

Judicial Integrity Committee field visit Report , November/ December 2013.

PRESENTED AT THE JUDGES' CONFERENCE 2014

PRESENTER: HON. JUSTICE JOTHAM TUMWESIGYE,
CHAIRPERSON, JLOS INTEGRITY COMMITTEE

DATE: 27th JANUARY, 2014

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Introduction

- This is a report on the JLOS Integrity tour conducted in the Southern Region from 25th November to 2nd December, 2013.
- It was a follow up survey on the previous one conducted in 2012 to monitor Judicial Integrity and assess whether there was improvement in public perceptions about the JLOS Institutions' performance

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Team Composition

- There were eight teams with the following leadership;
- The **Central team** was led by Hon. Justice Elizabeth Musoke and included Mrs Dorcas W. Okalany, Secretary to the Judiciary, with other JLOS members and Mr. Okurut Felix, as the Secretary to the team.
- The **south Central team** was led by Hon. Justice Asaph Ruhinda and included other JLOS members and Mr. Tuhimbise Valerian, as the Secretary to the team.
- The **Eastern Team** that included the Inspector of Courts was led by Hon. Justice Batema David with Mr Chemutai David as Secretary.

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Team Composition (cont')

- The **West Nile team** was led by Mr Muhindo Ngene with other JLOS members and Ms. Naamala Immaculate, as the Secretary to the team.
- The **South Western team** was led by Hon. Justice John Eudes Keitirima and included other JLOS members with Mr. Waniale Benjamin, as the Secretary to the team.
- The **Northern Team** was led by Hon. Justice Henrietta Wolayo with Mr Mubiru Stephen as Secretary

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Team Composition (cont')

- The **Western Team** was led by Hon. Justice Jotham Tumwesigye and included other JLOS members with Mr. Ssemogerere Robert, as the Secretary to the team.

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Geographical Scope

- The teams covered the entire country visiting selected Courts, Prisons, Police stations and Remand Homes where available.

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Objectives

- Find out if Key JLOS Institutions officers and staff (Judiciary, DPP, Police, Prisons, and Probation etc) were complying with ethical and Integrity standards.
- Ascertain if the public was aware of the initiatives and steps that the JLOS Institutions have taken to curb corruption.
- Find out whether the public was aware of the channels of forwarding complaints in case they were dissatisfied with the delivery of Justice.

Objectives (cont'd)

- Know if cases were being heard expeditiously and judgments delivered on time.
- Get the views of all stakeholders on the quality of service delivery in the Justice Law and Order Sector.
- Find out if the DCC's were operational in the respective areas.
- Find out the challenges faced by JLOS Institutions in the delivery of Justice.

Methodology

- The team traveled to the selected JLOS stations and held Focus Group Discussions with various stakeholders.
- The issues raised by the external stakeholders were discussed with the JLOS staff in form of feedback with a view to getting solutions and suggestions or reactions. Institution specific meetings were held depending on the issues raised.
- All meetings commenced with self introductions followed by presentation of objectives of the visit, the mandate of the JLOS Integrity Committee (JIC) and thereafter, guiding questions were asked by the JIC team, followed by discussions.

Category of Respondents

- **Members of the Public:** Litigants and / or Court Users (Civil society Groups), Traditional leaders and religious leaders, Chief Administrative Officers(CAO) District , Chairperson (LCV) , Resident District Commissioners (RDC) and District Security Officers (DISO)
- **JLOS :** State Attorneys, Criminal Investigation Officers (CID), District, Police Commanders (DPC), Probation and Welfare Officers, Prison Officers, Judiciary staff
- **Staff of JOS institutions met separately**

Compliance with ethical and integrity standards

- **Loss of files.**
 - There was a public outcry over missing files which made cases to drag. In Nakawa, this was reported in the case Ref CS 123/2008. In Mpiigi, a file from Buwama got lost but later resurfaced albeit with missing records from the lower Court Ref **CR BWM 637/2011** in the matter of **UG V Nalwadda Annet**. In Luzira Women Prison, **Namayanja Agness (Murder suspect)** was committed in Dec. 2010 but the police file was still missing.
 - In Masindi, there was failure to trace completed files due to lack of archives to keep closed files.
 - In Soroti, prisoners reported that the missing court/Police files had made them over stay on remand.
 - In Bushenyi, files mysteriously disappear and then miraculously appear after money has been paid.

Compliance with ethical and integrity standards (Cont'd)

- **Absenteeism by the Judicial Officer**
 - The Mag. Gll of Kamengo/ Kibibi HW Muhumuza peregrine had reportedly not been at the Kamengo Court since reporting after the transfer to the station.
 - In Mityana, Concern was raised about deploying a Magistrate GI who is indisposed. The officer is off and on, sickly and irregular at station-causing unnecessary adjournments / delayed judgments
 - The Chief Magistrate of Moyo was said to be largely absent from the station
- **Failure to issue Community Service Order (CSOs)**
 - There was general failure by Magistrates to Issue Community Service Orders and where it was issued, the complainants also complained.

Compliance with ethical and integrity standards (Cont'd)

- ❑ **Failure to visit Locus in quo-**
 - ❑ This was reported in many areas but it was largely attributed to inadequate facilitation in terms of transport and financial support. In Kalangala, given the need to visit over 65 Islands, the Only Magistrate reportedly lack a boat to facilitate the much needed visits.
 - ❑ The failure to visit locus in quo raised issues of legitimacy of judgments passed.

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Compliance with ethical and integrity standards (Cont'd)

- ❑ **Poor service of Summons**
 - There were complaints of ineffective Service of Summons in all areas visited.
- ❑ **Interference with Court Orders**
 - ❑ The RDCs and Police were generally accused of interfering with Court Orders in the name of clearing them.

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Compliance with ethical and integrity standards (Cont'd)

- ❑ **Poor investigations by the Police**
 - ❑ It was reported that Police CIDs did not visit scenes of crime and charged for dog services. The few scenes visited were reportedly visited over ten hours late without condoning off the scene of crime rendering it a futile exercise.
- ❑ **Extortion of money for transfer of files to the Executions Division**
 - ❑ The bailiffs complained bitterly against extortion of money by police for clearance of execution orders which was reportedly done at a painfully slow pace in Kampala.

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Compliance with ethical and integrity standards (Cont'd)

- ❑ **Connivance of lawyers with the rich party**
 - There were complaints of lawyers conniving with the opposite party to defeat their clients cases in exchange for money and other benefits. Some were accused of extorting money purportedly for bail while others only met their clients in court especially the state brief Lawyers.
- ❑ **Soliciting for bribes**
 - ❑ There were complaints of soliciting for bribes by the JLOS staff where police allegedly sold police bond to the rich and Courts with DPP connived to sale bail.

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Compliance with ethical and integrity standards (Cont'd)

- ❑ **Over stay at Police Cells**
 - ❑ It was reported that Police was not following the statutory 48 hr rule for holding suspects in all areas visited.
- ❑ **Police failure to return prisoners/ suspects property**
 - There were complaints in all areas visited that Police did not hand back the suspects property on either release/ transfer and this was backed by possession of police APP forms by prisoners in the prisons visited.

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Compliance with ethical and integrity standards (Cont'd)

- ❑ **Failure/ refusal to issue bail/ traffic report receipts**
 - ❑ This was reported in some areas and the Chief Magistrate of Bushenyi was accused of issuing non cash bail in court but still require people to pay money in cash with no receipts. The former GII of Ngongwe Court was also a culprit of the same and it was confirmed by the current GII. Relatedly, the CID/ Traffic reports were also reportedly given in Lugazi without receipts
- ❑ **Police tendency to criminalize civil cases**
 - There were complaints in all areas visited that Police was in habit of making civil cases Criminal for obvious reasons. This was confirmed by the defense of police officers that often, Civil cases like land resulted into criminal matters and they were thus simply preventing crime.

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Public Awareness of Initiatives to curb corruption in JLOS

- Generally, the public was aware of dismissals of implicated Judicial Officers and not action by other Institutions.

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Public Knowledge of Complaints channels

- The greater percentage of the public were confused by the many seemingly available complaints channels as evidenced by the fact that people complained to the President's Office; RDCs while some would go to the to the right Channels. The team in every meeting gave the right complaints telephone numbers and other contacts.

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Hearing of cases and timely delivery of Judgements

• Adjournments of cases

There were complaints of long adjournments of cases of from October 2013 up-to April 2014 which the Judicial Officers attributed to the full diaries of both the bench and the bar.

There were also complaints of multiple adjournments. In **Gerald Mbalire Kasanya V Musa Kavuma Ref LS 16/2009** had allegedly been adjourned a record 15 times! In Some areas such as in Kaabong, adjournments were attributed to lack of transport by the prisons to produce remandees in court.

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Hearing of cases and timely delivery of Judgements

• Fixing of all cases at 9:00 am

These was said to cause both litigants and witnesses to spend the whole day in Court but later end up being adjourned.

• Failure to consult complainants when adjourning

- There was a common complaint that the Bench only consulted the accused and the DPP in Criminal matters while in Civil matters only the Respondent was consulted.

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Hearing of cases and timely delivery of Judgements (Cont'd)

• Late Coming by JLOS

In Mpigi, it was reported that Officers in the old regime especially HW Mluwonge who was formerly in Buwama Court, reported for work as late as 1 pm and closed at 3 pm. However, there was reportedly a big improvement in most areas visited.

• Lack of interpreters/ audibility in Court

It was reported that in most Courts, there were only Luganda Interpreters available. The issue of audibility of both the Judicial Officers and Clerks in Court was also a point of concern by the public.

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Hearing of cases and timely delivery of Judgements (Cont'd)

• Delays in hearing Appeals

- Appeals especially in Court of Appeal were said to be stagnant. A case in point was Nakabugo Josephine whose Appeal had been pending without a response since 2011 as she is serving the sentence (ref 277/2011)

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Hearing of cases and timely delivery of Judgements (Cont'd)

• Delay in delivery of Judgments

This general complaint in most areas visited was illustrated in the case of **Nakafero Annet** (Ref. HCT- CR-SC- 001/ 2001/2 which allegedly was heard by a quorum of three Justices of Appeal and concluded on 24th November 2009 but no Judgment had been delivered at the time of the visit in Luzira Women Prison.

• Status of prisoners awaiting the fate of Mag in the Anti-corruption Court

This was also a point of concern for the prisoners like **Nasejje Mary B** of **Luzira Women** who had as a result stayed on remand for 11 months.

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Views of stakeholders on Quality of Justice

- Stakeholders were particularly happy with some JLOS Officers like Hw Kamasanyu Gladys Mag. G.I of Nakawa Court; Hw Nkore Jolly Mag. G. I of Nakifuma court; the DPC of Lugazi; Hw Natukunda Janeva Mag. G. I of Lugazi; Hw Komakech Kenneth Mag. G. I Kira Court, Hw Nkonge Agnes- CM Mityana , Hw Ajuna Doreen – G. I Sembabule, Hw Gimugu Kabiri – G. I Kalalanga, the State Attorney- Lyantonde.

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Views of stakeholders on Quality of Justice(Drawbacks)

- Lack of transparency of some courts where **Judgment debtors** were reportedly taken to chambers and made to sign consent judgments late in the day without any form of explanation.
- Lack of witness facilitation which used to be there.
- Holding of Juveniles with adults especially at police cells breeds future hardened criminals.

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Views of stakeholders on Quality of Justice(Drawbacks) Cont'd

- Lack of provision for hearing of family cases in camera especially in respect of victims of sexual violence.
- The lack of public sensitization on work procedures of JLOS institutions.
- Lack of a regulatory framework and Supervision for bailiffs leaves the work of bailiffs uncontrolled.

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Views of stakeholders on Quality of Justice(Drawbacks) Cont'd

- JLOS Institutions act of combining mentally sick suspects with those of a sound mind like in Mpigi raised Public Concern.
- The treatment of those living with HIV and those with young children left a lot to be desired.
- The constant/ frequent systems breakdown of URA system affects payments of Court fees and leads to delayed justice.

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Views of stakeholders on Quality of Justice(Drawbacks) Cont'd

- The lack of Customer care desks in most Courts even where the infrastructure was provided like in Mpigi was questioned by the public.
- Lack of suggestion boxes at JLOS Institutions.
- There were reports of torture and **gross abuse of human Rights** in some prisons particularly in eastern Uganda like Morukatipe in Tororo and most prison farms.

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Operations of DCCs

- **Lack of DCCs**
 - ▣ Most Courts visited had DCCs that met regularly save for isolated cases such as Kiira Court which was allegedly said to be part of Nakawa Court
- ▣ **Failure for DCC to meet**
- ▣ The project nature of DCCs means that they only meet when there is money sent by JLOS. In addition, they do not endeavor to plan some activities that promote their work.

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Challenges faced by JLOS Institutions

Courts

- Challenge of delivering Land Justice.
- Inadequate court Infrastructure in most courts visited.
- Lack of Furniture and Office Equipment.
- Lack of Transport Equipment for most courts including those in hard to reach areas.
- No Screening device for Security at most Courts.
- Places of convenience leave a lot to desire in most Courts.

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Challenges faced by JLOS Institutions(Cont'd)

Courts

- Lack of Legal reference material.
- Lack of internet connectivity.
- Understaffing at High Court and Magisterial Levels.
- Delay in Gazzetting Magisterial Areas.

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Challenges faced by JLOS Institutions(Cont'd)

DPP

- Lack of infrastructure eg in LDC they sit in one squeezed chamber and were happy to be moving into a container.
- Lack of transport Equipment.
- Delay in perusal of files at headquarters.
- Poor investigations by police.
- Understaffing at all levels especially state Attorney.

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Challenges faced by JLOS Institutions(Cont'd)

Police

- Lack of infrastructure eg in Lugazi, the public made a plea for police to have descent staff Accommodation.
- Limited transport and facilitation.
- Lack of cells for Juvenile suspects.
- Challenge of feeding suspects in police cells.
- Limited number of police surgeons.

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Challenges faced by JLOS Institutions(Cont'd)

Prisons

- Lack of water connectivity in most rural Prisons.
- Inadequate prison Uniforms.
- Limited transport facilities.
- Limited social workers.
- Overstay on remand puts pressure on the limited facilities.
- Challenge with prisoners awaiting Minister's Order eg **Adyeri Nyako (has waited for 11yrs).**

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Challenges faced by JLOS Institutions(Cont'd)

Remand Homes

- Lack of water connectivity in most prisons.
- Limited staffing eg in Naguru Remand Home, only six of the required nineteen workers were in place.
- Inability to provide education for the children in the remand homes and yet adult Prisoners at Luzira enjoy the right to Education.
- Lack of Uniforms for children including those at Naguru Remand Home.
- Challenge of adults sent to the remand home was a point of concern.
- Lack of adequate transport facilitation for the Children to attend Court.
- Over stay on remand (delays in High Court sessions).

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Observations: Have the previous issues been addressed?

- Generally, some Issues have been partly addressed while others still persist.
 - Disciplinary measures against errant officers have been taken including dismissal of lazy Officers but a reward system for good performers missing.
 - The appointments of Judicial Officers has been done but with the increased workload and retirements calls for more appointments.
 - The land Courts have been piloted alongside the small Claims procedures but there is need for a rollout to all other Courts.
 - Funds for visits to *Locus in Quo* by Judicial Officers have been provided though grossly inadequate.
 - Grade One Magistrates were designated as Family and Children's Courts but they need to be appropriately facilitated with the requisite facilities.

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Observations: Issues that have not been addressed

- Judiciary has not developed a master Human Resource Plan.
- 'Clearance' of Court orders continues to be a point of Concern among the Court users.
- Bailiffs Regulatory framework is still missing.
- Many courts still lack information desks.
- Many Courts still lack facilities for Persons with disabilities.
- Many Courts still do not hold open days.
- Feeding of prisoners/ suspects at Court is still a challenge.
- PROs office in the Judiciary has not been strengthened.

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Observations: Issues that have not been addressed

- Bar- bench forum has not been supported in all High court circuits.
- Recognition of excellent Judicial Officers has not been done.
- Facilitation of Judicial Officers in hard to reach areas still remains a challenge especially in the area of transport and accomodation.

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Recommendations

- The issue of witness facilitation for all courts should be addressed.
- Uniforms and nametags should be provided to all non judicial staff while the judicial staff should be provided with professional gowns. This should be done in DPPs office as well
- The fees payable for accessing judicial services should be displayed at the court.

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Recommendations (Cont'd)

- Information desks should be set up, equipped and staffed with knowledgeable staff in all Courts.
- Nakawa High Court Circuit jurisdiction should be redefined and relocated to either Mpigi or Kiboga for effectiveness and efficiency

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Recommendations (Cont'd)

- The JLOS should organize a special program to address the various challenges affecting remand homes in Uganda
- Uniforms and blankets should urgently be provided to the prisoners in all Prisons
- Give Land Justice special attention – Special Sessions, increase funds for visiting locus in quo
- Gazzete extra Chief Magistrates Courts in Masaka, Lira and Mpigi for effective supervision & Mgt

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Recommendations (Cont'd)

- A medical doctor should be co-opted on the DCC to act as a stopgap in issues relating to lack of a police surgeon
- The issue of housing for police officers should be addressed as a matter of urgency.
- Transport and other facilitation for Magistrates in hard to reach areas should be addressed.

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Recommendations (Cont'd)

- The JLOS sector consider the need to boost ICT in the sector for information sharing and e filing to ease tracking of files
- The JLOS should negotiate with the District Authorities to find land for the JLOS Institutions to ensure proximity
- Motorcycles should be provided to all Courts to ease service of Summons
- The issue of prisoners awaiting Minister's order should urgently be looked into

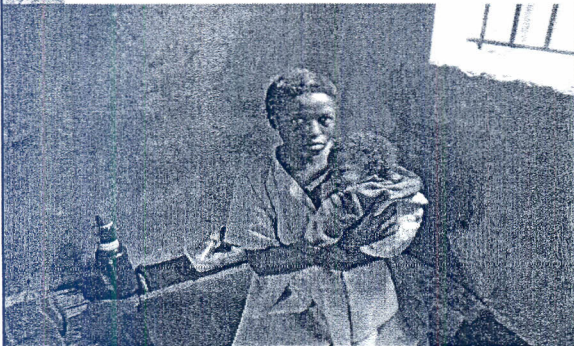
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Recommendations (Cont'd)

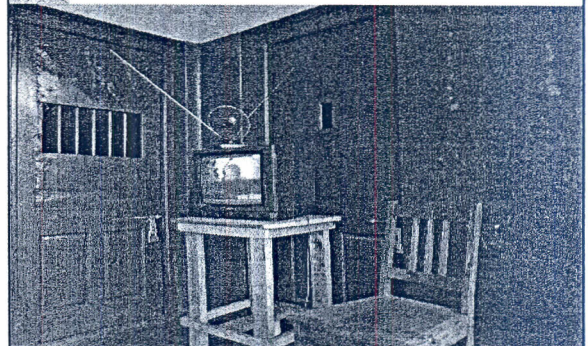
- The Director CID should write a circular to all Police stations to hand over prisoners' property.
- Introduce Counselling, Coaching & Mentoring Units for staff
- Salary enhancement for Sector staff esp Administrative staff / Clerks
- Streamline and expedite the bail refund process

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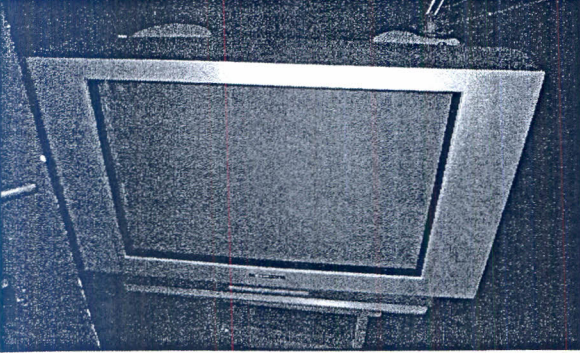
Mpigi Prison women accomodation



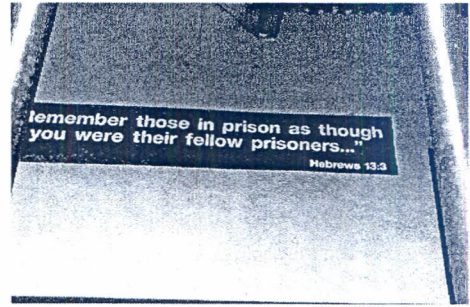
TV for men at Kauga



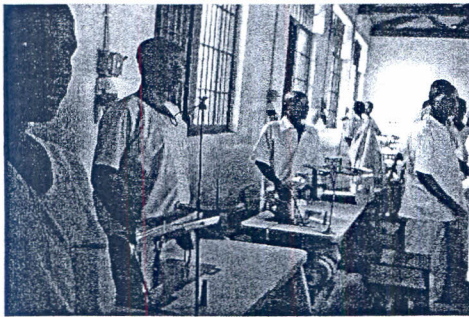
TV for women



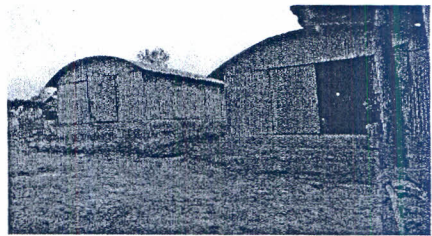
Reflection of prisoners



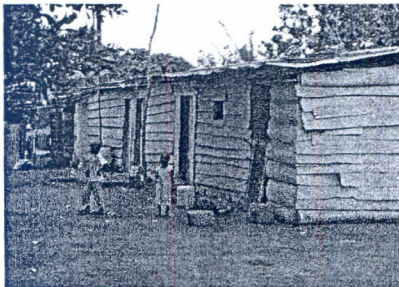
Prisoners in tailoring class- Masindi



Rakai Prison Facility



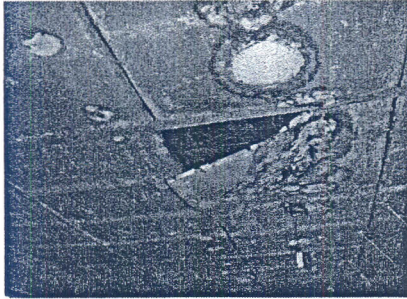
Kalangala Prisons staff quarters



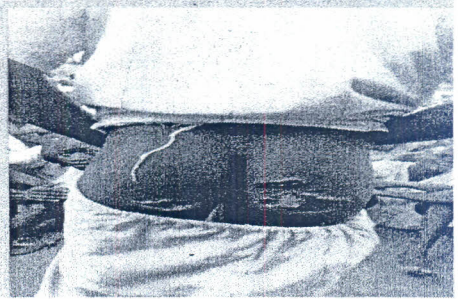
Kiboga Prison- inadequate uniform



Ceiling caving in at Ndora prison

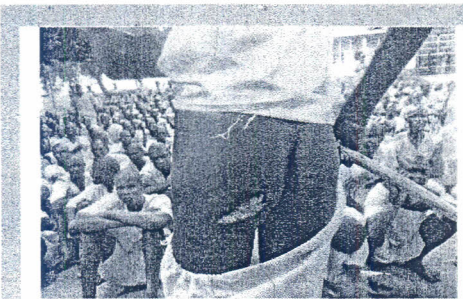


Aprisoner shows the team Torture marks



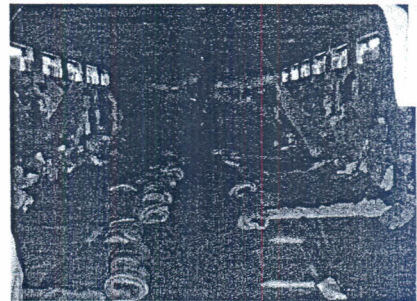
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Torture marks on a prisoner

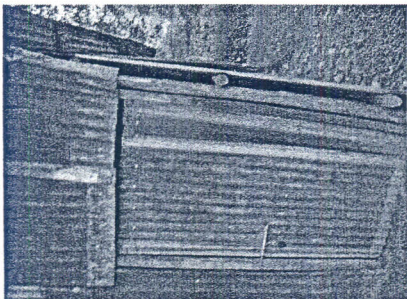


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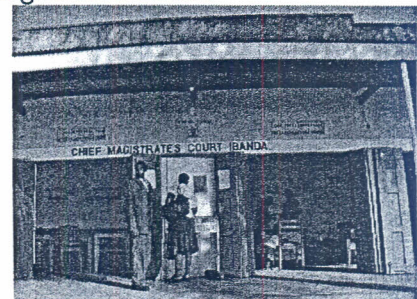
Congestion in Ndora prison



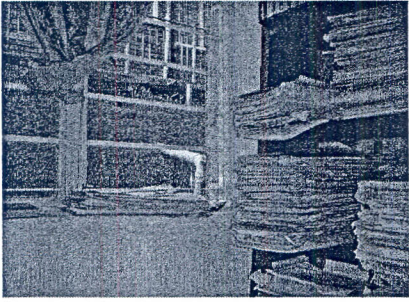
Exhibits' store at Kabale CM court



Poor Structure of Ibanda Chief Magistrates Court



Filing at Mbarara High Court



God Bless you

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