride can be stated simply, that these are no longer issues of concern to Amnesty International, the International Community and above all, the Government and people of Uganda, because they have been resolved by the Government.

20. The Memorandum makes reference to what is called 'Ombachi Incident' of June 1981. This was an isolated case in West Nile Region and has been a matter of great anguish to

the Government. It had nothing to do with violation of Human Rights. It was occasioned by the fact that representatives of the International Committee of the Red Cross (ICRC), stationed in the Town of Arua in West Nile, allowed armed dissidents (Amin's former soldiers) to enter and live within a Church compound from which the ICRC personnel were operating. The Government was not informed of this armed infiltration.

21. The armed bandits mounted an attack on the Town of Arua and particularly against Ugandan soldiers stationed in the Town. As the fighting continued, the bandits retreated into the Church compound where they had reserve forces and continued to fire from therein. There was no deliberate intention whatsoever on the part of Government troops to attack the Church compound and it is grossly wrong to cite the 'Ombachi Incident' as an example of violation of Human Rights by Government troops or extra-judicial killings.

22. Under instructions of my Government, I hereby inform and repeat to Amnesty International that the Government of Uganda has nothing to hide on matters of the observance of Human Rights in Uganda. Indeed, the Government is proud of its record. However, there appear to be fundamental differences between the Government and Amnesty International on the principles to be applied in the matter of observance of Human Rights in Uganda.

23. The Government is enjoined by the Constitution and International Agreements, including the UN Charter on Human Rights, to avoid violation of fundamental Human Rights by Agents of Government, and secondly to prevent violations of those rights by anyone else.

24. Clause 2 of Article 8 of our Constitution stipulates those fundamental Human Rights. It reads, "Every person in Uganda shall enjoy the fundamental rights and freedoms of the individual, that is to say, the right to each and all of the following, namely,

(a) life, liberty, security of the person and the protection of the law;

(b) freedom of conscience, of expression and of assembly and association; and

(c) protection for the privacy of his home and other property and from deprivation of property without compensation."

25. Clause 5 of the same Article provides that "In the enjoyment of the rights and freedoms referred to in clause (2) of this article, no person shall prejudice the rights and freedoms of others or the public interest."

26. These provisions of the Ugandan Constitution appear to be of limited concern in your representations regarding the observance of Human Rights in Uganda. Throughout the Memorandum, you present the important matter of the observance of Human Rights as if it is the Government and Government alone that has to observe the Ugandan Constitution and International provisions requiring observance of Human Rights.

27. It follows therefore, that in a situation like we have in Uganda, where there is a violent political movement bent on overthrowing the Constitution and acting outside the provisions of the Constitution and International norms in regard to the observance of Human Rights, your Organisation takes no account of the activities and atrocities by agents of such movements.

28. This is a fundamental difference of approach between the Government and your Organisation.

29. Whereas the Government is fully committed to fulfil its obligations in accordance with the provisions of the Constitution, your Organisation as shown clearly in your Memorandum, is concerned only with the control of Government or its agencies. There is nowhere in your Memorandum of any indication of giving Government credit in controlling the activities and atrocities of the bandits or guerrilla groups.

30. Your Memorandum is replete with excuses by your Organisation of activities of what you describe as "guerrilla groups" (see, for example, page 4 paragraph 4 under Chapter 1.4)

31. Much as you recognise those activities there is nothing in your Memorandum indicating that those movements have been violating Human Rights in Uganda. Much less any intimation from you as to how best the Government of Uganda could be assisted by you in eliminating violation of Human Rights by those guerrilla groups.

/...7

32. All the recommendations have totally avoided and ignored this important area, dangerously giving the impression that your Organisation is biased in favour of the guerrilla movements and against the Government.

33. The above is stated in good faith. I am sure you will see it in that light. It is stated on Page 1 of your Memorandum that the aims and objectives of your Organisation inter alia are that "It seeks the release of all prisoners of conscience, that is, men and women detained anywhere for their beliefs, colour, sex, ethnic origin, language or religion provided they have not used or advocated violence."

34. In the case of Uganda, those noble objectives do not seem to apply. You admit the existence of guerrilla groups who do not accept the provisions of the Constitution and all the laws as well as International Charters and obligations in regard to the observance of Human Rights, but you immediately excuse them as not being of any concern to you in the observance of Human Rights in Uganda. You go further (example page 4 of your Memorandum) to acknowledge "Amnesty International had received reports of killings of Government and UPC officials, responsibility for which had been admitted by guerrilla groups" but you go on to state that "as Amnesty International delegates explained to the Government, however, the Organisation addresses itself primarily to Human Rights violation committed by Governments who are bound by obligations deriving from international Human Rights instruments and their membership of the United Nations."

35. My Government trusts that from the above you will see the fundamental difference of approach between my Government and your Organisation on the important issue of the observance of Human Rights in Uganda. Whereas my Government wants to take the totality of the meaning of the municipal and international laws, you appear to be concerned with the international obligations and a limited aspect of the municipal law. The difference is not small in terms of life, preservation of life, protection of life or other fundamental rights of a citizen.

/...8

36. In the case of Uganda, my Government has information that officials at the Headquarters of Amnesty International have, at times, attended meetings of Ugandan guerrilla groups particularly in London.

37. You will recall that the letter my President wrote to you on 21st January 1982 hinted at contact between your Organisation and Ugandan guerrilla groups. My Government has noted that the letter, up-to-date, was never acknowledged. The continued contact by Amnesty International and Ugandan dissident groups who have vowed to use unconstitutional and violent means to attain power in Uganda was also discussed in the President's letter.

38. My President, in that letter, indicated to you that the Ugandan dissident groups wanted to use the international image of your Organisation as part of their weaponry in their campaign of violence in Uganda. You may contest the fact, but virtually by definition, any information given by an exile or a member of an exile group to a well-meaning person or Organisation contains a very high element of bias in favour of the informant and should, therefore, be treated with extreme caution. This was the issue which confronted my Government and the delegation you sent to Uganda in January 1982.

39. Your two delegates went to Uganda with a list of some 350 names. The list, as presented to my Government, had persons "whose case(s) had been taken up by Amnesty International" and others.

40. This matter which conforms to your telex message to my President as the purpose of the mission was thoroughly discussed with the two delegates while they were in Uganda.

41. My Government regrets and wants it to be recorded and registers a very strong protest that the 30th July Memorandum has abandoned all these cases as if the fate of some 350 Ugandans is of no consequence. The import of the Memorandum instead is accusation that my Government has failed in 20 months to re-establish machinery for law and order. My Government rejects this accusation. In these 20 months, peace, stability, law and order have returned to virtually every part of the country. Our

Parliament is working and enacting laws; the Police Force has been strengthened and continues to be strengthened; so are the Law Courts; the Uganda Army has returned to barracks, the secessionist movement in Western Uganda has voluntarily ceased. Cases of insecurity which have occasioned violation of Human Rights have not only diminished but are now isolated incidents.

42. I have already referred to your letter to the Minister of Justice and Attorney-General Reference: SGO/MH/DB dated 11th February, 1982.

43. In that letter, you as Secretary-General, wrote to say that "I would also like to express my thanks for the detailed information supplied to them (the two delegates) on the list of prisoners which they brought as a confidential 'investigation document'. Amnesty International will be responding to this information in a separate communication later."

44. My Government has received no separate communication. Instead, your Organisation issued a hostile statement on April 15th, 1982 entitled "Uganda: Amnesty International Appeals for end to killings and torture by Uganda Army."

45. This statement was most unfair and uncalled for. In view of the cordial relations which my Government believed to have established with your Organisation as a result of the visit of the two delegates, the statement came as a complete surprise particularly since it did not conform with your own promise to respond to information my Government had given to you through the two delegates.

46. It is observed now that your Organisation claims that it was the fault of my Government not to respond to certain appeals made in February, March and April, 1982 which occasioned the statement you issued in April, 1982.

47. My Government wants two facts recorded on this matter. First, the April statement on the issue of Human Rights in Uganda appeared surprisingly to have been issued on the eve of two important conferences in which Uganda was to be an important participant.

/...10

48. Secondly, your decision to issue another statement on the observance of Human Rights in Uganda in September, 1982, falls within this pattern.

49. It so happens that the dissident groups (guerrilla leaders) do exactly the same. My Government is deeply concerned about these repeated coincidences, and one sincerely hopes that these are mere coincidences, but you will agree that the simultaneous publication of these statements and more particularly the timing of it must cause much concern to my Government.

50. My Government observes the assertive statement in Clayton Yeo's letter of August 5th, 1982, that "the Organisation has decided, in view of the urgency and gravity of Amnesty International's concerns, to publicize its concerns about the human rights situation in Uganda in September 1982." We are not given the nature of what is described as "urgency and gravity".

51 My Government wonders why your Organisation has ignored information given to it on some 350 names, failed to file response on information given by Government on those names but arrogates to itself the omniscience, to make conclusions as recorded on page 23 of the Memorandum. It is grossly unfair and completely out of context, that your delegates should have gone to Uganda to discuss matters with my Government on terms of reference selected by yourselves, and promise to make comments on the discussions, only to ignore the whole platform of the discussions and undertakings.

52. The Memorandum as I have already pointed out, now sets a new platform altogether and it is on that platform that you make accusations and recommendations. My Government rejects the accusations and as for the recommendations, it is clear that your Organisation is ignoring the tremendous work which the Government is doing in the rehabilitation of the machinery of law and order.

/...11

53. My Government should not be misunderstood by that statement as meaning that your Organisation has any obligations to praise it or to hide its shortcomings. My Government would have been very happy with detailed response by your Organisation on information your mission received in January 1982; your assessment of the situation and your comments.

54. As matters stand now, when you come to publish your Report my Government and indeed the world at large, will not know essential elements which led your Organisation to write a Memorandum particularly accusations and recommendations contained therein. You have changed the basis of the contacts between my Government and your Organisation. In January, 1982 your delegates went to Uganda to seek information. The Memorandum you now want to publish to the world gives the impression that the delegation went to Uganda to protest to the Government for its violation of Human Rights.

55. The conclusion in the Memorandum on page 23, specifically states that, "the Amnesty International delegates found that Human Rights had been seriously violated in Uganda." In the whole Memorandum, out of 350 names there appears on page 19, only six names of persons your Organisation claims to have disappeared and to attribute responsibility for their alleged disappearance to Government agencies.

56 Subsequent to discussions with the two delegates, my Government acquired some information concerning some of these six persons. The information in possession of Government is connected with guerrilla movements which movements to Amnesty International appear not to be violators of Human Rights. The Government is, therefore, reluctant to pass what it knows of the guerrilla movements in regard to some of those six persons to a third party, including Amnesty International, particularly since the matter is likely to go to Court.

57. I am authorised to inform Amnesty International that the Uganda Government will not tolerate any situation where citizens disappear in a similar manner to that which obtained during the time of Idi Amin. I am further authorised to state and to re-affirm that the Uganda Government is a Government of Law. In your Memorandum, there are very wild allegations covering a very wide field including "massive arrests", "detention in

/...12

military barracks", "treatment of prisoners", "prison conditions" and "extrajudicial executions". The allegations go on to include torture of prisoners, their health and medical facilities.

58. A fortnight or so before Clayton Yeo wrote his letter, your Organisation received from my office a copy of a letter written to my President by Emmanuel Cardinal Nsubuga, the Archbishop of Kampala, stating clearly that he (the Archbishop) had visited Luzira Prison in April, 1982, and was happy to have observed exemplary treatment of inmates in the Prison. This fact is not reflected in the Memorandum or in the letter by Mr Clayton Yeo. A portion of the Archbishop's letter reads, "On the whole I was highly impressed by the general appearance of Luzira Prison compared to that of 1979 after the liberation war, when I visited Luzira last. The cleanliness of the compound, the prisons and prisoners themselves was of a good standard."

59. I am under instructions to inform you that when Uganda Army units are required to go and operate in areas where guerrilla groups are hiding and harassing civilians, they go with a Police contingent. It is that Police contingent that has the responsibility to effect the arrest and questioning of any suspects.

60. The above lead me to your accusations about habeas corpus and Detention Review Tribunal. On the latter, you will appreciate that it will be inappropriate for Government to order a Judge of the High Court to hear or review cases. The Review Tribunal has been meeting under its chairman who is a Judge of the High Court. As regards habeas corpus, there are security or Human Rights matters, which though not recognised by Amnesty International, constitute in the view of the Government an element where a citizen besides enjoying his own Human Rights should not interfere with nor curtail or deprive others of those same rights.

/...13

61. When your two delegates visited Uganda in January, 1982 they were asked in several meetings to define what your Organisation regards as "political prisoners" and what "arrest" would constitute violation of Human Rights. The delegation did not give government any definition and my government expected that in your promised response your Organisation would deal with and clarify these important areas of misunderstanding between my government and your Organisation. The two delegates were told that there were no political prisoners in Uganda and that nobody has since the December 1980 elections been arrested or detained purely because of his political belief.

62. It is observed by government that in a letter written by Mr Clayton Yeo and in the Memorandum your Organisation is still insisting that there are detained "political prisoners" in Uganda. This is a most serious accusation and my government would want clarification. If your Organisation had taken seriously the views expressed by my government to your delegates we would not perhaps be dealing with these matters since your objectives and those of my government namely, that citizens should enjoy human rights are identical.

63. The best way, in the view of my Government, to analyse and come to a clear understanding on the question of political prisoners and arrests, is to take up some of the names your Organisation submitted in January 1982.

64. "Prisoner No.329" whose case had been taken up by Amnesty International - Christopher Tamale-Ssali - was alleged by your Organisation to have been "arrested in mid-May 1981. Detained without trial." Your Organisation in the recent Memorandum now claims under footnote on page 26 of the Memorandum "one case, that of Christopher Tamale-Ssali, Commissioner of Mines, was wrongly included in Amnesty International's list, due to an error during preparation of the list transposing 1980 into 1981". The meaning of what your Organisation now claims is that Tamale-Ssali remains a "political prisoner", was arrested in mid-1980 and not 1981 and that he was detained without trial and possibly remains in detention up-to-date.

/...14

65. Your two delegates were shown irrefutable evidence that Christopher Tamale-Ssali died in a motor accident in April 1980 and that at that time he was a member of the National Consultative Council (the Interim Parliament). That your organisation can take up or investigate the case of a person who died in a motor accident and had a semi-state funeral and treat the same as a "political prisoner" casts serious doubts on the sources of your information.

66. Furthermore, your admitted correction that Mr Tamale-Ssali was included in the 1980 list as a typographical error makes the matter even worse. This is because it gives the impression that your Organisation does not believe the government's explanation that this former senior official was never arrested but died in a motor accident. This regrettable attitude is extended in the Memorandum to a wide field where government has been accused of having arrested and detained persons because of their political beliefs.

67. My government did discuss at length with your two delegates names of politicians who had been arrested. It was stated to the delegates that much as the arrested persons were known to be politicians the said persons had not been arrested on political grounds. In the Memorandum your Organisation appears not to accept government's affirmation.

68. This has led you to allege most unfairly at the footnotes on page 26 that "the UPM effectively ceased to exist after the mass arrests of its leaders and rank and file members". My government would like to have from you a list of UPM national leaders (apart from Jack Mawumbe Mukhwana) who are now in jail. This should not be difficult for your Organisation to furnish because it is inconceivable that the Organisation could have made such a categorical statement without having a list of names.

69. The case of the UPM as a party, in the view of my government, should have been treated by your Organisation as a credit and a positive point in favour of the government on its stand for democratic rights. It is known by your Organisation that the President of UPM - Yoweri Museveni - together with other leaders such as Kirunda Kivejinja, Eria Kategaya, Amama Mbabazi, Godfrey Binaisa, Mathew Rukikaire, chose soon

/...15

after the December 1980 elections to wage war against the Constitution and went into hiding or exile. The government has not proscribed UPM as a party. Other leaders of the UPM such as Erisa Kironde who has never been arrested is the Chairman of the Uganda Red Cross Society (URCS) and Chairman of the Trustees of the Board of the Uganda National Theatre. Another UPM leader, who has never been arrested, is the leading Trade Unionist David Wogute. The leading journalist and businessman and a member of the Executive Committee of the UPM - Kintu Musoke - has never been arrested.

70. The Secretary General of UPM and a former Minister, Bidandi Ssali was once arrested but released later after investigations. He is now the national coach of the Uganda National Football team, the Cranes.

71. As regards the Democratic Party, it is stated in the footnote on page 26 that "the DP, to Amnesty International's knowledge, fully dissociates itself from those who fled the country and tried to overthrow the government of Uganda by violence".

72. The issue, in the view of my government, is not about "those who fled the country and tried to overthrow the government of Uganda by violence". The issue is about those men of violence who are armed and are in Uganda. There is no record known to government of any single occasion where leaders of the Democratic Party have addressed their constituents, discouraged and called upon their supporters to dissociate themselves from men of violence.

73. Furthermore, the Democratic Party is not a united Party under one leadership. It has two main divisions. One group which is led by Paul K. Ssemogerere participated in the December 1980 elections and now constitutes the official Opposition in Parliament. The second wing is led by Yusuf Lule and it resorted to violence as from June 1979 - long before the December 1980 general elections. This wing was further strengthened when the Secretary General of the Democratic Party - Francis Bwengye, who was in the Ssemogerere wing and an unsuccessful candidate in the elections, opted to leave the Ssemogerere wing and join the Lule wing. Both Lule and Bwengye are in exile and carrying out a campaign of violence.

/...16

Your Organisation does not therefore give the correct position of the Democratic Party on the matter of political violence in Uganda.

74. Your Organisation knows that men like Yusuf Lule, Francis Bwengye, Yoweri Museveni, Andrew Kayiira and Godfrey Binaisa who are politicians, must have some support amongst the people living in Uganda. It cannot be claimed that all their supporters in their campaign of violence are apolitical. In the document submitted to government by your two delegates in January 1982 and in your Memorandum of July 1982, you brand practically every arrested person as having been arrested for his non-violent political beliefs.

75. The January 1982 document contains, for example, names of former officials of Coffee Marketing Board accepted by you as "political prisoners". The fact was that those persons had been arrested and charged with fraud, given court bail but charges against them were dropped on the advice of the Director of Public Prosecutions. These facts were given to the two delegates but the Memorandum does not reflect that Amnesty International has accepted those facts. The matter can also be seen from another angle which is that the political government represented by Ministers had no hand in the arrests or the proceedings, and that the Director of Public Prosecutions whose position is protected in the Constitution is today free to exercise his responsibilities without political interference or direction. Government should have been given credit on matters of this kind.

76. The document also contained names of persons known to be non-politicians who had been arrested by the police and chiefs on suspicion of having committed crimes. The majority of these people were charged, given bail but later the charges were dropped, again on the advice of the Director of Public Prosecutions.

77. There are persons who were arrested by police and the charges against them are due for hearing in the High Court. It would appear that as far as your Organisation is concerned every arrest in Uganda is political as if of all countries in the world Uganda alone has now achieved the enviable utopian

society where there are no crimes. My government rejects accusation that arrests in Uganda are made on no other grounds but political. My government would be happy to receive a considered list of persons known by your Organisation to have been arrested purely because of their political beliefs.

78. What follows from the above, in the view of my government, is that where a person is arrested in Uganda on a criminal offence but his name is given to you by an agent of one of the "guerrilla groups" you automatically include the name as a case against government for violation of human rights. This practice, in the view of my government, encourages men who are engaged in violent activities to continue and to use an Organisation such as yours as part of their campaign in the achievement of their declared objective.

79. I am authorised by my government to firmly state that in so far as opposition parties are concerned, government has never frustrated any of them to hold meetings or conduct their political activities.

80. In the January 1982 document, your sources of information appear to have been too eager to compile an impressive list for your consideration. In doing so they included a large number of persons who have never been arrested. When your two delegates were in Uganda they were invited to meet some of such persons but the delegates for no apparent reason declined to do so.

81. The January list also contained somebody called "D.C. Mbale" which means District Commissioner, Mbale, and Mbale is a District. My government was accused of arresting its own office. Errors of this kind appear repeatedly in that document.

82. My government strongly believes that the statement you want to issue in September 1982 will contain similar errors and government therefore hopes that you would not use your authority to damage the image of the government, by generalizations but will appreciate work being done by government to stabilise the Ugandan society.

/...18

83. Chapter 6.1 of your Memorandum makes gross allegations of extra-judicial executions by the army. My government rejects these allegations in total. Reference has already been made on the Ombachi incident which incidentally was in Arua District and not Nebbi District as given in your Memorandum.

84. The Memorandum contains allegations of extra-judicial executions by the army on 5th September, 1981 at Wakiso, 10th September, 1981 at Matugga both in Mpigi District and "between late November and early December, 1981 in Ssemuto in Luwero District"..

85. These incidents although alleged to have happened between September and early December 1981 were not raised and therefore not discussed with the delegates who visited Uganda in January. The two delegates as far as government could judge raised matters covering all important allegations against government on the matter of Human Rights. The delegates also raised with government individual cases reported to them or to your Organisation before or on their arrival covering January 1982. Despite overwhelming publicity that had been given to incidents of lawlessness in areas such as Wakiso, Matugga and Ssemuto in late 1981 both in Uganda and in Britain, it is surprising that the alleged extra-judicial executions in these places should have taken place and Amnesty International should have waited for nearly a year to express its concern to the Uganda Government and to express its concern on this grave matter to Government.

86. The July 1982 Memorandum contained the first intimation to my government that Amnesty International regards certain incidents beginning in September 1981 at Wakiso, Ssemuto and Matugga as extra-judicial executions by the Uganda army.

87. The incidents at Wakiso, Matugga and Ssemuto started with an increased violent campaign by what you term "guerrilla groups" with the objective of tarnishing the image of Uganda at the then forthcoming Commonwealth Heads of Government meeting in Australia. Bands of these groups infiltrated into these three and adjacent areas, massacred a large number of political opponents and hundreds of civilians who survived fled from the areas. These bands wore army and police uniforms. It

was at the height of this violent campaign by opponents of government that religious leaders wrote to the President expressing great concern. On receipt of that letter the President invited leaders of all religious faiths and the leader of the Opposition for a meeting. The meeting was held on the 24th September, 1981 during which the situation was thoroughly analysed. One of the decisions taken was to have a security review committee on which religious organisations, the Opposition as well as Government were to be represented. Once again this was a positive indication that government had nothing to hide. This committee was not set up because the Opposition declined to serve on it.

88. The three areas you mentioned together with several others have appeared constantly in the "News Bulletins" of the "guerrilla groups" as their areas of operations. These groups attempted the same tactics in some areas adjacent to Kampala early this year. The usual method is first to spread leaflets in an area, urging people to vacate their homes on the grounds that the areas were to be war zones. Those who refuse to vacate their homes become victims of murder and because the agents of the groups sometimes wear stolen army or police uniforms gross errors have been made by observers to ascribe these murders committed by those agents to the security forces.

89. The above is not to say that throughout the past 20 months no member of security forces has committed a capital offence. However, where cases are known to government the persons concerned are apprehended, and the due process of the law is allowed to take its course. A number of security personnel are currently on remand and will appear before the High Court.

90. In your July, 1982 Memorandum, you gave a summary of the list of persons who had discussions with your two delegates in January, 1982. The Memorandum, however, misses the important meeting which the Chief Justice had with the delegates. My Government understood at the time that the Chief Justice told the delegates of the fact that he had appointed a Judge of the High Court to review cases of persons in detention, and that the Chief Justice explained to the delegates the problems facing the Judiciary stretching from the Magistrates to the High Court.

91. The omission from the Memorandum of what the Chief Justice told the delegates gives your assessment of the situation on judicial procedures a less balanced view.

92. On page 3 and 4 of the Memorandum read together, an impression is made depicting the Government as having told the delegates that, "difficult economic conditions, resulting in inadequate resources for the police force or prisons service, ... the threat posed by armed guerrilla organisations inside the country, (were factors which) could justify violations of fundamental human rights." My Government surely could never have given the delegates any cause for any such conclusion. All that was discussed in several meetings with the delegates was the Police procedures then existing, existing capabilities, administration of justice and the then existing conditions of inmates.

93. These matters were not meant as excuses. They were statements of the facts of the situation which were inhibiting the fullest possible degree of administration in the observance of Human Rights.

94. Ministers and Officials were at pains to explain to the two delegates the breakdown in previous years of the machinery responsible for those subjects and the strenuous efforts Government had undertaken to rebuild that machinery.

95. I am authorised to inform Amnesty International that the Government of Uganda has never, is not and will not claim or make any excuses to the effect that the breakdown or lack of Government machinery can be a justification for the violation of Human Rights.

96. I am further authorised to re-affirm that the Government of Uganda is fully committed to the policy and practices of the rule of law and the fullest observance of Human Rights. It is in this connection that in the short space of 20 months, my Government has put in strenuous efforts to raise a new police force, equip it, return the army to barracks and provide essential equipment and inputs for the improvement of conditions in prisons.

97. Ugandans and diplomats in Kampala are aware that conditions of persons released from prisons are the very opposite of what you alleged in paragraph one of page 17

of your Memorandum. In that paragraph you make the gross allegation that "several prisoners were described as 'looking like skeletons', or 'emaciated and wearing rags', when they were released". The Memorandum though dated July 30th, maintains the previous prejudice and does not take into account constant government efforts to rehabilitate and improve facilities and conditions in prisons - a matter which was notified to Amnesty International as communicated on page 12, in paragraph 58 of this letter.

98. I am directed to ask Amnesty International to take care in accepting names submitted by opponents of Government. My Government appreciates and realises that the Organisation may not be in a position to determine the political inclination of its informants.

99. My Government, however, feels strongly that Amnesty International could help a lot on the matter of Human Rights in Uganda by getting more information from informants of reported cases. In the document submitted to the Government in 1982, there were 35 cases (10 per cent of accusations against Government) where only one name was given or in some cases no address, occupation or time when such person was allegedly arrested by agents of Government. It would be grossly unfair for Amnesty International in its intended public report to include this vague accusation on which the Organisation itself has failed to provide any information as requested by Government in January 1982.

100. The letter by Clayton Yeo makes the great claim that Amnesty International sent three appeals to my President on 25th February, 5th March and 7th April, 1982, and that on the basis of those alleged appeals Amnesty International issued the hostile statement of the 15th April, 1982. Mr Clayton Yeo is unfair.

101. The events of 23rd February, 1982 constitute a desperate action by "guerrilla groups". Amnesty International and others complained about what is now known as the Rubaga incident. This incident was thoroughly discussed between the President and Emmanuel Cardinal Nsubuga in a meeting on 17th March, 1982 where amicable understanding was recorded and given world wide publicity. The said March 17th meeting

did not record the allegation contained in Mr Clayton Yeo's letter or the previous concern by Amnesty International of "arrests and killings of prisoners by the army after the 23rd February Rubaga Cathedral incident."

102. Emmanuel Cardinal Nsubuga who should be taken as more knowledgeable on the matter of arrests and killings of Ugandans in Rubaga area than anybody else on the grounds that he lives in that area presented to the Government no complaint of killings but that of disturbance of Church service by security personnel and a very short list of persons who had been arrested in the incident. The President promised to investigate and was later found within days that persons on the Cardinal's short list were under police custody. All were released and there has been no outcry in the Rubaga area that a large number of persons are in detention or that anybody simply disappeared.

103. The important point to note on the Rubaga incident is that, the meeting between the President and the Cardinal was preceeded by a very strong statement by the latter which statement was given world wide publicity and that the amicable understanding of 17th March was equally given world wide publicity. It is inconceivable that such publicity escaped the attention of Amnesty International's monitoring machinery.

104. The telex message from your Organisation dated 25th February 1982, appears to my Government not to have taken into account the then security situation. A massive guerrilla attack had been mounted only two days before in the capital city of Kampala and my Government was being requested by your Organisation virtually to treat that attack as a secondary consideration. My Government feels that Amnesty International was most unfair, unrealistic and inconsiderate in calling upon Government to abandon its primary responsibility of maintaining law and order to answer queries.

105. This certainly was not the understanding discussed with your two delegates in January 1982. The telex message from Amnesty International dated 5th March, 1982, requested Government to furnish information on alleged killings after arrests of persons given as residents of Rubaga and Ndeeba.

106. This request was made within ten days of the massive guerrilla attack on the city of Kampala and my Government is not sure whether Amnesty International regarded the attack as spurious or serious. No government can be in a position to furnish the type of information requested to any outside body within such a short time when it is engaged in controlling the aftermath of any such massive attack. Indeed it can be argued that the import of the telex message meant that to Amnesty International, the attack never took place or that if it did, it was not serious and that the small Uganda Police personnel in Kampala could easily furnish the information required.

107. The names given to Government by Amnesty International, in the telex of 5th March 1982, have not been helpful to Government. Rubaga and Ndeeba are areas with great concentration of population and a high turnover of transient residents. It is surprising that within a month of that telex of March 5th, 1982, and without giving due consideration to the Government's endeavours to control the situation, following the massive guerrilla attack on Kampala, Amnesty International thought it fit to issue a most hostile statement accusing the Government of gross violation of Human Rights. The men of violence could not have had a better boost after their failure in February.

108. The understanding with the two delegates did not include any undertaking that in the heat of security problems in Uganda, the Government of Uganda would be duty bound to send reports to Amnesty International. It was on the basis of the above background that our Minister of State for Foreign Affairs, correctly informed the British Section of Amnesty International of the breach of faith by Amnesty International Headquarters in observing the understanding between the two delegates and the Government of Uganda in January 1982.

109. Amnesty International Headquarters is intending, in the view of my Government, to do the same in September, 1982 by issuing a unilateral statement on alleged violation of Human Rights in Uganda. In April 1982, according to Clayton Yeo's letter, a most hostile statement was issued on the ground that Amnesty International had, "grave concerns" and had therefore to issue that statement.

/...24

110. It is argued by Clayton Yeo in his letter of 5th April, 1982 that statement had to be issued because of lack of replies to three appeals to my Government. This arguement gives no consideration whatsoever to the undertaking that the two delegates and the Secretary-General gave my Government and the solemn promise to respond on matters discussed between the Government and the former in January 1982 which promise has never been fulfilled by Amnesty International.

111. In the last paragraph of his letter dated 5th August, 1982 Mr Clayton Yeo wrote: "We would in principle wish to publish the memorandum at some later date, to include comments received from the Government of Uganda." It is observed by my Government, however, that Amnesty International appears to have already circulated the said Memorandum to other bodies and persons. An article in "The (London) Sunday Times" of 29th August 1982, for instance, contains the words: "Amnesty International has also received a large number of reports of atrocities." The paper gives Amnesty International as the source of alleged incidences of atrocities contained therein. My Government strongly rejects the accusations published in the said newspaper.

112. During the past twenty months my Government has observed that on the eve of important international conferences publicity was given accusing the Government of violations of Human Rights. The coincidence where Uganda dissident groups, your organisation and other media mount such publicity on such occasions would suggest that the object of the campaign against my Government is not about Human Rights as such but to advance the fortunes of Ugandan dissident groups.

113. This letter does not deal with recommendations in the Memorandum or certain individual cases covered therein. This is because of the Government's total commitment and constitutional obligations to the rule of law and the fullest observance of Human Rights in Uganda.

/...25

114. In conclusion I wish to reiterate what has often been stated by my Government that the problems in Uganda of today cannot be considered or appreciated except in the context of Uganda's history over the past decade. My Government inherited a very delicate and difficult situation. Over the past 20 months, as you are aware, my Government has made tremendous efforts to resolve the problems relating to economic reconstruction, social rehabilitation and the restoration of law and order. By general consensus it is acknowledged, both at home and abroad, that Uganda Government has made much headway and re-established the machinery to improve conditions in all spheres of human activity. However, much remains to be done and my Government has dedicated itself to strive for the continuation of such improvements in the best democratic traditions and as rapidly as humanly possible. My Government invites you to join us in the task of this reconstruction including the full restoration and observance of Human Rights. It is the sincere belief of my Government that this could be much better achieved through continuous dialogue and co-operation rather than by periodic bursts of internationally publicised criticism.

Yours Sincerely

Shafiq Arain
Minister Without Portfolio,
Office of the President &
High Commissioner to the Court of St James's

P.S : While preparing the above instructions for submission to your office, I have been shocked and dismayed at an incident which I feel compelled to record here. You will recall, Mr Secretary General,

/...26

that I spoke to you personally on the telephone yesterday (Tuesday 31st August) between 3.35 p.m. and 3.45 p.m. when I informed you that my Government's response to your Memorandum of 30th July, 1982, was being typed and will be delivered at your office on Wednesday, 1st September, 1982. I further suggested to you that since my Government was responding so promptly and was anxious to co-operate fully with Amnesty International, I would be grateful if no statement is issued by your Organization until you have studied our response and further clarifications had taken place. At this point you assured me that there was no statement imminent nor would any be issued until after you had studied our response and had a meeting with me. The gist of our conversation and your personal assurance about the statement was relayed by telex to my President, Dr A Milton Obote, by me soon thereafter.

You can, therefore, imagine the shock and utter disbelief with which my Government heard the hostile statement from Amnesty International which was broadcast on BBC world service this morning - less than 18 hours after you as Secretary General of Amnesty International had given a categorical undertaking to me as a duly accredited representative of the Government of the Republic of Uganda in the United Kingdom.

In 20 years of my public life I have never been so grossly and deliberately misled nor does one expect to be when dealing at such a level. I wish, Mr Secretary General, to protest in the strongest possible terms at this gross breach of diplomatic understanding and confidence and suggest to you, in all humility, that this sort of conduct is not conducive to future relationship or co-operation which is so necessary to both your Organisation and to my Government.

Amnesty International
International Secretariat
10 Southampton Street
London WC2E 7HF
United Kingdom

AMNESTY INTERNATIONAL'S RESPONSE TO THE GOVERNMENT OF UGANDA'S COMMUNICATION DATED 1 SEPTEMBER 1982

18 October 1982

AMNESTY INTERNATIONAL'S RESPONSE TO

THE GOVERNMENT OF UGANDA'S COMMUNICATION DATED 1 SEPTEMBER 1982

Amnesty International acknowledges with gratitude the response dated 1 September 1982 of the Government of Uganda conveyed by His Excellency Shafiq Arain, Minister Without Portfolio, Office of the President, and High Commissioner of Uganda to the United Kingdom, to its Memorandum to the Government of the Republic of Uganda on a Mission by Amnesty International to Uganda in January 1982 (the "Memorandum") submitted to His Excellency President A. Milton Obote under cover of letter dated 5 August 1982.

The organization in particular appreciates the promptitude and detail with which the Government has replied. It further notes and welcomes the invitation extended to Amnesty International in the final paragraph of the reply to join with the Government of Uganda in the task of working for the full restoration and observance of human rights in Uganda.

Amnesty International is fully cognizant that the Government of Uganda has inherited the legacy of a decade of violence. Accordingly, it understands well how difficult are the processes of re-establishing respect for human rights and the rule of law and of working towards the reconstruction of the country. In particular it notes that the unstable security situation inherited by the Government must of necessity make these processes more difficult.

It is in the hope of encouraging continued productive dialogue that Amnesty International seeks herein to address the concerns raised by the Government in its response. These concerns would appear to be directed both to the substance of Amnesty International's Memorandum and to matters relating to the overall working methods employed by the organization. The Government's response indicates that a number of misunderstandings have arisen with respect to these two areas and thus each is addressed separately in some detail below.

I. MATTERS OF SUBSTANCE CONTAINED IN AMNESTY INTERNATIONAL'S MEMORANDUM

The Government of Uganda has raised a number of queries with respect to various matters of substance contained in the Memorandum submitted to it by Amnesty International.

It should be noted preliminarily that Amnesty International regrets that the Ugandan Government's response to the Memorandum, as acknowledged in paragraph 113 of that response, "does not deal with recommendations in the Memorandum or certain individual cases covered therein".

The Memorandum reviews the range of Amnesty International's human rights concerns in Uganda and, in doing so, reflects the various issues raised by the Amnesty International delegation during its visit to Uganda in January 1982. It includes certain examples of individual cases and incidents illustrative of Amnesty International's general concerns. Finally, it proposes a number of recommendations to the Government. These recommendations are based upon the organization's study of the human rights situation in Uganda and their implementation would, in Amnesty International's view, be a forceful indication of the Government's avowed commitment to the full observance of human rights in Uganda.

The paragraphs below summarize the human rights concerns articulated by Amnesty International in its Memorandum and in particular seek to address the specific queries on these concerns raised by the Government of Uganda in its response of 1 September 1982.

A. Political imprisonment

In its Memorandum, Amnesty International urges that no person be detained for the non-violent expression of his or her political opinion or other exercise of fundamental human rights and calls for the release of all such "prisoners of conscience" in Uganda. The organization further calls for all "political prisoners" suspected of a criminal offence to be charged and tried in accordance with the law, or released.

At several points in its response to Amnesty International's Memorandum, it would appear that the Government of Uganda has not fully understood the use of the terms "prisoner of conscience" and "political prisoner" by Amnesty International. The Government also raises the question of when Amnesty International considers the "arrest" of individuals in these categories to constitute a violation of human rights.

Under its mandate, Amnesty International works for the release of "prisoners of conscience", that is, persons who in violation of the Universal Declaration of Human Rights are "imprisoned, detained or otherwise physically restricted by reason of their political, religious or other conscientiously held beliefs or by reason of their ethnic origin, sex, colour or language, provided that they have not used or advocated violence". The "arrest" of such persons would, in Amnesty International's view, always constitute a violation of human rights.

The term "political prisoner", as used by Amnesty International, is not meant to convey any kind of status, but is meant to cover a broader category of individuals. It is used to refer to anyone who is imprisoned, detained or otherwise physically restricted where the motivation of the imprisoning authorities appears to be political or where the act for which the individual is imprisoned or the motivation for such act appears to be political. Amnesty International, according to its mandate, does not oppose the "arrest" of "political prisoners" who are not "prisoners of conscience", provided that they are charged and tried within a reasonable time and that any trial procedures relating to such prisoners conform to internationally recognized norms.

The Government may recall that Amnesty International's delegates held discussions in Kampala with Government officials on questions of this terminology within the context of clarifying Amnesty International's mandate. Additional explanation was included in a letter dated 11 February 1982 from the Secretary General of Amnesty International to His Excellency President Obote and in the Memorandum itself (in Section 2.1).

This terminology was utilized by Amnesty International with respect to the confidential preliminary list prepared and handed over to the Government in January 1982, containing the names of over 350 individuals reportedly arrested during 1981 in Uganda on political grounds. As was explained to the Government by the delegation, very few of the individuals on the list had been adopted by Amnesty International as "prisoners of conscience". The Secretary General's response to His Excellency President Obote of 11 February 1982 also noted this fact:

> "Amnesty International distinguishes clearly between its adopted prisoners of conscience and its 'investigation cases'. Prisoners are placed under investigation when the information initially available suggests they may be prisoners of conscience, but about whom further information is needed in order to determine whether they can be adopted as prisoners of conscience. The list of prisoners presented by the delegates of Amnesty International included cases under its investigation, but also prisoners about whom further information was needed before deciding whether to take their cases up as investigation cases."

Amnesty International has already welcomed the information with respect to individuals on the list included in the Government's written response to the list handed over to the organization's delegates at the end of their stay in Uganda in January 1982. That response stated that some of the individuals on the list had been released, others had never been arrested and that some were apparently being held under varying circumstances (the last category being subdivided into the classifications "persons in prison whose charges are being processed", "local cases", "up-country cases - police investigating", "police investigation" and "charged"). The Government also noted that no information could be provided with respect to a small remaining portion of the listed cases since insufficient data had been provided.

Amnesty International undertook to respond to the information provided by the Government. Subsequently local Amnesty International groups working on behalf of all of those cases which were "adoption" or "investigation" cases were provided with the Government's information and have been in direct contact with the Government. In their correspondence with Ugandan authorities they have welcomed the release of certain of these cases and have sought further information as to the grounds and legal basis for the continued detention of others.

Furthermore, the International Secretariat of Amnesty International has reviewed such information as is available to it regarding the cases on the list. Attached as an appendix* to this letter is a compilation of the most recent information at the organization's disposal regarding the current status of a number of individual cases on the list.

The Government, in paragraph 68 of its response to the Memorandum, queries a footnote in the Memorandum referring to mass arrests of leaders and rank and file members of the Uganda Patriotic Movement(UPM). The Government indicates that only one UPM leader remained in detention as of 1 September 1982. It should be noted that the reference to UPM arrests in the Memorandum clearly referred to arrests taking place in 1981 rather than 1982. Furthermore, Amnesty International has, to date, no knowledge of the release of UPM members Sam Tibigwisa, Jack Mawumbe Mukhwana and Paul Guma, or of the fate of Constantin Kabazaire, George Kananura, Sam Rutahenda Karuhanga, Haji Mbiringi and Manuel Rutehema, five UPM members who have reportedly not been seen since they were arrested by soldiers in Mbarara in May 1981. Regarding the detention of UPM leaders, Amnesty International notes that Jaberi Bidandi-Ssali, the Secretary General of the party, and the Reverend Christopher Okoth, its Vice-Chairman, were both detained for several months in Luzira Military Remand Camp in 1981.

Amnesty International has welcomed steps taken by the Government of Uganda to meet those concerns falling within the organization's mandate relating to political imprisonment. The Amnesty International Report 1981 records with approval that one of His Excellency President Obote's first acts was to release former President Binaisa from detention and subsequently to order the release of 300 of the detainees arrested in 1979 and to state that the cases of the rest would be reviewed. The subsequent release of a further 4,000 ex-Amin soldiers who had been detained for long periods without charge or trial has also been welcomed. Most recently the organization has also been encouraged by the release of about 1200 detainees on 27 August 1982.

At the same time, Amnesty International must still express its concern that individuals continue to be detained in Uganda without charge or trial under circumstances which would appear to indicate a political motivation for such detention.

---

* The appendix is not included in this publication (see the reference to it in the preface).

Amnesty International's delegates to Kampala welcomed a promise made by the Minister of Internal Affairs during their visit in January 1982 that he would provide an early response to requests for information from Amnesty International about detained individuals whom the organization believed might be political prisoners. Thus far, this undertaking has not been fulfilled. No response was received to telexes from the Secretary General to the Minister of Internal Affairs dated 31 March 1982 and 8 June 1982, enquiring about named individuals reported to be detained by the Government. Amnesty International would nonetheless hope that the Government of Uganda would be prepared to respond to specific queries from the organization requesting information on such individual cases.

B. Protection against illegal detention

In its Memorandum, Amnesty International calls upon the Government of Uganda to explain, and to effectuate full observance of, various legal safeguards set out under Ugandan law with respect to detention. In particular, it recommends that the Government explain publicly the Army's legal powers to arrest, interrogate and detain civilians, and that it take steps to protect civilians from illegal military detention. It urges full observance of the constitutional and legal rights of those detained under the Public Order and Security Act: that all detainees' names be published within 30 days; that no one be held for over 14 days without a detention order; that detainees be given a written explanation of the grounds for their detention within 28 days; that detainees have access to their relatives and legal representatives; and that the independent review tribunal be immediately convened to examine all detentions.

Amnesty International in its Memorandum further requests that the Government ensure full observance of the legal provisions requiring all prisoners in police custody to be brought before a magistrate and charged within 24 hours, or otherwise released unconditionally. It also recommends that the appropriate authorities investigate the failure of the legal mechanism of habeas corpus.

Amnesty International has welcomed reports of steps taken by the Government of Uganda since the time of the organization's January 1982 mission to address certain of these issues.

On 13 May 1982, the Secretary General of Amnesty International sent a telex message to His Excellency President Obote noting that the publication in the Uganda Gazette in April 1982 of the names of 237 detainees held under the provisions of the Public Order and Security Act was "an encouraging sign and an indication of (the Government's) wish to promote respect for human rights and to enforce the application of existing constitutional safeguards for the protection of detainees in custody". The names of a further 180 detainees were published in the Uganda Gazette of 23 July 1982, bringing to a total of 417 the names of persons acknowledged to be detained under the Public Order and

Security Act. These include 79 persons detained under previous governments (1979-80) and 338 persons detained under the present government. Amnesty International is not yet aware whether other detainees' names have appeared in subsequent issues of the Gazette but notes recent press reports indicating that the total number of persons detained under the Public Order and Security Act may be 490. Amnesty International would appreciate confirmation from the Government as to the total number of persons detained under the Act and the names of all those who have not already been listed in the issues of the Gazette dated 16 April 1982 and 23 July 1982.

The Secretary General of Amnesty International, in his letter of 5 August 1982 to His Excellency President Obote accompanying the Memorandum, took note of guidelines issued by His Excellency President Obote to the army on 26 May 1982, prohibiting harassment of civilians and stressing the necessity for people arrested on suspicion of "being a bandit" to be humanely treated and subjected to the normal process of the law. Amnesty International would appreciate receiving a copy of these guidelines - and a description of steps which have been taken to implement them by the Government. Amnesty International considers the elaboration of such guidelines to be a particularly important initiative in light of the reports it has received regarding human rights abuses committed by the army, including illegal detention of civilians in military custody, the systematic torture of detainees, and the killing or "disappearance" of detainees.

The organization also notes, in paragraph 60 of the Government's response, that the Detention Review Tribunal has now been constituted and is functioning, and it has received further reports that the Tribunal began work on 16 August 1982. This is a significant development in light of the lists published in the Uganda Gazette indicating that more than 400 individuals may be held in Uganda without charge or trial under the Public Order and Security Act. Amnesty International would accordingly appreciate receiving full details regarding procedures followed by this body, the specific cases being considered by it and the results of such consideration. As the Government notes in paragraph 60 of its response, the Chief Justice did inform Amnesty International's delegates of the appointment of a Judge of the High Court as a first step towards the establishment of the Detention Review Tribunal but no details of procedures to be followed were made available at that time.

While welcoming these various developments relating to the problem of illegal detention in Uganda, Amnesty International regrets that the Government has, for the most part, not addressed the various recommendations made by Amnesty International in this area. It notes in particular that the discussion of the remedy of habeas corpus in the Government's response, also in paragraph 60, suggests that this remedy is not being made available to those currently detained in Uganda. Further clarification on this point would be appreciated. Amnesty International considers the remedy of habeas corpus to be of fundamental importance for protecting

persons against arbitrary arrest and unlawful detention, effecting the release of persons who are detained by reasons of their political opinions or convictions and clarifying the whereabouts and fate of missing and disappeared persons. These points were specifically set out in UN General Assembly resolution 34/178, adopted on 17 December 1979, which calls upon all governments to guarantee to persons within their jurisdiction the full enjoyment of the right of habeas corpus.

C. Torture; prison conditions; "disappearances" and deaths in custody

In its Memorandum, Amnesty International refers to numerous reports and testimonies which it has received alleging the systematic use of torture in a number of Ugandan military establishments during 1981. It also refers to reports relating to the ill-treatment of prisoners in various places of detention, including army barracks, police stations and civil prisons administered by the Uganda Prisons Service. It notes as well specific cases of "disappearances" of prisoners held in military custody in 1981 and reports that considerable numbers of prisoners held in army barracks, notably Makindye, Kireka and Katabi barracks, are alleged to have died during 1981 as a result of torture or deliberate killing.

Amnesty International recommends in the Memorandum that the Government introduce safeguards against torture in military establishments and in particular establish a special inquiry into reports of torture at Makindye and Kireka barracks, and at the army offices in Nile Mansions. It appeals to the Government to make every effort to bring conditions in civil and military prisons up to international standards for the treatment of prisoners. Finally, the organization calls for all individual cases of "disappearance" of detainees to be promptly investigated and for public inquests to be carried out with respect to all deaths in custody.

Amnesty International has, on several occasions during 1982, conveyed to the Government of Uganda its continuing concern relating to reported human rights abuses directed against those held in detention, particularly abuses said to be carried out by the army. On 25 February and 5 March 1982 communications were sent to His Excellency President Obote requesting information and urging him to initiate an investigation regarding reports of arrests and the killing of prisoners by the army after the 23 February 1982 Rubaga Cathedral incident. In particular, information was requested about the cases of nine named individuals reported to have been killed after arrest by the army. In the letter of 5 August 1982 accompanying the Memorandum, Amnesty International noted reports that His Excellency President Obote had ordered an investigation into the arrests following this incident and requested information about progress on these investigations.

In its 7 April 1982 appeal to His Excellency President Obote, Amnesty International also expressed concern at reports of further killings of civilian prisoners in certain army barracks and the harsh conditions of imprisonment at Makindye and Katabi barracks. Reference was made to four named individuals reported to have been killed, in some cases after

torture, in Makindye barracks, Kigo Prison and Katabi barracks during March 1982. Amnesty International expressed further concern about "continuing reports of torture, disappearances and killings of prisoners in military barracks, harsh and severely overcrowded prison conditions, and extrajudicial killings by the army" in June. In its letter of 5 August 1982, Amnesty International welcomed reports that an inquiry was to be held by the Chief Justice into the death in military custody of Dr. David Ibanda. Amnesty International would of course continue to welcome the reaction of the Government to all of these specific concerns.

Amnesty International recognizes that the Government has made important efforts in 1982 to improve the conditions of detainees in the civil prisons, particularly Luzira Upper Prison, and in police stations, resulting in considerable amelioration of the treatment of detainees in such establishments. The organization remains concerned, however, at continuing reports regarding conditions applicable to civilian prisoners held in military custody at, for example, Makindye, Kireka and Katabi barracks. According to the testimonies of individuals held in military custody and subsequently released, human rights abuses by the army, including torture and killing, have continued in 1982.

While Amnesty International welcomes assurances in the Government of Uganda's response of its efforts to improve facilities in all of the country's prisons, the organization believes that international concern would be alleviated only if the Government were to provide procedures whereby family and legal counsel have frequent and regular access to all prisoners, and competent, impartial bodies are permitted to conduct comprehensive inspections of the facilities in both civil prisons and military places of detention. Such measures are, in the organization's experience, among the most important safeguards for the prevention of the violation of prisoners' human rights.

Amnesty International has noted with interest His Eminence Emmanuel Cardinal Nsubuga's comments on conditions in the Luzira civil prisons as set out in his letter of 12 May 1982 to His Excellency President Obote, and would be interested to learn of any similar visits made by church officials or any international organization to military detention centres in Uganda. Amnesty International is concerned, however, that the extremely brief format of this letter and its failure to set out fully the conditions under which the visit transpired make its findings difficult to assess.

The task of impartially evaluating prison conditions is highly complex, requiring specific skills. The circumstances of the visit, the inspection facilities available and the extent of access to all sections and the ability to talk in private with individual prisoners about their conditions and treatment must all be taken into consideration. It is for this reason that Amnesty International regretted the decision taken by the Ugandan Government in December 1981 to withdraw permission from the International Committee of the Red Cross (ICRC) to visit any of

Uganda's prisons and its March 1982 decision requiring the ICRC to withdraw its delegation altogether from Uganda. In the view of Amnesty International it was also unfortunate that its own delegation's request in January 1982 to visit two detainees, one of whom was known to be in Luzira Upper Prison, was denied by the Government.

Amnesty International would also welcome further clarification from the Government of Uganda regarding the six cases of "disappeared" prisoners raised by name in its Memorandum and referred to in paragraphs 55-56 of the Government's response. In its reference to these cases, the Government notes that their "disappearance" is "connected with guerrilla movements, which movements to Amnesty International appear not to be violators of Human Rights". It also states that "the matter is likely to go to Court". These statements by the Government are uninformative and would also appear to indicate a misunderstanding with respect to the mandate of Amnesty International relating to the actions of non-governmental entities. This latter point will be addressed in the second part of this communication.

The organization believes that it is essential in order to alleviate international concern that the Government account for the whereabouts of Stephen Mulira, Abasi Kibazo, Richard Sserunjogi Mulondo, Constantin Kabazaire, George Kananura and Beatrice Kyomugisha. It notes in particular that the United Nations, in General Assembly resolution 33/173 adopted on 20 December 1978, has called upon all governments "(i)n the event of reports of enforced or involuntary disappearances, to devote appropriate resources to searching for such persons and to undertake speedy and impartial investigations". In the experience of Amnesty International, the phenomenon of "disappearances" is often a direct result of failure by a government to initiate and adhere to appropriate safeguards with respect to detention. The occurrence of these "disappearances" in Uganda makes all the more pressing the need for the Government to implement such safeguards.

D. Extrajudicial executions

The Secretary General of Amnesty International, in his telex of 22 December 1981 to His Excellency President Obote requesting the Government to receive the mission, stated that "the delegates will also wish to discuss allegations of killings of civilians by the security forces in a number of incidents in 1981". During the course of the mission, the delegates raised the problem of such allegations with the Government, which denied that the army had illegally killed unarmed civilians and in general attributed the killings to "bandits" or to guerrillas wearing stolen army uniforms. The delegates impressed upon the Government the necessity of investigating all such allegations of arbitrary or illegal killings of unarmed civilians by military personnel and of taking appropriate action based upon the findings of such investigation. As noted in the Memorandum to the Government, it is essential that those responsible for any such killing be brought to justice and that military training and discipline be strengthened so as to prevent such incidents.

As indicated above, Amnesty International conveyed continued concern to His Excellency President Obote about more recent allegations of the killing of civilians and other abuses by the army in February, March and April 1982.

Amnesty International therefore welcomes the Government's statement, in paragraph 89 of its response, that members of the security forces believed responsible for capital offences are being apprehended and their cases submitted to the due process of law. The organization would appreciate receiving further information regarding the cases of security personnel said to be currently on remand and due to appear before the High Court, including the number of such cases and the incidents to which they are related.

With respect to the area of training, Amnesty International would in particular emphasise the need to educate all military personnel as to the international human rights standards which they are under an obligation to fulfil in the performance of their duties, as set out, for example, in the UN Code of Conduct for Law Enforcement Officials and under the Geneva Conventions of 12 August 1949. Articles 2, 3 and 5 of the UN Code of Conduct for Law Enforcement Officials are of particular relevance in this context:

"Article 2

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

Article 3

Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

Article 5

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment."

Amnesty International would urge the Government specifically to make such instruments, together with the guidelines issued by the Government in May 1982, an integral part of the training of all of its military personnel.

At several points in its response to Amnesty International, the Ugandan Government questions reports received by the organization of particular incidents in which unarmed civilians are said to have been illegally killed by military personnel, including incidents at Ombachi, Wakiso, Mutuga and Ssemuto. As the Government is aware, such incidents have been widely reported by a variety of sources. Amnesty International wishes to emphasise to the Government that the most effective means by which it can alleviate concern about these reports is to initiate full, impartial and open investigations into all such incidents and to publish the conclusions of any such investigations.

II. MATTERS RELATING TO AMNESTY INTERNATIONAL'S WORKING METHODS

The response of the Government to Amnesty International's Memorandum indicates that a number of misunderstandings have arisen as to the procedures followed by Amnesty International in relation to the Government with respect to the organization's human rights concerns in Uganda. In part these appear to have been occasioned by a lack of familiarity with the methods and techniques Amnesty International uses in its work which it will seek to clarify in this part of its response.

A. Purpose of the mission

In its response to the Memorandum, the Government states that Amnesty International has misrepresented the purpose of its January 1982 mission to Uganda and that the terms of reference which Amnesty International presented to the Government contradict the description of the mission's purpose set out in the Memorandum.

The telex which Amnesty International sent to His Excellency President Obote on 22 December 1981 stated:

> "The main purpose of the mission is to hold meetings with the Government to obtain information relating to the use of detention without charge or trial, and to inquire into the circumstances of arrest in 1981 and continued detention of particular prisoners whose cases have been reported to Amnesty International, the treatment of persons arrested - some of whom have allegedly "disappeared" or died in custody, and the conditions of their imprisonment in Luzira Prison and other places of detention.
>
> "The delegates will also wish to discuss allegations of killings of civilians by the security forces in a number of incidents in 1981."

This is compared with the Memorandum which states that "(i)n January 1982 Amnesty International sent a mission to Uganda to express its concerns directly to the government and seek its response".

Amnesty International does not consider these two statements to be in contradiction. The organization continuously collects and assesses information about the human rights concerns within its mandate from all over the world from a variety of different sources. On the basis of this information it welcomes and actively solicits the reactions of governments to the reports which it has received about human rights violations alleged to be taking place within their countries. It is a principal working method of the organization to present information to governments and seek their response. This process has as its objective a clarification of the facts since governments, logically, should have fullest access to information about such events occurring within their own countries. Once the facts are clarified - either through this or another process - Amnesty International makes recommendations and appeals to governments to take action to remedy the situation.

The proposal of Amnesty International to send a delegation to Uganda to meet with representatives of the Government was made with the objective of establishing better communication with the Government and to seek information pertaining to the human rights concerns specified in its telex of 22 December 1981. The mission delegates presented information the organization had collected and assessed on the human rights concerns within its mandate and sought information from the Government on these same matters.

B. The subject matter of the Memorandum

The Government suggests in its response that the contents of Amnesty International's Memorandum and the cover letter by which it was submitted to His Excellency President Obote, dated 5 August 1982, do not correspond to the subject matter discussed during the mission and that it is being called to comment on new matters not introduced into the discussions in January. The Government implies moreover in paragraph 51 of its response that the list of prisoners submitted to the Government during the January 1982 mission constituted the "whole platform of the discussions and undertakings" carried out by the Amnesty International delegation in January 1982.

The Memorandum and its cover letter summarize Amnesty International's concerns as they stood after the mission, and present Amnesty International's comments and assessment of the situation of human rights in Uganda. They incorporate subsequent developments in the human rights situation during the first half of 1982 which fell within the framework of the January 1982 discussions and were a continuation of the same concerns raised with the Government at that time. The Memorandum proposes a number of recommendations to the Government on specific measures it should take, the implementation of which could ensure increased protection for human rights in Uganda.

The suggestion that the individual cases included on the list submitted to the Government constituted "the whole platform" of the discussions held in January 1982 is incorrect. Each of the other areas in the Memorandum was addressed by the delegates in their discussions with Ugandan officials. In a final meeting with His Excellency President Obote on 18 January 1982 the delegation reviewed the whole range of Amnesty International's concerns in the light of the discussions they had held with respect to the human rights situation in Uganda and made preliminary recommendations on all the areas subsequently addressed in the Memorandum.

The information the Government provided to Amnesty International during the visit about individual cases was immediately welcomed by the organization. Where individuals who were under "investigation" or who had been adopted as "prisoners of conscience" by Amnesty International were released, their cases were closed and Amnesty International local groups working on their behalf wrote to the Government welcoming their release. Those "investigation" and "adoption" cases who were not released have also been the subject of direct contact between the Amnesty International groups working on their behalf and government officials.

C. Amnesty International inquiries and the publicity Amnesty International has given to its concerns in Uganda

The Government considers that the publicity Amnesty International has given to its concerns in Uganda does not reflect the understanding it arrived at with the Government, and that Amnesty International has changed the basis of contacts between itself and the Government. It also considers that Amnesty International has timed its public actions deliberately to coincide with international conferences in which Uganda was a participant.

Amnesty International wishes to stress again the great value it places on the communication which was established between itself and the Government through its mission to Uganda in January 1982. It understood the discussions in Kampala as a first step in a continuing dialogue with the Government regarding the human rights situation in Uganda. The Secretary General of Amnesty International expressed these sentiments in a letter of 11 February 1982 replying to His Excellency President Obote's letter of 21 January 1982. It was in this same spirit that the Secretary General subsequently addressed to His Excellency President Obote a series of telexes during the period February-June 1982 in which he made urgent inquiries of the Government with respect to reports of a serious and grave nature relating to human rights violations taking place in Uganda. As summarized in the first part of this communication, these included reports of torture and killings of prisoners by the army, arrests of individuals whom Amnesty International considered could be "prisoners of conscience" and harsh conditions of imprisonment. The Secretary General urgently requested a response from the Government to these reports.

It was a matter of disappointment that no response was received to these inquiries despite the Government's assurances in January 1982 that it would provide early responses to requests for information. The comments of the Government as to the circumstances in Uganda which created difficulties for it to provide a response have been noted. At the same time, Amnesty International believes that these inquiries were of a sufficiently serious and urgent nature that a response, if only a preliminary one, should have been possible. It notes that the specific inquiries it made on these occasions still remain unanswered. The failure on the part of the Government to respond substantively served to intensify the organization's concern about the urgency and gravity of the situation of human rights in Uganda, prompting it to issue its news release of 15 April 1982 and to decide to make its concerns public in September 1982, a decision which the Acting Secretary General conveyed to His Excellency President Obote in his letter of 5 August 1982.

Amnesty International is concerned that the Government appears to have understood the establishment of communication between itself and Amnesty International as an implied undertaking on the part of the organization to refrain altogether from making public its concerns in Uganda. This is a commitment Amnesty International could not make to any government. During exchanges with governments Amnesty International often abstains

from immediate publication in order to give an opportunity to clarify the facts. However, in situations where reports of alleged violations of human rights of a serious and consistent nature continue to be received, it considers it has a responsibility to present its concerns publicly to the international community in the absence of a satisfactory response and effective action from governments. Amnesty International has welcomed steps taken by the Government to curb abuses of human rights, but in its view these measures have fallen far short of what is required and expected of the Government given the serious nature of the reports of human rights violations.

A serious misunderstanding arose in regard to the public action undertaken by Amnesty International's national sections in September which the Secretary General sought to clarify in a telex message to His Excellency President Obote dated 1 September 1982. The Secretary General informed the President that this public action resulted from an Amnesty International position paper of 1 July 1982 which had been made available to its membership for public use in September, and referred to Amnesty International's letter of 5 August 1982 in which the organization had informed the President of its decision to publicise its concerns in September in view of the gravity of the human rights situation in Uganda. He assured the President that the Memorandum and its recommendations remained confidential and reiterated the assurance he had given to the High Commissioner of Uganda on 31 August 1982 that no public statement would be issued on the Memorandum and the response of the Government before further contact between both parties.

The misunderstanding arose during a telephone conversation between the Secretary General and the High Commissioner, in which the High Commissioner informed the Secretary General that the response of the Government to the Memorandum was ready and sought assurances in regard to publicity. The Secretary General understood their discussion to refer to the Memorandum and the Government's response and assured the High Commissioner that no public statement would be made. However, as the postscriptum to the 1 September communication has made clear, the High Commissioner in fact was seeking a general undertaking that no part of the organization would give any publicity to Amnesty International's concerns in Uganda. It is a matter of regret to Amnesty International that this misunderstanding occurred.

The Government appears to suggest in its response that public actions by Amnesty International on Uganda have had as their objective the cessation of trade with, and economic aid to, Uganda. These public actions were occasioned solely by the situation of human rights within the country itself, as explained above, and were not planned to coincide with international conferences in which Uganda was a participant. The frequency of such conferences makes it likely that public actions will sometimes coincide. As a matter of policy Amnesty International takes no action intended to bring about a cessation of trade and aid with respect to any country, and has not attempted to influence international organizations or other governments to stop trade with, or economic aid to, Uganda.

D. Sources of information

In its response the Government has raised queries about the sources of Amnesty International's information and has suggested that Amnesty International's information comes predominantly from exile sources and is therefore unreliable. It has also raised questions about the organization's contacts with groups in opposition to the Government. His Excellency President Obote raised similar concerns in his letter to the Secretary General of 21 January 1982.

It is standard practice for Amnesty International to seek and receive information from a variety of sources of varied political orientation. The range of sources includes government officials, persons residing in a country, visitors to the country, nationals and non-nationals, lawyers, members of religious groups, refugees and members of the opposition to a government (both those within a country and those in exile). By their very nature exile sources will be concerned and knowledgeable and the fact that information comes from outside a country or from a source with a particular political bias does not necessarily mean it is wrong. However, as with any other source, the information provided is subjected to a rigorous process of checking and cross-checking and further information is sought from other, including official, sources. The process of seeking and evaluating information can also, of course, involve direct contacts, such as attendance at press conferences with groups in opposition to a government. This does not mean, nor should be interpreted as, support by Amnesty International for any political cause or opposition group.

As this response demonstrates, if factual errors are made by the organization, it is always ready to correct these upon receiving specific information which demonstrates that an error has been made.

E. Amnesty International and acts by non-governmental entities

The Government, in paragraph 27 et seq. of its response, questions the failure of Amnesty International to take account in its Memorandum of acts of violence committed by non-governmental entities in opposition to the Government. It implies that the organization thereby gives the impression that it is biased in favour of groups in opposition to the Government and excuses acts of violence committed by them.

The role and field of action of Amnesty International is to protect the individual against violations of human rights by governments. Amnesty International understands and uses the term "human rights" within its mandate as the individual's rights in relation to governmental authority and the framework within which governmental power may be exercised legitimately. This framework has been defined in international human rights instruments agreed upon by governments which are the authors and addressees of such instruments. These instruments have been developed with the express purpose of protecting the individual against excesses committed by government. As an

organization, Amnesty International becomes concerned and takes action to protect the individual when governments exceed the limits established by law and abuse their power to imprison persons arbitrarily for their conscientiously held beliefs, deny them fair trial, or torture or execute them in violation of the Universal Declaration of Human Rights and other human rights standards derived from it.

The organization of course recognizes and does not question the legitimacy of governments exercising jurisdiction over crimes allegedly committed by individuals or non-governmental entities. These properly fall within the domestic jurisdiction of each country. The exercise by governments of such jurisdiction must however conform to the standards established in international law.

The fact that Amnesty International has not taken action in response to acts committed by non-governmental entities in opposition to the Government of Uganda is not therefore in any way to be understood as implying support for such groups or as excusing acts committed by them. The torture and/or execution of prisoners taken by such groups can never be accepted. However, Amnesty International considers it is the responsibility of the Government of Uganda in the exercise of its national sovereignty to bring persons committing acts of violence to justice. It becomes the responsibility of Amnesty International to act only when the Government through the exercise of such jurisdiction exceeds the limits established in international law.

CONCLUSION

Amnesty International has sought in this communication to respond to what it judged to be the major queries and concerns raised by the Government of Uganda in its response to the Memorandum. If points have been omitted to which the Government attaches special significance, the organization trusts that these can be clarified through future dialogue with the Government. In particular, the organization hopes that the various misunderstandings which have arisen as to the procedures followed by it in its relations with the Government have been resolved. This would permit future communications between Amnesty International and the Government to focus upon the more pressing substantive concerns relating to the full restoration and observance of human rights in Uganda.

Amnesty International has noted that the Government, over the past months, has taken a number of positive steps regarding these substantive concerns. The release of large numbers of detainees held without charge or trial has been encouraging. While Amnesty International opposes the use of long-term detention without charge or trial as authorized by the Public Order and Security Act, it is nonetheless encouraged to note the initiation of procedures, including the publishing of names in the Uganda Gazette and the convening of the Detention Review Tribunal, which are intended to bring current detentions into conformity with the Public Order and Security Act as well as the Constitution of Uganda. The

organization has also welcomed the promulgation of guidelines to the army which prohibit the harassment of civilians and emphasise the necessity that individuals arrested by the army be humanely treated and subjected to the normal process of law. The stated policy of the Government to apprehend and prosecute members of the security forces believed responsible for capital offences is also important in this regard. Such initiatives and the steps taken by a government to execute them are, in the view of the organization, among the primary indicators of a government's commitment to the observance of human rights. In this communication Amnesty International has requested further details with respect to the implementation of each of these initiatives.

In the light of recent reports of arbitrary arrest and detention, torture, deaths in custody and killings by the army, the organization is nonetheless concerned that the measures taken by the Government fall short of what is required to overcome these abuses. It regrets that the Government did not address these areas more fully in its response and failed to respond to the concrete recommendations made in Amnesty International's Memorandum which have been briefly reiterated in this communication.

Amnesty International believes that the introduction and implementation of measures by the Government in line with these recommendations would constitute an important step towards rebuilding machinery for the effective protection of human rights in Uganda and would give real force to the Government's stated commitment to the rule of law and the fullest observance of human rights in Uganda. Amnesty International accordingly hopes that these recommendations will become a fundamental basis of the dialogue which the organization hopes to maintain with the Government of Uganda.

Amnesty International
18 October 1982