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联合国人权事务高级专员的报告 和世界人权会议后续行动

人权事务高级专员办事处 在乌干达的工作报告

增 编

对乌干达的访问 * **

* 本报告的内容提要以所有正式语文分发。报告本身载于内容提要附件，仅以原文分发。

** 本报告迟交是为了尽可能列入最新资料。

内容提要

人权事务高级专员的本项报告是继 2005 年 8 月联合国人权事务高级专员办事处(人权高专办)在乌干达设立办事处(人权高专办乌干达办事处)后提交的。报告共分五节,摘要如下。

过去二十年来,乌干达在社会经济方面取得了一些进步,经济在增长,尽管仍然高度依赖国际发展援助。乌干达的人权状况因地区而差异甚大,在乌干达北部(阿乔利地区)、兰戈和特索分区和乌干达东北部(卡拉莫贾),人权状况仍然危急。在本报告编写之时,乌干达即将于 2006 年 2 月举行总统、议会和市政选举,全国的形势是,竞选活动踊跃,有一些政治上的紧张状态,民主机制和法治受到挑战。

人权高专办乌干达办事处设于 2005 年 8 月,它负有一项全面的任务授权,这是高级专员通过持续的国家介入加强人权标准的执行工作这一远大计划的一部分。

关于人权状况一节概要说明了人权高专办乌干达办事处设点或开展初步区级评估的地区和高级专员 2006 年 1 月访问该国时访问过的地区的人权状况。

在乌干达北部(阿乔利地区),有 150 多万国内流离失所者生活在拥挤不堪的安置营中,他们的人道主义状况是国家当局和国际社会在提供保护方面的严重失败。上帝抵抗军(上帝军)的暴行仍然使平民处于恐怖之中。虽然上帝军所犯暴行的程度远远超过了冲突其他任何方面侵犯人权的行为,但是,乌干达人民国防军及其辅助部队地方防御部队也涉嫌侵犯平民人权。此外,由于乌干达北部的武装冲突,国内流离失所者长期集结在营地,这对享用人权造成了特殊的困难。自愿缓解营地拥挤状况、取得可耕地、土地所有权以及是否可能对被用作国内流离失所者营地的土地所有者进行补偿的问题也造成了人权方面的更多困难。鉴于兰戈和特索分区可能出现回返现象,从人权角度对待自愿和安全回返问题、在回返区恢复民事司法机构,这是两项重要的任务。

造成乌干达东北部卡拉莫贾分区不安全状况的部分原因是传统的偷牛习俗,及其当今日益暴力的表现方式,还有一部分原因是政府持续不管,加上解除武装方案失败,这造成了严重的安全问题、侵犯人权行为、暴力和平民完全得不到保护的状况。司法机构和其他中央政府服务名存实亡,结果是形成了一种建立在报复和复仇基础上的平行的传统司法制度。

在经济、社会和文化权利方面，本报告指出，乌干达总的卫生状况不佳，这反映了该国贫困程度高、缺乏适当的基础设施、设备和训练有素的工作人员。报告还突出说明了乌干达在对付艾滋病毒/艾滋病流行方面所取得的成功和面临的挑战。

关于性别问题，本报告指出，在所有各个部门，包括在教育、劳动、保健和家庭生活中，都普遍存在对妇女的歧视。报告突出说明了一些传统做法对妇女权利所产生的负面影响，强调乌干达存在着性别暴力问题，包括缺乏适当的立法来处理配偶强奸和家庭暴力问题。

人权高专办在乌干达的国家介入战略是出于需要对两种不同的、但在历史和经济上相互有关的局势作出反应而制定的。受冲突影响的北部地区需要在切实开展人权监测、报告和分析、技术合作和加强国家能力的基础上提供保护。在卡拉莫贾，人权高专办将探讨如何增进对平民的保护、对抗有罪不罚现象，通过社区机制促进恢复安全、协助开展有妇女参与的关于和平与人权教育问题的族裔间对话。

考虑到乌干达其他各地处于非常不同的发展阶段，人权高专办将与其联合国国家工作队伙伴开展战略合作，争取从人权的角度开展发展规划、技术合作和能力建设活动。

高级专员于 2006 年 1 月 7 日至 14 日访问了乌干达，以更好地了解该国特殊的人权状况，并正式启用乌干达的办事处。高级专员访问后的主要意见有：(a) 必须大幅度加强乌干达警察部队的人数和能力，从而纠正由军队来开展民事司法和执法工作的现象；(b) 必须确保新闻自由和行动自由，并让乌干达北部的国内流离失所者自愿、安全地回返；(c) 必须加强中央政府铲除贫困、消除不安全状况、促进发展的工作，从而改变卡拉莫贾所处的边缘地位。

高级专员向国家当局、乌干达人权委员会、民间社会和国际社会提出了一些建议。这些建议根据的是人权高专办乌干达办事处的初步评估和高级专员的意见，以及她在访问乌干达期间与国家当局和民间组织所进行的对话，建议包括：迫切需要拟定一项在乌干达北部实现和平、正义与和解的全面战略；安全问题以及恢复民事司法的问题；国内流离失所者的回返问题；土地权问题；以及结束卡拉莫贾的边缘地位问题。

Annex**REPORT ON THE WORK OF THE OFFICE OF THE HIGH
COMMISSIONER FOR HUMAN RIGHTS IN UGANDA****CONTENTS**

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Introduction

1. The situation in Uganda reflects several distinct, yet historically interlinked, development stages. The southern, western and central districts of Uganda, including the capital Kampala, have registered socio-economic progress over the last 20 years, with a growing economy, albeit heavily dependent on international development. Specifically, the conflict in northern Uganda (Acholiland) is entering its twentieth year in 2006, with approximately 1.5 million internally displaced persons (IDPs) living in substandard conditions in overcrowded camps, suffering from continuing human rights violations from all sides. Living conditions and insecurity in north-eastern Uganda (Karamoja) are equally poor, if not worse than in Acholiland. The plight of the Karimojong is exacerbated by severe climatic conditions, widespread insecurity as a result of the proliferation of small arms, intertribal clashes and traditional cattle rustling. Both situations have suffered from consistent neglect and lack of attention by national and international actors until recently.

2. Pursuant to the vision of the High Commissioner for Human Rights set out in the Plan of action submitted by the United Nations High Commissioner for Human Rights (A/59/2005/Add.3, annex), which seeks to strengthen implementation of human rights through sustained country engagement, the Office of the United Nations High Commissioner for Human Rights (OHCHR) established a country office in Uganda in July 2005. The current strategy of the Office comprehensively pursues the mandate of the High Commissioner through cooperation with government authorities, the Uganda Human Rights Commission (UHRC) and civil society organizations. OHCHR Uganda has its headquarters in Kampala and a regional sub-office in Gulu. By end 2006, OHCHR Uganda will progressively establish district offices in Kitgum and Pader in the north, Lango (Lira), Teso (Soroti) and the Karamoja subregions (Moroto).

3. Following the establishment of OHCHR Uganda in August 2005, and the signing of a comprehensive Memorandum of Understanding between the Government of Uganda and OHCHR in January 2006, the present report is the first overview of OHCHR engagement in Uganda. The visit of the High Commissioner to Uganda in January 2006, in recognition of the efforts of the Government to reinforce its commitment to its international human rights obligations, has also informed this report and significantly shaped the present recommendations.

I. NATIONAL CONTEXT AND BACKGROUND ON THE ESTABLISHMENT OF THE OFFICE IN UGANDA

4. In the 1970s and 1980s, Uganda was notorious for its human rights abuses, first during the military dictatorship of Idi Amin from 1971 to 1979, and then after the return to power of Milton Obote. Since becoming President in 1986, Yoweri Museveni, as leader of the National Resistance Movement (NRM), has introduced some democratic reforms and been credited with improving the human rights situation. Yet the persisting human rights crisis in northern Uganda has been largely neglected by national authorities and the international community until recently. The northern Ugandan conflict and its impact on human rights is exacerbated by the inadequate provision of central government services, including in the health and social services sectors, law enforcement and the administration of justice. The lack of economic, social and cultural rights and protection guarantees in north-eastern Uganda (Karamoja), as well as some of the most

recent challenges to democratic institutions and the rule of law in general, complete the mixed human rights situation currently prevailing in the country. Despite progress in reducing human rights violations in Uganda over the past two decades, much remains to be done in order to ensure a viable and sustainable culture of respect, protection and promotion of human rights.

5. The Constitution of Uganda of 1995 and the outcome of a four-year constitutional review process, namely the Constitutional (Amendment) Act 2005, guarantee basic human rights and fundamental freedoms. At the international level, Uganda is State party to the seven major international human rights treaties and optional protocols (except the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women), as well as to the African Charter of Human and People's Rights. However, Uganda is overdue in meeting some of its reporting obligations. In 2005, Uganda submitted its combined report under the Convention on the Rights of the Child and the initial report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

6. In July 2005, Uganda decided by referendum to return to a multiparty system of democracy, following almost 20 years of dominance by NRM under President Museveni. Presidential and parliamentary elections are set to take place on 23 February, followed by local council elections. The recent constitutional amendment removed the limits on the tenure of office of the President, allowing for President Museveni to be nominated as presidential candidate, along with five other contestants. Since late 2005, the situation in Uganda has been greatly influenced by political debates in the context of forthcoming elections, including by the arrest of one of the presidential candidates, Kizza Besigye, leader of the Forum for Democratic Change (FDC). At the time of writing the present report, Kizza Besigye was on trial by the High Court on charges of rape and treason. Kizza Besigye and 22 others had also been indicted before the General Court Martial (GCM) on charges of terrorism and illegal possession of weapons. The High Court subsequently, on 2 December, ordered a stay of the military trials of Kizza Besigye and his co-defendants until the Constitutional Court decided on the competency of GCM. The Constitutional Court had previously ruled, in 2003, that the military courts are subordinate to the High Court. In this context, the most recent public challenges to the High Court by GCM Chairman Gen. Elly Tumwine, and the resumption of the trial of 22 co-defendants before GCM in defiance of the High Court ruling, are a most serious challenge to the rule of law in Uganda.

7. Kizza Besigye's arrest sparked demonstrations by his followers in Kampala, resulting in a heavy-handed response by the security forces. During his bail hearing, the High Court was surrounded by the military, an action which was severely criticized by the legal profession, human rights organizations and the international donor community, as challenging the independence and integrity of the judiciary. These interferences continue to be a matter of concern. Whilst the electoral campaign has proceeded without major violence throughout the country, there were over 300 violations of the electoral code registered by February 2006, of which almost 50 per cent were alleged to have been perpetrated by NRM members. At the same time, the adoption of a code of conduct for security personnel during elections launched by the Inspector General of Police is to be commended. The killing of three FDC supporters on 15 February in Kampala needs to be thoroughly investigated.

II. SITUATION OF HUMAN RIGHTS IN UGANDA

8. The situation of human rights in Uganda varies significantly by region but remains especially critical in northern Uganda (Acholiland), in the Lango and Teso subregions but also in north-eastern Uganda (Karamoja). These human rights challenges facing Uganda need to be more equitably and effectively addressed by the Government of Uganda in close cooperation with national human rights actors, including UHRC, the United Nations and the international donor community.

A. The situation of human rights in northern Uganda (Acholiland, Lango and Teso subregions)

9. The conflict in northern Uganda (or Acholiland, constituting three districts Kitgum, Gulu and Pader), and affecting Lira, Apac and Amolatar (Lango subregion) and Soroti, Katakwi, Kaberamaido, Amuria and Kumi (Teso subregion), entered its twentieth year in 2006. It has caused the displacement of an estimated close to 2 million people, the majority of whom have fled within their own sub-counties, often not more than 10 kilometres from their places of origin, and of whom 1.5 million continue to live in seriously overcrowded camp settings. The war has been characterized by gross abuses and violations of human rights and international humanitarian law by all sides.

10. The length of encampment of IDPs as a result of the armed conflict in northern Uganda presents a unique challenge to the enjoyment of rights. The loss of ability of IDPs to participate in decisions regarding their own future and to make an informed judgement, especially about security risks at their places of origin, is of serious concern. Such loss of informed decision-making is difficult to restore, leading to a culture of dependency and deprivation of hope.

11. In July 2005, the International Criminal Court issued arrest warrants against five top Lord's Resistance Army (LRA) commanders. The Government of the Sudan and the Government of the Democratic Republic of the Congo have agreed to provide assistance in executing the International Criminal Court warrants against those who might be hiding in their territories. The security situation in northern Uganda deteriorated briefly in the wake of the warrants, with several humanitarian relief personnel ambushed and killed. The movement of some LRA elements to the Democratic Republic of the Congo in September 2005 and the killing of eight United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) peacekeepers in north-eastern Democratic Republic of the Congo in January 2006 further complicate the situation. Whilst some critics believe that the arrest warrants thwarted any reasonable prospects for the peace talks led by the Government's Chief Peace Mediator, Betty Bigombe, it has to be recognized that not much progress had been achieved in the peace talks since early 2005.

12. The Government of Uganda through the Office of the Prime Minister developed a National Policy on Internally Displaced Persons, which was launched on 24 February 2005. The overall objective of the Policy is to protect and promote the human rights of IDPs. From a human rights-based perspective, the Policy is relatively comprehensive, although lacking adequate gender considerations, land and property rights.

13. The planned establishment of civil-military coordination centres (CMCCs) as a joint initiative by UHRC, Uganda People's Defence Force (UPDF), the Uganda Police Force (UPF) and civil society representatives to create a space for civilians to report abuses by security forces is to be welcome as an indication of the commitment by the Government to develop better mechanisms for reporting human rights violations. In addition to ongoing training efforts by partners such as the United Nations Children's Fund (UNICEF), the International Committee of the Red Cross and Save the Children, it is encouraging that UPDF, UPF and the Uganda Prison Service are willing to cooperate with OHCHR in human rights training and capacity-building. A recent proposal by the Government of Uganda to the Security Council calling for the establishment of a coordinating and monitoring mechanism in Kampala between the Government, the United Nations, the core partner countries and non-governmental organization (NGO) representatives to strategically address the humanitarian situation and resettlement of IDPs in northern Uganda is noted with interest.¹

14. Nevertheless, the following protection challenges are key issues which need to be urgently addressed in the context of the conflict in northern Uganda.

15. **Right to life, liberty and security of persons.** LRA has adopted a strategy targeting mostly the civilian population and continuing abuses include abductions, extrajudicial killings, sexual and gender-based violence, physical abuse and torture. Whilst the extent and level of abuses committed by LRA is certainly far greater than those by any other side to the conflict, UPDF and their auxiliary forces called Local Defence Units (LDU) have also been implicated in atrocities against civilians including forced labour, torture, rape, extortion, unlawful killings and restrictions on freedom of movement. Whilst UPDF has improved its response to security needs, the lack of regular payment of LDUs appears to contribute to abuses, including by militia units referred to as the "Arrow Boys" in Teso and "Amuka" in Lango. The security forces maintain tight control over civilian movement and civilians risk being harassed if caught outside the camps' security perimeter or outside curfew times. There are also reports of arbitrary detention and even summary execution of those detained, on suspicion of collaboration with LRA and treason. The majority of these cases are not reported because of fear of reprisals, lack of concrete evidence or of faith in existing judicial mechanisms. In the recently launched UPDF Progressive Report on Human Rights Violations in 2003-2005, UPDF indicated it had executed 26 soldiers for human rights violations committed against the civilian population. Whilst it is important to welcome UPDF efforts in creating a culture of accountability, executions by firing squad or sentencing to public hanging are not acceptable from a human rights point of view. In addition, the fairness of trials by field court martials without appeals procedures is of very serious concern. UHRC is currently also pursuing a number of concrete cases alleging violations against civilians by security forces.

16. **Torture.** This has reportedly been widely used by LRA but also by the security forces. Former LRA-abductees regularly speak of mistreatment, severe beating, physical and psychological torture during captivity. Several reports have also been obtained of civilians who were subjected to beating and torture during detention by security forces. Mistreatment of civilians in so-called "safe houses" operated by government security forces, including in Kampala, has been reported but not fully investigated.

17. **Freedom of movement, informed choice and security of person.** The displacement of civilian populations into camps in Acholiland was initiated by the Government of Uganda

in 1996, as a temporary measure to protect them from LRA attacks. Whilst curfews and designated security perimeters were instituted to protect IDPs outside the camps, these security measures also contribute to seriously overcrowded living conditions and severely restrict freedom of movement and access to land by IDPs. Neither do they have access to adequate and accurate information about the security situation in their places of origin, to enable informed decision-making about voluntary and safe return.

18. **Administration of justice.** Structures and institutions are weak and virtually non-existent in the rural areas. They are not perceived as impartial and their accessibility is extremely limited. Only a few sub-counties have a functioning local court and not all district headquarters have courts. UPF is severely underdeployed in northern Uganda, with an average of 1 police officer for every 3,000 people (national average of 1 per 1,700). In Gulu District, police posts exist in only 3 of 53 IDP camps. As the police clearly lack the capacity and resources to adequately protect law and order in rural areas, and specifically in IDP camps, UPDF carries out civilian policing functions for which it is inadequately trained and equipped. This in itself creates serious human rights and protection challenges.

19. Prison conditions in northern Uganda are in need of improvement. Prisons and detention facilities are non-existent or overcrowded, rarely separating juveniles from adults, nor those sentenced from those in pretrial detention. At the same time, it is recognized that OHCHR has been granted access to prisons and police detention centres without prior notice, in accordance with its recently-signed Memorandum of Understanding with the Government.

20. **Gender issues and women's rights.** Women have been subjected to various forms of sexual and gender-based violence including rape, forced marriage, enslavement, killings, torture, mutilation and starvation. Approximately 1,000 girls have returned from the bush with children born to LRA fathers (around 250 in 2004 and the first half of 2005). In addition to abuses by LRA, women are also reportedly harassed by government security forces. Lack of civilian police trained in addressing sexual violence and exploitation, an inadequate legal framework, as well as medical and psychosocial prevention and support services are compounded by social barriers to reporting these violations. Reporting and referral mechanisms are non-existent or inaccessible to women and girls in IDP camps. In alleged rape cases, lack of medical facilities to provide victims with the legally required medical certificate from a government health facility is a significant obstacle to reporting and investigations.

21. Conflict has transformed traditional gender roles to some extent in the household and community. Women are increasingly taking on the role of heads of household, while men are no longer able to fulfil their traditional productive roles. Men are also no longer able to protect girls and women, which in turn leads to frustration, anger and increased domestic violence against women and children.

22. **Children's rights.** Violence and abuse of children continue to characterize the conflict in northern Uganda, despite a significant reduction in abductions in 2005. Initially, the phenomenon of "night commuting" amongst children was seen as a response to fear of LRA abductions. More recently, the motivation for children continuing to walk long distances on a daily basis to find safe havens has become more complex, general lack of protection within often dysfunctional family structures. Efforts at reintegrating former abductees and children born in captivity into the general population pose a challenge. The conflict has ruptured the social fabric

and its ability to reabsorb these children into the society. There exists a high prevalence of sexual exploitation and transactional sex, particularly amongst young women, within camps, significantly increasing the risk of violence, unwanted pregnancy, sexually transmitted diseases and HIV/AIDS. Illiteracy, malnutrition and disease are also prevalent among children in camps. There is a lack of basic social amenities and infrastructure which has made quality of life of IDPs deplorable. The mortality rates were found to be well above the emergency threshold amongst IDP populations in camps across northern Uganda.² Access to education, reportedly at only 28 per cent in camps, constitutes a serious challenge and requires an intensified policy and budgetary commitment by the Government.

23. **Land rights.** Land is now the only productive asset which most Acholis own. Owners of land where IDP camps have been established have never been compensated or legally expropriated of their land, yet the land has been severely degraded by the presence of camps and its use by IDPs. At the same time, if landowners were to reclaim their land by legal means, IDPs would again have to be displaced. With potential return, the absence of documented land titles in northern Uganda which can be referred to, to resolve land claims complicates the situation and could potentially result in further conflict if not addressed without delay. Recently, allegations have surfaced that lands abandoned by and inaccessible to IDPs in their places of origin are being encroached by “State officials” or “foreign commercial farmers”. These allegations need to be fully investigated by relevant mechanisms.

24. The Lango and Teso regions have seen a significant voluntary unassisted return movement of the population which, however, has recently stalled due to the rise in insecurity in northern Lira and Katawki. The situation in the Teso subregion is further complicated by the fact that populations are internally displaced not only as a result of LRA activities which have almost ceased in Teso, but also as a result of the continued armed raids by cattle-rustlers from neighbouring Karamoja districts.

25. In late 2005, the United Nations Country Team (UNCT) advocated for the freedom of movement and freedom of informed choice for IDPs, in the light of Presidential instructions that all IDPs in Lango and Teso subregions should return home by 31 December 2005, subsequently extended until 31 March 2006. Whilst the freedom of movement of IDPs is paramount and the overcrowding in some camps has reached emergency proportions, a sudden forced return without security guarantees is also not a viable option. Yet, with regard to the ongoing decongestion process, there are concerns that this process would perpetuate a chronic existence in camps which would eventually turn into urban settlements. A phased return of IDPs to their homes is preferred over decongestion, as smaller camps do not necessarily guarantee significant improvements in the problems faced by the people. The most important principles to preserve in any such processes are adequate consultation, participation, information sharing based on voluntary and safe freedom of movement.

26. Any return process involving significant civilian population movements under the control of security forces needs to be carefully monitored. The application of a human rights-based approach to return is essential within a framework of international human rights law and other applicable standards, such as the Guiding Principles on Internal Displacement (E/CN.4/1998/Add.2, annex) and the National IDP Policy. The establishment of a community-based human rights reporting system to monitor return needs further consideration. Furthermore, in return areas the timely re-establishment of local government infrastructure at

sub-county level, specifically the police, judicial systems and local government structures is an essential precondition for sustainable return. Such institutions guaranteeing security and protection for returnees at their places of origin are equally important as return packages or the re-establishment of health centres, water-collection points, schools and the provision of shelter, social services and tools for livelihoods.

B. The situation of human rights in north-eastern Uganda (Karamoja)

27. Karamoja is often referred to as the real “forgotten crisis” in Uganda, where the link between the natural harsh semi-arid environment, security, development and human rights is profound and the situation appears to be locked into a vicious cycle. The Karamoja cluster lies across four countries - Uganda, the Sudan, Kenya and Ethiopia - and the Ugandan Karamoja subregion consists of the districts of Moroto, Kotido, Nakapiripirit and Kaabong. The Karamoja cluster across the borders refers to ethnic groups, which share a common language, culture and land. Karamoja has a semi-arid climate where the pastoral Karimojong population (approximately 954,000 in 2003) has adapted to an uncertain and hostile environment. The area remains the least developed region of Uganda with poverty levels at one and a half times the national average. The majority of the people are predominantly pastoralist, who derive their livelihood from livestock production.

28. Whilst the subregion has potential for sustainable and fruitful development, the absence of security undermines any development gains. Some of the root causes of the conflict in the cluster include: few economic alternatives to livestock keeping; inadequate infrastructure, such as roads to markets; the availability of semi-automatic weapons from the Sudan and Somalia; unpredictable weather conditions leading to food insecurity; weakened community and other sanctions against cattle theft; as well as high bride prices, resulting in herds of up to 200 cattle in some communities, encouraging raiding among the youth.³ At the heart of the crisis is a lack of security with the traditional culture of cattle rustling having turned increasingly violent as a result of the proliferation of small arms. Several disarmament initiatives have not been able to address the problem.

29. Administration of justice structures, law enforcement institutions and other central government services are non-existent, resulting in the reactivation of traditional justice, based on reprisals and revenge. Some traditional Karimojong practices and customs are at variance with legal norms set up by central government or international standards, leading to a clash of traditional judicial mechanism of restorative nature and of more formal adjudication processes within the judicial institutions of Government. In addition, other services, such as schools and health facilities, are virtually absent in Karamoja. There is a need to increase access to such services and awareness of their existence and use. Illiteracy is high among the Karimojong and school enrolment and retention levels are the lowest in Uganda, especially for girls. Many health workers and teachers have deserted their work for fear of being killed in local skirmishes or for lack of adequate payment and facilities.

30. Local interlocutors assert that there are serious threats to the right to life of the Karimojong population. “Warriors”, or non-State actors, operate with virtual impunity, carrying out modern forms of violent cattle raids, road ambushes, attacks on army detachments with significant loss of life, rape and common criminal acts. They are believed to belong to a generation of male youth between 15 and 35 years old (*karachuna*) who do not follow the advice

of traditional *kraal* leaders and who are using traditional methods of cattle rustling for criminal and destructive ends. At the same time, UPDF operations carried out either to retrieve stolen cattle or after army detachments have been attacked, often result in violent reprisals against the warriors.

31. It should be noted that traditional cattle raids are not intended to kill or rape but that their modern manifestations often result in loss of lives, rape and violence. Consequently, reprisal raids are carried out, using the “eye for an eye” principle of traditional justice. For example, if a young girl is killed during a raid by one tribe, the other tribe is entitled to demand 60 heads of cattle for an adult (30 for a child) or will revenge itself by killing a girl of the same age or younger “to settle the matter”. The practice of bride price is a major factor contributing to raiding cattle. Courtship is sometimes associated with rape of the potential bride. The wife from a marriage sanctioned by the clan belongs to the entire clan. Some women have been “inherited” between 5 to 10 times because of high adult male mortality due to raiding. Early marriages persist, with girls generally being married from between 14 to 18 years old. Cases of domestic violence are particularly high in the four districts of Karamoja, yet without any significant prevention, reporting or response mechanisms in place.⁴

C. Economic, social and cultural rights

32. According to the United Nations Development Programme (UNDP) Human Development Report 2005, Uganda has made minimal gains in life expectancy, with the bulk of the Human Development Index gain attributed to progress in school enrolment and, to a lesser extent, income. Whilst Uganda looks set to meet the Millennium Development Goal 2 of achieving universal primary education, significant regional and gender disparities must be acknowledged. Growing challenges remain the high number of school dropouts and the quality of the education. Furthermore, the Government needs to demonstrate more commitment to enable IDP children access to school.

33. The overall health situation in Uganda is characteristic of the country’s high poverty level, lack of adequate infrastructure, equipment and trained staff. Poor health is cited as a major cause and effect of household poverty. Approximately 38 per cent of Ugandans live below the national poverty line, mainly in the rural areas, with northern and north-eastern Uganda having the highest prevalence of poverty, evidently in direct correlation to insecurity and conflict both in Acholiland and Karamoja. Malaria constitutes the number one cause of death in Uganda, killing between 70,000 to 110,000 children every year, according to the Minister of Health. Good quality and effective health service facilities are not readily accessible to poor people, due primarily to unavailability and/or affordability of same in their communities. There appears to be insufficient commitment to ensure that policies, strategic plans and all aspects of implementation are rights-based and serve everyone without discrimination. It should be recognized, however, that removing fees for health services has improved equity in access.

34. The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt, undertook a mission to Uganda in March 2005, supported by the World Health Organization (WHO) and OHCHR, focusing on “neglected diseases” (those that are “poverty-related” or “tropical” diseases, such as elephantiasis, river blindness, leprosy, sleeping sickness and sicknesses caused by soil-transmitted parasites). The Special Rapporteur suggested that a right to health approach to

these diseases in the Ugandan context requires increased emphasis on: information and education; community participation; the role of health professionals; tackling stigma and discrimination; an integrated health system; enhanced research and development; and monitoring and accountability.

35. Uganda is considered a success story in fighting HIV and AIDS. From a peak of 18 per cent sero-prevalence in 1992, the rate fell to 6.2 per cent in 2002, mainly as a result of governmental action on education, free medical care and condom distribution. However, since 2002, the HIV prevalence rate has started to climb again, now nationally reportedly close to 7 per cent. Every year, 27,000 children are infected. The rate in conflict-affected areas of northern Uganda is even higher at 9 per cent, and also higher among women. The general picture in all northern districts is one of severely limited access, uneven distribution, and poorly-linked care, treatment and referral services. Poor coordination, security concerns, and logistical challenges result in a concentration of services within and around the district towns, including testing and prevention-of-mother-to-child-transmission services. In addition, IDP camp conditions (conflict, social disruption, poverty and powerlessness) are the same conditions that favour the spread of HIV/AIDS in emergency settings. Watering places and toilets are generally inadequate and do not provide safe access for women and girls which are critical to ensuring protection from sexual harassment and abuse.

36. In 2005, the Government established the National Committee for AIDS in Emergency Settings, to work with district leaders and other stakeholders to develop a single strategic plan for HIV/AIDS in northern Uganda. The most significant human rights issues in the context of the HIV/AIDS pandemic include accurate assessments of prevalence rates, information related to risk behaviours among IDPs and lack of comprehensive epidemiological data. In the camps, rape and unwanted sex are often a survival strategy. Northern district reports show that sexual violence has not been systematically approached in any of the districts and that no specific government programmes have been put in place to address the prevention of and response to sexual and gender-based violence in IDP camps.

D. Gender issues and human rights of women

37. The Constitution of Uganda (1995) enshrines equality before the law and forbids discrimination based on sex, race, colour, ethnic origin, tribe, birth, creed or religion or social or economic standing, political or disability. The Constitution also provides for affirmative action on the basis of gender and for other groups. It requires the establishment of an Equal Opportunity Commission to redress the traditional, customary and historical imbalance against women and other marginalized groups. The overall goal of the National Gender policy is to mainstream gender concerns in the national development process in order to improve the social, legal, civic, political, economic and cultural conditions of the people in Uganda and women in particular.

38. Yet despite these constitutional provisions and legislative guarantees, women are deprived of many of their rights and discrimination against women in practice is widespread. The Government's National Gender Policy notes that while women provide 80 per cent labour, only 7 per cent own land and 30 per cent have control of family resources. Women make up about 20 per cent of the formal sector employment, mainly in the lower paid jobs. Sixty-one per cent of women are illiterate compared with 38 per cent of men. Women's

productivity is hampered by inadequate access to credit and general lack of skills and appropriate technology due to high levels of illiteracy, poverty and inadequate flow of and access to information. Few women get loans from the traditional financial institutions because they do not have collateral. In the education sector, primary school enrolment is almost 80 per cent for both sexes but female participation progressively dwindles to approximately 22.8 per cent entering university and other tertiary institutions.

39. In relation to HIV/AIDS, women bear an uneven burden of the disease, both in terms of infection and impact. Girls between the ages of 14 and 19 are up to nine times more likely to become infected than boys of the same age group. Financial dependence on men means that women often do not have equal access to prevention and care, and risk losing their property upon a husband's death. Domestic violence continues to be a problem and the Government has so far not adequately addressed the role of domestic violence and unwanted marital sex in exposing women to HIV infection. Upon disclosure of HIV status, women are often beaten and rejected. This fear of violence and rejection prevents many of them from getting tested and seeking treatment. Current approaches focusing on fidelity, abstinence and condom use do not address the ways in which domestic violence inhibits women's control over sexual matters in marriage, minimize the complex causal factor of violence, assume that women have equal decision-making power and status within their intimate relationships and at times do not reflect the reality of social and sexual behaviour of society.

40. Sexual and gender-based violence, notably domestic violence, is common yet underreported and lack of data hampers the identification of the extent of the problem. Limited access to justice, limited legal literacy, low economic status and the absence of adequate laws to provide for the effective prosecution and punishment of acts of domestic violence against women seriously compound the problem.

41. It is of concern that neither domestic violence nor marital rape is criminalized under the laws of Uganda. The Domestic Relation Bill 2003 continues to be held up in Parliament and has generated a vivid public debate. The most contentious issues remain polygamous marriage, matrimonial property, marital rape, cohabitation, widow inheritance, marriage gifts and age of consent.

42. The Ministry for Gender has led the consultative process on the establishment of the Equal Opportunities Commission (EOC). As a result, draft EOC principles, an equal opportunities policy and an EOC bill have been developed but require urgent completion.

III. STRATEGIC DIRECTION AND ENGAGEMENT OF OHCHR UGANDA

43. The country engagement strategy of OHCHR in Uganda is shaped by the need to respond to two distinct, yet historically and economically interlinked, situations. The conflict-affected northern districts require a protection response based on timely, systematic and effective human rights monitoring, reporting and analysis, technical cooperation and strengthening of national capacity. In the conflict-affected districts in northern Uganda, OHCHR will contribute, in the framework of the Consolidated Appeals Process 2006 for Uganda, to strengthened national and local capacity to systematically monitor and effectively respond to conflict-related human rights violations by engaging with UHRC as its principal national partner. OHCHR will provide UHRC with national human rights monitors in each CMCC to be established in the northern

districts. These trained and mentored monitors provide an entry point for systematic and coordinated relations with the principal national institutions responsible for ensuring the protection of civilians in northern Uganda, namely the army, police, civil society and the national human rights institution.

44. In recognition of the need to consolidate peace with the corresponding need for justice, accountability and reconciliation, OHCHR will cooperate with civil society actors and the Amnesty Commission to explore ways and means to develop national reconciliation strategies, including potentially through truth-telling, repentance and compensation as a strategic complement to the ongoing political peace efforts. OHCHR will facilitate and support discussions with national and international stakeholders on the implementation of a transitional justice strategy, exploring options available such as a truth and reconciliation commission or similar quasi-judicial accountability structures to address gross human rights violations committed in northern Uganda.

45. In the light of the particularities of the Karamoja subregion in north-eastern Uganda, OHCHR Uganda will explore ways to enhance the protection of civilians, challenge impunity, contribute to a restoration of security through community-based mechanisms and facilitate inter-ethnic dialogue on peace and human rights education. This will be achieved in partnership with UNCT members, including UNDP and UNICEF, who are stepping up their engagement in Karamoja in partial response to the Government of Uganda Karamoja Integrated Disarmament and Development Programme (2006-2008).

46. At the same time, considering the very different stages of development in all other parts of Uganda, the office will strategically engage through the United Nations Development Assistance Framework 2006-2010 with other development partners in human rights technical cooperation and capacity-building activities. OHCHR will facilitate and provide impetus to government follow-up action on recent treaty body concluding observations and engage in advocacy at national level with policymakers on pertinent human rights and protection issues, including issues arising from human rights monitoring in the northern districts. In implementation of the Action plan, OHCHR will take the lead in strengthening UNCT human rights promotion and protection capacity through training, developing tools and enhanced inter-agency coordination.

47. In October 2005, OHCHR opened a regional sub-office in Gulu and deployed four international human rights officers to monitor and report on the situation of human rights and to commence cooperation with UHRC and other human rights interlocutors in the region. The Office has started carrying out district assessments of the human rights situation within the Acholi and Lango subregions. During 2006, OHCHR opened district offices in Kitgum and Lira districts and assigned a dedicated team to cover Pader. By mid-2006, OHCHR Uganda intends to progressively open district offices in Teso (Soroti) and in Karamoja (Moroto) to ensure fuller coverage of north-eastern Uganda.

48. In cooperation with the Office for the Coordination of Humanitarian Affairs (OCHA), UNDP and UNICEF, OHCHR will contribute towards the implementation of the National IDP Policy and conduct capacity-building workshops for human rights organizations in advocacy.

In an effort to bring the IDP policy closer to the districts, OHCHR and OCHA are supporting the launch of District Human Rights Promotion and Protection Sub-Committees to galvanize stakeholders at district level to identify priority areas for action in their districts relating to IDP protection. Similarly, OHCHR will provide technical and financial assistance in the establishment and operation of CMCCs, as a way of creating impartial multi-stakeholder forums through which victims of human rights violations may address grievances.

49. OHCHR Uganda has carried out two training sessions at the request of the UPDF and one training workshop with the field investigators of UHRC.

50. OHCHR Uganda has also identified the following four research areas, which have emerged as key challenges to the protection of human rights in northern Uganda: (a) lack of effective civilian policing; (b) lack of access to justice; (c) the absence of transitional justice mechanisms; and (d) land and property rights, especially in the context of return. Sexual and gender-based violence will constitute a cross-cutting theme of research in addressing these challenges.

IV. VISIT OF THE HIGH COMMISSIONER TO UGANDA

51. The High Commissioner visited Uganda from 7 to 14 January 2006, to better understand the unique human rights situation in the country and to formally launch the operation of OHCHR Uganda. The cooperation given by the Government of Uganda in receiving such a high-level visit during the electoral period is recognized.

52. The High Commissioner visited Gulu District (Gulu Town, Pabbo and Lacor) from 8 to 11 January, and met with national and local government officials and the military command. While there, she signed a Memorandum of Understanding between OHCHR and the Government of Uganda, establishing a comprehensive legal basis and full protection and promotion mandate for the office in Uganda. In her meetings, the High Commissioner sought a clearer understanding of the security situation, the proposed IDP camp decongestion policy, how human rights was institutionalized in the army and the extent of access to justice available in northern Uganda. The High Commissioner raised concerns about inadequate levels of protection of civilians especially against continuing abuses by LRA, the inappropriate use of the military to carry out civilian policing functions, as well as the reported indiscipline, lack of training and alleged violations by auxiliary forces used by UPDF.

53. The High Commissioner visited Pabbo IDP camp, the Lacor night-commuter shelter and a rehabilitation centre for former LRA child-abductees, and held meetings with the Gulu Protection Working Group, United Nations agencies and traditional and religious leaders.

54. The visit of the High Commissioner to Kotido and Moroto marked the first such visit of a high-ranking United Nations official to the Karamoja subregion. She met with government officials, opinion leaders, traditional elders, NGOs and visited a traditional homestead of the Karimojong (*manyatta*). The High Commissioner was informed of the acute marginalization of the Karamoja subregion, the distinct interlinkages between development, security and peace and the continued insecurity affecting the human rights of the Karimojong.

55. In Kampala, the High Commissioner met with President Museveni, Chief of Defence Forces, Minister of Gender and other government officials, the diplomatic corps, UNCT and civil society organizations. The High Commissioner also launched OHCHR Uganda's cooperation agreement with UHRC and held a press briefing. In her meeting with President Museveni, the High Commissioner raised several key observations from her visit, including: (a) the need to overcome the militarization of civilian administration of justice and law enforcement by significantly strengthening the number and capacity of UPF; (b) the importance of ensuring freedom of information and movement and the voluntary and safe return of IDPs in northern Uganda; and (c) the need to combat the marginalization of Karamoja by strengthening central government services to eradicate poverty, overcome insecurity and foster development.

V. RECOMMENDATIONS

56. **Regarding the resolution of the conflict in northern Uganda, there is a need for clarity of objectives and improved coordination of all the existing initiatives whether political, military or reconciliatory and the role of the International Criminal Court (ICC) should not be undermined. The search for peace should include the identification of ways to factor in transitional justice processes in order to ensure that the rights of the victims are not entirely forgotten and that impunity does not prevail.**

57. **There should be a more concerted effort to encourage the neighbouring Government of the Sudan and the Government of the Democratic Republic of the Congo to execute the International Criminal Court arrest warrants of Lord's Resistance Army indictees when the opportunity presents itself.**

58. **National dialogue and reconciliation beyond the conflict in the north should be pursued to bring together all factions of Ugandan society. The role of the Amnesty Commission and the current blanket amnesty provided for in the 2000 Amnesty Act should be considered in this regard. The Office of the United Nations High Commissioner for Human Rights would look into assisting the Government of Uganda in the event of its decision to establish a credible transitional justice/reconciliation mechanism to ensure justice and accountability.**

59. **Regarding security, there is a need for concerted efforts by the Government of Uganda and partners to demilitarize law enforcement and the administration of justice. The capacity and strength of the police and justice system should be increased, especially in northern Uganda and Karamoja, so that they can inspire more confidence and provide better service.**

60. **The integration of Local Defence Units into the Uganda Police Force and the Uganda People's Defence Force (UPDF) requires careful planning, training, pre-screening and adequate budgetary allocations, so that the strengthening of the Uganda Police and UPDF does not translate into a potential increase in human rights violations.**

61. Efforts should be made to increase the police presence, particularly in the camps, and to ensure a clear delineation of functions between civilian and military security forces. These efforts should be accompanied by continued substantive training, including regarding human rights issues.

62. As internally displaced persons (IDPs), populations in IDP camps should be empowered through improved access to credible and accurate information to make informed decisions about their own future, including whether to stay in camps or return to their homes.

63. The decongestion of large IDP camps through the setting up of smaller camps nearby should only be considered an emergency lifesaving measure. The Government of Uganda in cooperation with the international community should promote the voluntary and safe return of IDPs to their own land as the first and foremost solution to the crisis in northern Uganda.

64. The question of land rights in northern Uganda needs to be addressed as soon as possible. More concrete efforts are required in resolving land disputes, including through legislative measures regarding the ownership and use of land and the provision of adequate compensation for expropriation. The Uganda Human Rights Commission could play an important role in addressing this issue.

65. In Karamoja, the need for an intensified and increased response to the crisis is real. This would require building on lessons learned from previous attempts at disarmament in the region but also amongst the adjoining tribes in Kenya and the Sudan, and should consider alternative community-based mechanisms to guarantee security. It would also require an increase in government presence, a programme to strengthen the provision of basic amenities, such as schools and health facilities, and a massive sensitization programme.

66. Special attention should also be given to the search for peace and justice in the Karamoja region. The challenge is to be particularly innovative and all efforts towards peace should integrate relevant elements of traditional practices with more formal and institutional justice and governance processes. In the resolution of the crisis, the role of women not only as victims, but also as influential players in conflict resolution should be explored. Women need to be part of the solution.

67. As regards preserving the independence of the judiciary and rule of law, all efforts should be made to respect the separation of powers, clearly prohibit the interference by the executive and the security forces in the administration of justice and allow for the exercise of judicial functions without intimidation. The trial of civilians before military courts is a breach of the obligations of Uganda under international law. Respect for the rule of law at all times and the conduct of free and fair elections without harassment should be preserved as fundamental pillars of multiparty democracy.

Notes

¹ See statement of Minister for Foreign Affairs of Uganda Sam Kutesa to the Security Council meeting on the situation in the Great Lakes region, 5359th meeting, Friday, 27 January 2006, United Nations Headquarters, New York.

² Joint WHO/Ministry of Health, Health and mortality survey among internally displaced persons in Gulu, Kitgum and Pader Districts, July 2005.

³ Government of Kenya and Government of Uganda and UNDP Joint Cross-Border Mission, Karamoja, July 2005.

⁴ Armed pastoralist conflicts and peacebuilding in Karamoja: the role of gender, Netherlands Development Organization (Stichting Nederlandse Vrijwilligers), 2005.
