

# UGANDA

## @Detentions of suspected government opponents without charge or trial in the North

### INTRODUCTION

Amnesty International is concerned at the detention without charge or trial of at least 168 people by the Fourth Division of the National Resistance Army (NRA) since early September 1994. They have been held in the military barracks of the Fourth Division, on the edge of Gulu town, northern Uganda. While over 100 of their number have subsequently been released without charge, at least 60 people remain in detention apparently as yet uncharged. Many of those still in detention have been there for three months or more.

These detentions have occurred in the context of intensified counter-insurgency operations since July by the NRA against the armed opposition group, the Lord's Resistance Army (LRA). There has been almost continuous armed opposition against the Ugandan government in the North since 1987, particularly in areas inhabited by the Acholi ethnic group. While clearly anti-government, in recent years the military activities of the LRA have been directed mainly against non-government targets. The LRA appears to have very little popular support amongst the Acholi communities of Gulu or Kitgum District. The LRA has been responsible for serious human rights abuses against civilians in recent years. Under a new Commander, Brigadier Shef Ali, the army's Fourth Division has sought to respond to criticism that it has failed in the past to take effective action against the LRA. However, with regard to those detained in the military barracks of the army's Fourth Division, the NRA appears to have acted in a manner that is both arbitrary and unlawful.

The detainees have been taken into military custody for "screening" by military intelligence officers. The military authorities claim that they are investigating allegations that those detained are "rebel coordinators". However, a large proportion of those arrested appear to have been detained, often for a prolonged period, purely because they were pointed out in public by captured or former members of the LRA who are now working with the NRA.

These detentions are a clear violation of Ugandan law, which stipulates that a prisoner should be charged within 24 hours with a recognizably criminal offence or released. It should be noted that while there is constitutional provision for administrative detention under a state of emergency, no such state of emergency prevails in the North. The detentions also violate Uganda's international treaty obligations under the African Charter of Human and Peoples' Rights. They also violate the International Covenant on Civil and Political Rights (ICCPR), to which Uganda is not yet a party, although Amnesty International has been informed by a representative of the government that Uganda intends to sign the ICCPR in 1995.

## SOME TESTIMONIES

On a visit to Gulu town in November 1994, Amnesty International representatives conducted interviews with a number of detainees who had been released.<sup>1</sup> The three testimonies cited below are fairly typical of the experiences of other former detainees interviewed by Amnesty International. They each agreed to speak provided that their names were not used.

**Detainee A**, who had been studying in Jinja, was arbitrarily singled out in Gulu town on 8 September when on his way to visit his family, who live in a suburb of Gulu town. He stated that, while talking to a former pupil of his, a man in civilian clothing approached him and touched him, saying, "My friend, come here". When questions did not elicit a convincing reason as to why he should comply, the man refused. At this point soldiers approached, brandishing guns. **Detainee A** was arrested, taken to Pece Stadium and thence to the military barracks. He recounted that he and other detainees were beaten with sticks by soldiers on arrival, leaving them with bruises. He was released without charge on 12 September after relatives and local officials interceded on his behalf. At first, there was resistance from within the military barracks to his release. A letter from an intelligence officer said that **Detainee A** had been identified as the child of a man who was a rebel. In the end, however, the military authorities relented. **Detainee A** said that at no point had he been interviewed by officers or told why he had been detained. No relatives had been allowed to visit him. He was not told that he was entitled to a lawyer.

**Detainee B**, a primary school teacher, was detained between 11 September and 15 October before being released on the basis of a "Temporary Release Order". He claimed that his troubles began when he was approached by an unknown man who asked him to come out of a shop which he was visiting because his brother was calling him. When **Detainee B** looked, he could not see his brother anywhere. At this point he was told to come with the man. When he refused, the man pulled out a gun and arrested him. He said that he was interviewed by a military intelligence officer and that after initial refusals, relatives were allowed to visit him. **Detainee B's** release was also brought about after

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<sup>1</sup> Amnesty International's representatives were Reverend Dr Emmanuel Kandusi, Vice-Chair of the Tanzanian Section of Amnesty International, and Dr Jon Lunn, a staff member of the organization's International Secretariat in London.

colleagues and local government officials interceded on his behalf. The "Temporary Release Order" requires him to report for an unspecified (and thereby at least potentially indefinite) period to the military barracks every two weeks, to "exhibit good conduct during this period of trial" and to "be a good citizen by developing security consciousness". There is no basis in Ugandan law for such a "Temporary Release Order".

**Detainee C** was one of many people who were picked up in Gulu town's main market, Owino market. He was detained between 24 and 30 September. He too was called by an unknown man and told to "come here". Two military intelligence officers with guns then arrested him. He was told he was under arrest but no reason why was given. He was assaulted for over 30 minutes by a group of soldiers on his arrival at the barracks, leaving him bruised. When relatives came, they were refused access and told to come back after a week. After three days in detention he was interviewed. **Detainee C** had nobody of influence to intercede on his behalf. On the day of his release he was taken before a panel of two military intelligence officers. Also present was the unknown man who had singled him out in Owino market. The man said that he had known **Detainee C** when they had both been with the LRA in Sudan and that he was a "coordinator". The military intelligence officers said that they had investigated these claims and found them to be false. They apologized to **Detainee C** and told him he was free to go, although they warned that if they found any evidence to link Okello to rebel activity he would be rearrested.

## CONCLUSION

It would be unfortunate if these recent unlawful detentions in the North were allowed to throw a question-mark over the significant progress that has undoubtedly been made in Uganda in the sphere of human rights in recent years. For example, as levels of armed insurgency have fallen, there appears to have been a dramatic reduction in the number of suspected extrajudicial executions of civilians by soldiers; the incidence of torture of civilians by soldiers has diminished; the misuse of the serious charge of treason has been addressed by the authorities; and there has been a marked reduction in the numbers of people detained outside the framework of the law. Amnesty International welcomes these positive developments, but is concerned at the renewed resort to unlawful detention in the North.<sup>2</sup>

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<sup>2</sup> In 1992, Amnesty International published a report, *Uganda: The Failure to Safeguard Human Rights* (AI Index: AFR 59/05/92) which included evidence of widespread detention outside the framework of the law, particularly incommunicado detention without charge or trial in military barracks. This evidence was collected in the context of the relatively high level of armed insurgency against the Ugandan government in northern and eastern Uganda which prevailed between 1989 and 1992.

During their visit, Amnesty International's representatives came across further evidence of the progress that has been made in relation to human rights in recent years in the course of investigations into these detentions. They benefited from the full cooperation of both the civil authorities and the army's Fourth Division in Gulu town. Amnesty International is encouraged that important measures which are based on international human rights standards have been introduced to safeguard the human rights of those in the custody of the army's Fourth Division.<sup>3</sup> A register, which was seen by Amnesty International's representatives, has been kept of the names of the detainees, the date of arrest, their home address and the arresting authority. Interview notes have also been made and filed. These too were seen by Amnesty International's representatives. There remained significant inadequacies and omissions in terms of safeguard procedures. For example, Amnesty International's representatives met several released detainees who did not feature in the register which they saw. But there was sufficient evidence to suggest a genuine commitment to further improve such procedures. Visits by relatives, which appear to have been prohibited during the early stages of the "screening" operation, have subsequently been allowed on a weekly basis. Initial very poor conditions for the detainees in terms of food, blankets and sanitation in early September have now improved. Cruel, inhuman and degrading treatment in the form of beatings appears to have ceased by October. The International Committee of the Red Cross has been granted access to the detainees.

However, the fact that some important safeguards have been introduced should not obscure the central issue: that these detentions are unlawful and a serious violation of human rights. Under the terms of international human rights standards they constitute *arbitrary* detention. Amnesty International is concerned that none of the *civilian* officials with whom it discussed the issue of these detentions, including the Ministry of Justice, had in their possession a list of the names of those in detention in the army's Fourth Division military barracks; nor, it appeared, had any of them asked the military authorities for such information. Civilian and army officials alike did not argue that the detentions were legal and admitted that if those detained were charged and brought to trial, most of the cases would be dismissed on grounds of insufficient evidence. On this basis, they believed that recourse to the law was inappropriate. They described the detentions were "preventive": the aim was to expose the detainees to political re-education in order to prevent them becoming ever more deeply implicated in the criminal activities of the LRA. Army officials also sought to claim that a reduction in LRA military activities between September and November 1994 was further evidence that the detainees were indeed "rebel coordinators". Amnesty International representatives pointed out that there appeared to be an official presumption that those

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<sup>3</sup> The most important international standard in this respect is the Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment (General Assembly Resolution 43/173 of 9 December 1988).

detained were guilty and argued that any suspicions of involvement with the LRA should be tested in a court of law.

There has, at times in the past, been a tendency on the part of some civilian and military officials working in the North, particularly those from other parts of Uganda, to view all Acholis as potential or actual "rebels", even where there is no evidence of involvement in anti-government violence. In the light of the evidence uncovered by Amnesty International regarding the arbitrary grounds upon which many detainees appear to have been taken into custody, Amnesty International believes that many of those still detained may be prisoners of conscience, imprisoned for the non-violent political beliefs which they held, or were assumed to hold by virtue of their Acholi ethnic origin.

Amnesty International's representatives were told that the aim of the Ugandan government is to build trust between it and the war-scarred population of northern Uganda and, on the basis of increased trust, to mobilise the local population against the LRA both politically and militarily. Useful discussions were held between Amnesty International's representatives and officials and members of the Acholi Pacification Committee, set up in August 1994 to develop and coordinate this policy. However, it is difficult to see how the use of "preventive detention" as described above assists such a strategy.

Charges have yet to be laid against a single detainee in the three months since the "screening" operation began. Amnesty International calls upon the Ugandan government to take action to ensure that prisoners of conscience still being detained in Gulu military barracks are immediately released. It also calls upon the Ugandan government to ensure that, if charges are to be brought against those who remain in detention, then they should be brought promptly and for a recognizably criminal offence. Those charged should then be brought to trial without delay. If there is no intention of charging any of the remaining detainees, they should be released immediately.