

# More than half of prisoners rotting in jail without trial

By Achola Rosario

**L**ydia Draru, the suspected killer of former Army Commander Maj. Gen. James Kazini, is still in Luzira Prison. She has been there since November 11, 2009. Her trial has never come up and the Director of Public Prosecutions does not say when her case will be heard. No one really seems to care either. She is not alone. She is one of the thousands of suspects who have been in jail for years without trial.

A latest report by Avocats Sans Frontiers (Lawyers without Borders) shows that 32 percent of the 2,000 interviewed suspects who were still awaiting trial by the second half of 2010 had been in prison longer than the period allowed by the Ugandan Constitution. A total of 348 detainees who fell under the jurisdiction of the army's General Court Martial were the biggest victims of this prolonged detention without trial.

The Ugandan constitution sets a maximum of 180 days in detention for capital offences, which crimes may lead to a death sentence on conviction. For other offences, it is 60 days. Upon expiry of 180 days mandatory remand for capital offences, the suspects are required to be committed to the High Court for trial. However, thousands of suspects have been detained beyond the constitutional remand period for the offences brought against them. The Avocats Sans Frontiers found that over 240 people had been held without trial for an average of 488 days after their capital cases were committed to the High Court for hearing. "This is a major loophole in the Constitution and a serious problem in the criminal justice system," says Melanie Reimer, ASF Head of Mission in Uganda. "We recommend urgent action to ensure that people in this situation are not being kept indefinitely in detention without their cases being brought to trial."

Detainees charged with capital offences usually had been in detention without trial for an average of well over one year, which is more than twice the maximum remand period allowed by the constitution.

Between 2006 and 2008 suspects constituted about 60% of the prison population, with convicted persons the minority of the prisoners. The report says that by August 2006, there were 18,250 prisoners across the country and more than half of these (10,590 individuals) were still awaiting trial. A few months earlier, a February 2006 report found that there were 4,700 persons accused of capital offences whose cases had not been heard long after they had been committed to the High Court for trial. At least 375 of the accused had been in prison for more than



President Museveni



Chief Justice Benjamin Odoki

four years.

The report found that by March 2010 the population of the Ugandan prisons had risen to 30,585 and out of these, 17,015 were suspects whose cases had not been heard in court. That accounted for 55.6% of total prisoners in the country. Most of the prisons included in this study are pathetically overcrowded between 200-350% above capacity. Although amendments to the Constitution were made in 2005 to reduce the maximum limit of detention periods prior to the beginning of trial, these changes have not translated into any significant improvement in decongesting prisons.

The Uganda Prisons Public Relations

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Officer Frank Baine Mayanja confirmed extended detention of suspects and said out of 31,000 inmates, only 15,000 have been convicted, meaning the rest are in jail still waiting for trial. "It is a problem but it is a lot better than it was before. The [remand] duration for capital offenders used to be six years, but now it is slightly over one year. There is a special court circuit that has been instituted that has really helped matters and drastically reduced pending case loads. Judges move all around the country trying cases because the number of judges are few. They even try cases on weekends," Baine says.

He says there are several measures which have been undertaken to reduce congestion in prisons by using alternatives to custodial punishments for certain offences. Such alternative sentences include community service and using traditional justice systems like community elders. With President Museveni's recent proposal to amend the constitution to remove bail for people accused of public riots, rape, murder and economic sabotage, the prolonged detention and congestion in prisons will become much worse. "Of course it would have a negative effect on us because congestion would increase. We are currently requesting for new prisons to be built to accommodate the rising number of prisoners. Look at what happened when the defilement law was passed- 50% of our inmates now are here on defilement charges," Baine says.

The report says that detention centres run by the Chieftaincy of Military Intelligence are where the most serious human rights violations are committed because access by human rights agencies is restricted.

The Ugandan constitution provides that it's only the police with power to arrest and investigate crimes while the only authorised civilian detention centres are police and prison facilities.

However the reality on the ground is different. There are other security agencies discharging law enforcement responsibilities. In its 2009 report titled "Open Secret", the Human Rights Watch says that in the past decade there has been a proliferation of ad hoc security outfits within the law enforcement and intelligence communities. They include Joint Anti-Terrorism Task Force (JATT), Popular Intelligence Network (PIN) and Kalangala Action Plan. Furthermore, Operation Wembley, a joint endeavor involving the police and the intelligence was established in 2002 to combat violent crime in urban centres mainly the capital Kampala. Though it was officially disbanded, it has informally continued existing within the security framework. ■