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Uganda

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1. Introduction

1.1 This document summarises the general, political and human rights situation in Uganda and provides information on the nature and handling of claims frequently received from nationals/residents of Uganda. It must be read in conjunction with the CIPU Uganda Country Report April 2005 and any CIPU or COI Service Uganda bulletins.

1.2 This document is intended to provide clear guidance on whether the main types of claim are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers should refer to the following Asylum Policy Instructions for further details of the policy on these areas:

API on Assessing the Claim
API on Humanitarian Protection
API on Discretionary Leave
API on the European Convention on Human Rights

1.3 Claims should be considered on an individual basis, but taking full account of the information set out below, in particular Part 3 on main categories of claims.

Source documents

1.4 Where paragraph numbers have been cited, these refer to the Uganda CIPU Country Report April 2005. Additional source documents are listed at the end of this note.

2. Country assessment

2.1 On 12 March 2001 Lt. General Yoweri Kaguta Museveni won the presidential elections with 69.3% of the vote and remained the leader of the ruling political organisation 'the Movement' and President of Uganda. [5.25]

2.2 The Constitution provides for an autonomous, independently elected president and a 305-member unicameral parliament whose members are elected to 5-year terms. The President dominated the Government, and 'Movement' supporters remained in control of the Parliament. Proposals to amend the Constitution have been controversial, particularly whether the two presidential term limit should be lifted. [5.2]

2.3 Under Uganda's Movement system, parties are allowed to exist, but they are not allowed to contest elections. However, the government has now promised to hold multiparty elections in 2006. Mr Museveni is obliged to step down in 2006 under the terms of the Constitution, but his critics say he is preparing the ground to be allowed to run again. [5.12]

2.4 The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Domination by the 'Movement' of the political process and continued restrictions on political party activity limited the rights of citizens to campaign for a change of government. Security forces committed unlawful killings and were responsible for short-term disappearances. Torture by security forces and beating of suspects to force confessions were serious problems. Security forces were responsible for incommunicado detention, and prison conditions remained harsh and frequently life threatening. [6.1]

2.5 The Government punished some security force officials who were guilty of abuses; however, impunity remained a problem. Arbitrary arrest and detention, including those of opposition supporters and prolonged pretrial detention were problems. Poor judicial administration, lack of resources, a large case backlog, and lengthy trial delays limited due process rights, including the right to a fair trial. Security forces at times infringed citizens' privacy rights. The Government at times restricted freedom of speech, the press, and association, and severely restricted freedom of assembly. [6.1]

2.6 There is an ongoing conflict in northern Uganda, between Government forces and the Lords Resistance Army (LRA). Violence and related human rights abuses abated somewhat by the middle of 2004 yet predictions of an imminent military solution to the conflict proved unfounded. In February 2004, the LRA committed the worst massacre of the entire conflict in an eastern district by attacking Barlonyo internally displaced person's camp, defended only by a small local defence unit, and killing more than 330 people. The LRA continued in its practice of abducting children, who remain the main victims of the conflict. [6.2]

2.7 Both the LRA and Ugandan Peoples Defence Force (UPDF) committed human rights abuses in northern Uganda during 2004. [6.3, 6.4] Human Rights Watch reported that "Ugandan security agencies have proliferated and are implicated in torture and illegal detention of suspected rebels and rebel sympathizers." [6.2]

2.8 Ugandan security and intelligence agencies have used torture to coerce detainees to provide information or confess, detaining suspects in illegal places of detention called 'safe houses,' and holding them for weeks or months without ever charging them with any crime. Methods of torture include suspending suspects tied 'kandoya' (tying hands and feet behind the victim) from the ceiling, severe beating and kicking, and attaching electric wires to the male genitals. [6.5]

2.9 Among the agencies accused of torture are the UPDF's Chieftancy of Military Intelligence (CMI), the Internal Security Organisation (ISO), the Violent Crime Crack Unit (VCCU) and ad hoc agencies such as the Joint Anti-Terrorist Task Force (JATF.) In October the Uganda Human Rights Commission (UHRC) found that torture continued to be a widespread practice amongst security organizations in Uganda, being commonly used to humiliate and breakdown suspects in investigation. [6.5]

3. Main categories of claims

3.1 This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Uganda. It also contains any common claims that may raise issues covered by the API on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal flight are set out in the relevant API's, but how these affect particular categories of claim are set out in the instructions below.

3.2 Each claim should be assessed to determine whether there are reasonable grounds for believing that the Claimant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion,

nationality, membership of a particular social group or political opinion. The approach set out in Karanakaran should be followed when deciding how much weight to be given to the material provided in support of the claim (see the API on Assessing the Claim).

3.3 If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.

3.4 This guidance is not designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the API on Assessing the Claim)

3.5 Also, this guidance does not generally provide information on whether or not a person should be excluded from the Refugee Convention or from Humanitarian Protection or Discretionary Leave. (See API on Humanitarian Protection and API on Exclusion under Article 1F or 33(2) and API on DL)

All APIs can be accessed via the IND website at:

http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/apis.html

3.6 Members/suspected members of the Lords Resistance Army (LRA)

3.6.1 Most claimants will claim asylum based on ill treatment amounting to persecution at the hands of the Ugandan authorities due to their involvement with/support for the Lords Resistance Army (LRA).

3.6.2 Treatment The Ugandan Peoples Defence Force (UPDF) are implicated in the torture and illegal detention of suspected rebels and rebel sympathizers. [6.2, 6.3, 6.4] It is reported that the Ugandan security and intelligence agencies have used torture to coerce detainees to provide information or confess, detaining suspects in illegal places of detention called 'safe houses,' and holding them for weeks or months without ever charging them with any crime. [6.5]

3.6.3 The Lord's Resistance Army, which has been fighting the Ugandan Government for nearly 18 years, has become known for its brutality. [6.75] Its leader Joseph Kony is shrouded in a veil of secrecy: on the one hand he is presented as a disorganised criminal who can be quickly and easily crushed, and on the other he is portrayed as an invincible messenger of God whom no bullets can penetrate. [6.78]

3.6.4 The LRA has abducted thousands of civilians for training as guerrillas; most victims are children and young adults whom the LRA forced into virtual slavery as labourers, soldiers, guards, and sex slaves. More than 85 percent of LRA forces are reportedly made up of children whom the LRA has abducted. [6.82]

3.6.5 Civil strife in the north and east led to the violation of the rights of members of the Acholi ethnic group. LRA rebels, who were themselves largely Acholi, committed abuses against ethnic Acholi and other ethnic groups. During 2004, the UPDF committed abuses against ethnic Acholi during combat operations against the LRA. [6.36] Security forces tortured and abused civilians suspected of collaborating with the LRA; however, there were no reports that security forces had killed any suspected collaborators in 2004. [6.92]

3.6.6 In December 1999 Parliament passed a Bill granting a general amnesty to all rebels who had been fighting to overthrow the Museveni Government and who were prepared to renounce rebellion. An Amnesty Act was passed in January 2000 with a date of commencement of 21 January 2000. [6.6]

3.6.7 According to the Foreign and Commonwealth Office, this law is unconditional and open to all levels within the rebel movements. Despite formal notification the amnesty remains in force. The amnesty covers any Ugandan residing within or outside of the country. [6.7]

3.6.8 It is reported that between 2000 and 2003, 10,000 rebels surrendered and applied for an amnesty. Of those who surrendered, 3,848 were from the LRA. [6.116]

3.6.9 In January 2003, the International Organisation of Migration (IOM) office in Kenya launched a programme to screen former LRA rebels abroad who wished to apply for the amnesty and return to Uganda. As of the 28 January 2003, a total of 358 Ugandans had registered with the IOM to take advantage of the amnesty. [6.10]

3.6.10 On 13 July 2004 thousands of people had turned out to watch as around 300 former Lord's Resistance Army (LRA) rebels marched through Gulu town before heading to a showground for the

passing-out ceremony. They were then welcomed into the regular Ugandan army. [5.91]

3.6.11 Sufficiency of protection. As this category of claimants' fear is of ill treatment/persecution by the state authorities they cannot apply to these authorities for protection. However, an amnesty exists for members and supporters of all rebel groups in Uganda including the LRA and anyone who surrenders under this amnesty will be able to seek the protection of the authorities. The IAT found in UKIAT 00166 (see below para 3.7.14) that there is no evidence to show that the appellant (an ADF supporter) would be incarcerated if he returned to Uganda under the amnesty as returning rebels were not. While this relates specifically to an ADF supporter it can apply equally to members of the LRA.

3.6.12 Internal relocation. In general, as this category of claimants fear is of ill treatment/persecution by the state authorities relocation to a different area of the country to escape this threat is not feasible. However, the IAT found in UKIAT 00326 LA (below) that a suspected supporter of the LRA who had been illegally detained in northern Uganda by the authorities would not appear on a wanted list and therefore would be able to internally relocate to another part of Uganda in particular to the capital Kampala.

3.6.13 Caselaw.

[2004] UKIAT 00326) LA (Acholi - Gulu detainee - Returnees) Heard 15 July 2004 The appellant was a member of the Acholi ethnic group who was accused of being a supporter of the LRA and was detained by the Ugandan authorities. The IAT found that even if there were a record of her detention in Gulu, the issue then remains as to whether or not it resulted in her name appearing on a list of wanted persons. The logistics of maintaining a list of all those who are unlawfully detained are formidable. In our judgement there is neither evidence that such a list is feasible nor that, as a matter of fact, it exists in Uganda. In our judgement, there is no credible evidence that, were she to settle in accommodation in Kampala or elsewhere, the events in Gulu are likely to come to the attention of the authorities so as to put her at risk.

3.6.14 Conclusion. As a result of the ongoing conflict in northern Uganda some suspected members/supporters of the LRA may face ill treatment at the hands of the Ugandan security forces. However, members and supporters of the LRA are able to take advantage of the Governments amnesty and seek the protection of the Ugandan authorities. It may also possible for members/supporters of the LRA to internally relocate to another area of Uganda. Therefore, in the majority of cases it is unlikely that a grant of asylum or Humanitarian Protection will be appropriate.

3.7 Members/suspected members of other rebel groups

3.7.1 Some claimants will claim asylum based on ill treatment amounting to persecution at the hands of the Ugandan authorities due to their involvement with/support for other rebel groups notably the Allied Democratic Front (ADF), the Peoples Redemption Army (PRA), the National Army/Union for the Liberation of Uganda (NALU/NULU), the West Nile Bank Front (WNBFF), the United National Rescue Front II (UNRF II), and the Citizens Army for Multiparty Politics (CAMP).

3.7.2 Treatment. The Ugandan Peoples Defence Force (UPDF) are implicated in the torture and illegal detention of suspected rebels and rebel sympathizers. [6.2, 6.3, 6.4] It is reported that the Ugandan security and intelligence agencies have used torture to coerce detainees to provide information or confess, detaining suspects in illegal places of detention called 'safe houses,' and holding them for weeks or months without ever charging them with any crime. [6.5]

Allied Democratic Front (ADF)

3.7.3 Since the Amnesty Law came into force over 500 ADF rebels had surrendered in Kasese. Their former Chief of Staff Chris Tushabe Benz surrendered and is now a UPDF Major. [6.106] On 13 August 2004, 22 members of a Muslim group charged with financing the ADF were set free after treason charges were withdrawn. [6.107]

Peoples Redemption Army (PRA)

3.7.4 During 2003 and 2004, the Government has arrested and charged with treason more than 40 persons for collaborating with the People's Redemption Army (PRA); none of the 40 had been tried by the end of 2004. [1] The Ugandan Defence Minister Amama Mbabazi reported that both the Allied Democratic Forces (ADF) and People's Redemption Army (PRA) rebels are still alive and active and preparing to attack Uganda from the Democratic Republic of Congo (DRC). [2]

National Army/Union for the Liberation of Uganda (NALU/NULU)

3.7.5 The ADF website claims the National Army/Union for the Liberation of Uganda (NALU/NULU) is an ADF- affiliated group. They have claimed responsibility for terrorist attacks that resulted in fatalities. Its aims

were unclear and most of its operations were aimed against the local peasant population. It faded from view in 1994 and was thought defunct, most of the members having been absorbed into the ADF. However, they re-emerged in 1997 under the leadership of Jafari K Salimu and issued both a manifesto dedicated to overthrowing the Government and an invitation to President Museveni to meet them. [6.114]

West Nile Bank Front (WNBFB)

3.7.6 The now largely defunct West Nile Bank Front (WNBFB) was mainly concerned with destabilising northern Uganda from bases in Sudan, but had linked up with Interahamwe and anti-RCD rebels around the Bunia area of the DRC. The Front resumed attacks during 1998 in the northwestern region bordering Sudan and the Democratic Republic of Congo. In September 1998, the Monitor newspaper in Kampala reported that the WNBFB were active and had abducted about 220 people since August 1998 and killed several others in the Arua area. It was reported in the Africa Research Bulletin dated July 2001 that the group commander Juma Oris had died in March 2001 and had already been buried. He had reportedly suffered a stroke in 1999. [6.108]

3.7.7 It is reported that between 2000 and 2003, 10,000 rebels surrendered and applied for amnesty. Of those who surrendered 1,990 were from the WNBFB. [6.119]

United National Rescue Front II (UNRF II)

3.7.8 It is reported that the United National Rescue Front II (UNRF II) operates from Sudanese bases and was also supported by the Government of Sudan. It is also reported that the UNRF II have split into two factions, the original led by Juma Oris and the breakaway group by Ali Bamuzes. [6.109]

3.7.9 The New Vision Newspaper reported on 2 May 2002 that the Government of Uganda had sent a nine-member team led by the First Deputy Prime Minister and Minister of Internal Affairs to talk peace with the UNRFII rebels in Yumbe District. On 15 June 2002, the Government of Uganda and the UNRF signed a formal cease-fire agreement. [6.110]

3.7.10 Around 1,000 combatants of the Uganda National Rescue Front II and their families returned to Uganda in April 2002, having been based in Sudan since 1997. After negotiations with the government, 135 child soldiers were handed over to UNICEF. [6.113] It is reported that between 2000 and 2003, 10,000 rebels surrendered and applied for amnesty. Of those who surrendered, 2,902 were from the UNRF II. [6.116]

3.7.11 In September 2002, Nasur Ezaga, the elderly former chairman of the UNRF returned to Uganda after having spent the last 13 years in exile in Sudan. He said that his return was a testament that the government of Uganda was interested and serious about the peace process. [6.111] As part of the peace deal signed in December 2002 about 700 of the rebels were to be integrated into the Ugandan army while the remainder will be given resettlement packages. [6.112]

Citizens Army for Multiparty Politics (CAMP)

3.7.12 The Citizens Army for Multiparty Politics (CAMP) was originally led by Brigadier Smith Opon Acak, (who had been Obote's army chief of staff). He was shot by the UPDF in July 1999 when they raided his camp near the town of Lira in northern Uganda. [6.115]

3.7.13 Sufficiency of protection. As this category of claimants' fear is of ill treatment/persecution by the state authorities they cannot apply to these authorities for protection. However, an amnesty exists for members and supporters of all rebel groups in Uganda and anyone who surrenders under this amnesty will be able to seek the protection of the authorities. The IAT found in UKIAT 00166 (see below) that there is no evidence to show that the appellant (an ADF supporter) would be incarcerated if he returned to Uganda under the amnesty as returning rebels were not.

3.7.14 Internal relocation. In general, as this category of claimants fear is of ill treatment/persecution by the state authorities relocation to a different area of the country to escape this threat is not feasible. However, the IAT found in UKIAT 00326 LA (see above para 3.6.13) that a suspected supporter of the LRA who had been illegally detained by the Ugandan authorities would not appear on a wanted list and would be able to internally relocate to another part of Uganda in particular to Kampala. While this relates specifically to an LRA supporter it can apply equally to members of other rebel groups.

3.7.15 Caselaw.

[2004] UKIAT 00166 (Uganda) Heard 28 May 2004, Promulgated 22 June 2004 The appellant was a youth mobiliser for the ADF, and used to talk to people on a one to one basis, explaining the position of the ADF and also recruiting people. However he was not involved in any violence and did not witness any violence.

The IAT found that there is no evidence to show that the appellant would be incarcerated if he returned to Uganda under the amnesty as returning rebels were not, and the appellant was not even involved in the armed conflict. There is no reason why he would be viewed as a suspected terrorist. The human rights situation in Uganda is far from ideal and there is a climate of suspicion, however the adjudicator should not have found that the appellant would not benefit from the amnesty and the Tribunal do not find that the appellant would be rearrested as a suspected rebel.

3.7.16 Conclusion. Some suspected members/supporters of rebel groups may face ill treatment at the hands of the Ugandan security forces. However, members and supporters of any rebel group are able to take advantage of the Government's amnesty and seek the protection of the Ugandan authorities. It may also be possible for these members/supporters to internally relocate to another area of Uganda. Therefore, in the majority of cases it is unlikely that a grant of asylum or Humanitarian Protection will be appropriate.

3.8 Prison conditions

3.8.1 Claimants may claim that they cannot return to Uganda due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Uganda are so poor as to amount to torture or inhuman treatment or punishment.

3.8.2 Prison conditions remained harsh and frequently life threatening, primarily as a result of the Government's severely inadequate funding of prison facilities. In addition, there were several reports that security forces and guards tortured inmates. Prison conditions came closest to meeting international standards in Kampala, where prisons provided medical care, running water, and sanitation; however, these prisons were also the most overcrowded. There were an estimated 19,000 inmates in the country's prisons and police cells. By one estimate, the country's prisons held approximately three times their planned capacity. The central prison system continued to work with NGOs and the donor community to improve prison buildings, water and sanitation systems, food, and the provision of uniforms; however, progress was minimal during the year. [5.82]

3.8.3 Although the law provides for access to prisoners by their families, ignorance of this right and fear of prison authorities often limited family visits. The Uganda Human Rights Commission (UHRC) reported that it received allegations that officers in charge of police cells sometimes demanded bribes to allow visits. [5.83]

3.8.4 The Government permitted access to prisons by the International Committee of the Red Cross (ICRC), foreign diplomats, and local NGOs, principally Foundation for Human Rights Initiative and the Uganda Prisoners' Aid Foundation. The UHRC visited numerous prisons and reported on its findings publicly; however, the UHRC also complained that it was not given access to UPDF detention facilities or "safe houses." Prison authorities required advance notification of visits, a process that was sometimes subject to administrative delays. [5.84]

3.8.5 The Community Service Act seeks to reduce prison congestion by allowing petty offenders to do community service instead of being imprisoned. Since 2001, 1,726 offenders have been sentenced to community service in 4 pilot districts. By end of 2004, the program had been expanded to 10 additional districts. [5.85]

3.8.6 Female prisoners were held in segregated wings with female staff in most prisons but conditions were severely substandard. Due to lack of space in juvenile facilities, juveniles were often detained in prisons with adults. The central prison system maintained one juvenile prison and four remand homes. School facilities and health clinics in all five juvenile institutions were grossly inadequate, prisoners as young as 12 performed manual labour from dawn until dusk. Severe overcrowding also was a problem at juvenile detention facilities and in women's wings. The remand home in Kampala, designed for 45 inmates, held more than 80 children. In Kampala jails, pretrial detainees were kept separate from convicted prisoners; however, in the rest of the country, owing to financial constraints, pretrial detainees and convicted prisoners were sometimes held together. [5.87]

3.8.7 Caselaw

SSSEMANDA [2002] UKIAT 06119 Heard 19 December 2002 Promulgated 17 January 2003. The IAT found that following guidance set out in Fazilat [2002] UKIAT 00973 and on examining the conditions in Ugandan prisons based on the objective material they concluded there is no violation of Article 3 of ECHR to return the appellant.

3.8.8 Conclusion. Whilst prison conditions in Uganda are poor with overcrowding being a particular problem these conditions are unlikely to reach the minimum level of severity required to reach the Article 3 threshold.

3.8.9 Therefore, even where claimants can demonstrate a real risk of imprisonment on return to Uganda a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered, such as the seriousness or nature of the offence, the likely length of detention and the likely type of detention facility. These will need to be taken into account along with an individual's personal characteristics such as their age, gender and state of health. Individual cases, where the claimant demonstrates a real risk of imprisonment for a substantial period of time upon return, or where the claimant demonstrates a particular likelihood of ill-treatment, will need to be considered together with any personal characteristics which make the individual particularly vulnerable. Where taken together all these factors amount to a breach of Article 3 a grant of Humanitarian Protection will be appropriate. Where the real risk of imprisonment is related to one of the five Refugee Convention grounds a grant of asylum will be appropriate.

4. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See API on Discretionary Leave)

4.2 With particular reference to Uganda the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should not imply an automatic grant of DL. There may be other specific circumstances not covered by the categories below which warrant a grant of DL - see the API on Discretionary Leave.

4.3 Unaccompanied minors

4.3.1 The policy on unaccompanied minors is set out in the API on Children. Unaccompanied minors who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception arrangements in place.

4.3.2 Unaccompanied minors without a family to return to, or where there are not adequate reception arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period of three years or until their 18th birthday, whichever is the shorter period.

4.4 Medical treatment

4.4.1 Claimants may claim they cannot return to Uganda due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 to be engaged.

4.4.2 In September 2001, the Government, with the assistance of the African Development Bank, established a support to health sector strategic plan project. A statement issued by the permanent secretary, Ministry of Health, Richard Muhinda, said the project is aimed at strengthening mental health services in Uganda and added that it will also serve to address primary health care in northern Uganda. In October 2001, a new hospital opened in Gulu. The new hospital specialises in specialist services that will minimise travel for medical treatment outside Uganda. The hospital website states that the facility deals in such areas as cancer treatment, rheumatology, orthodontics, oncology, metabolic medicine, neurology, nephrology and cardiology. [5.103]

HIV/AIDS

4.4.3 According to an HIV/AIDS surveillance report released by the Ministry of Health in November 2002, 94,755 Ugandan children under the age of 15 years had died as a result of the disease. Statistics at the end of 2001 showed that out of 1,050,555 Ugandans living with HIV/AIDS, 105,055 were children under the age of 15 years. [5.107]

4.4.4 In June 2002, officials from the Ministry of Health and the United Nations children's fund UNICEF said they would be expanding the Prevention of Mother-to-Child HIV Transmission (PMTCT) project following successful pilot trials at six sites in four districts. Under the project, all mothers attending antenatal clinics would be counselled about the need to take HIV tests. Those who test HIV positive and their babies would receive free doses of the drugs, which reduce mother-to-child HIV transmission. They also receive counselling and support. In August 2002, the Government announced that they plan to provide free anti-retroviral treatment for more than 2,000 AIDS patients countrywide. [5.108]

4.4.5 In February 2003, trial of a preventive HIV/AIDS vaccine began on human volunteers in Entebbe, by

the Uganda Virus Research Institute (UVRI). [5.109]

4.4.6 Uganda's response to HIV/AIDS has been comprehensive and, therefore, is seen as a model for the rest of sub-Saharan Africa. Since 1992, HIV prevalence in Uganda has dropped by more than 50% (the most marked decline has been in people aged 15 - 24 years), and significant changes in HIV-related behaviors have been documented. The government's openness about HIV/AIDS has enabled numerous multilateral and bilateral, indigenous, and international non governmental organizations (NGOs) to work on HIV/AIDS in Uganda. In addition, numerous community-led initiatives characterized Uganda's early response to HIV/AIDS. The overall prevalence of HIV/AIDS in the country is 4.8%, with prevalence estimates of roughly 10% and 4% for the urban and rural populations respectively. The total of new AIDS cases in 2002 was 73,830, compared to 99,031 new cases reported in 1999 and 2000 combined. Of the new AIDS cases in 2002, 17,050 were in children under 15 years of age. Transmission is mainly heterosexual (75%-80%); mother-to-child-transmission (MTCT) accounts for 15%-25%; infected blood products 2%-4%, and use of non-sterile instruments less than 1%. [5.110]

4.4.7 Anti-Retroviral Drugs (ARV's) are available in Uganda, and the Government is to receive a further US\$36 million under the Global Fund for HIV/AIDS to help fight the AIDS pandemic. According to the Minister of Health a total of 10,000 people (one-third of the ARV users in sub-Saharan Africa), are in Uganda. [68f] AIDS Healthcare, one of the United States' specialised provider of HIV/AIDS medical care currently operate a completely free AIDS treatment clinic in Masaka. [5.111]

4.4.8 HIV treatment is readily available from any hospital and many private clinics in Uganda. There is considerable expertise within Uganda for HIV, as experts from USA and Britain are doing a lot of research in Uganda. Some Ugandan specialists also have internationally recognised experience. [5.112]

4.4.9 Most ARV drugs are available such as Zalcitabine. Indian generic drugs are used in preference to the more costly western versions and even European doctors in Uganda use these Indian generics by choice in preference to heavily promoted brand names. Management of HIV is considered to be adequate and in many centres at least as good as in the U.K. The drugs are very readily available at relatively cheap prices. A plane ticket to U.K costs the same as 2 years treatment. [5.113]

Mental Health

4.4.10 In 1996, encouraged by WHO, the health ministry began to strengthen mental health services and integrate them into primary health care. Standards and guidelines were developed for the care of epilepsy and for the mental health of children and adults, from community level to tertiary institutions. Health workers were trained to recognize and manage or refer common mental and neurological disorders. A new referral system was established along with a supervisory support network. Linkages were set up with other programmes such as those on AIDS, adolescent and reproductive health, and health education. Efforts were made to raise awareness of mental health in the general population. The Mental Health Act was revised and integrated into a Health Services Bill. Mental and neurological drugs have been included in the essential drugs list. Mental health has been included as a component of the national minimum health care package. Mental health is now part of the health ministry budget. Mental health units are to be built at 6 of the 10 regional referral hospitals, and the capacity of the 900-bed national psychiatric hospital is to be reduced by half. [5.115]

4.4.11 In 2000 Uganda formulated a mental health policy based on advocacy, promotion, prevention, treatment, and rehabilitation. This revised the previous policy formulated in 1996. [5.116]

4.4.12 Uganda treats mental health as part of the primary healthcare system but treatment for severe mental disorders is not available at the primary level. However such treatment is available at the 10 regional referral centres and the National Mental Referral Hospital. Uganda spends around 0.7 percent of the total health budget on mental health and there exists an essential drugs list (for therapeutic drugs), first formulated in 1993 and subsequently reviewed in 1996 and 2001. [5.117]

4.4.13 Caselaw

[2005] UKIAT 00012 FM (Uganda) Heard 29 September 2004 Promulgated 17 January 2005 The Tribunal reviewed the principles in the case of N [2003] EWCA Civ 1369. The Tribunal found that N continues to be a binding authority in cases such as this. The use of N as a benchmark in ill-health cases of this kind has been specifically endorsed by the Tribunal in the case of UK Rwanda [2004] UKIAT 00262 and that approach remains correct in the light of both Ullah and CA .

In respect of Article 8 the Tribunal recognized that, given its qualified nature, Article 8 could only avail the Respondent if the circumstances of her case were such that removal could not be said to be within the range of reasonable responses open to the Secretary of State. Courts and Tribunals must recognize that

the Secretary of State's policy will be to pay particular regard to the importance of maintaining effective immigration controls.

4.4.14 Conclusion The Article 3 threshold will not be breached in the great majority of medical cases and the grant of Discretionary Leave will usually not be appropriate. However, where a caseworker considers that the circumstances of the individual claimant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of Discretionary Leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

5.1 Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim.

5.2 Ugandan nationals may return voluntarily to any region of Uganda at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Uganda. The programme was established in 2001, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Ugandan nationals wishing to avail themselves of this opportunity for assisted return to Uganda should be put in contact with the IOM offices in London on 020 7233 0001 or www.iomlondon.org.

6. List of additional sources

- [1] United States State Department, Report on Human Rights' Practices for 2004, Uganda.
- [2] Africa News, 'Museveni Warns Kabila Over Border Rebel Threats' 27 June 2005

Asylum and Appeals Policy Directorate
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