

# **Arua means ‘In Prison’: Resources in Colonial Punishment Practices**

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## **Abstract**

Prisons established in the colonial period in Uganda provided labour to the colonial administration. Whereas other forms of forced labour were phased out, prisoners continue to be used as a human resource on prison farms, in workshops and public work projects right up to the present day. The study of the colonial prison system shows how the formation of a legal and political apparatus was necessary to produce and maintain this prison labour. The apparatus included new laws that created new crimes. Courts and government administrative systems enforced these laws, sending more and more people to prison. An important part of the apparatus was a racist colonial ideology about the need to ‘uplift’ the colonized Africans and mould them into disciplined citizens who would work hard in a capitalist system. In this article, I draw on a larger study of the colonial experience of the Lugbara people of Arua District.

**Keywords:** Arua, Lugbara, prison labour, apparatus, resource

## **Introduction**

This article examines prison and prison labour as a material and non-material ‘resource’ within a colonial apparatus. Whereas Bruce-Lockhart (2022:1940), citing Minister of Internal Affairs Basil Bataringaya, observed that modern criminal justice is considered reclamation and social rehabilitation of the offender, this work deems colonial carceral justice as a source of labour for the protectorate. Colonial carceral justice was guided by Lombroso’s theory of atavism and biological determinism, which was prejudicial to blacks and other social groups that he considered inferior (Lombroso 2006:1). The central argument in this study is that colonial prisons in Uganda had a main role to play as a labour resource and institution to discipline the mind and body of the inferior subjects who were considered unruly in behaviour. Building on the case of imprisonment in the Lugbara area of West Nile Region, it shows how the larger apparatus of colonial administration and law produced prisoners whose labour could be exploited for the benefit of the colonial state. Yet convict labour was not only an economic resource for the colonial power. It was political, social and cultural, and both material and non-material. At independence in 1962 and in the post-colonial governments, carceral justice functioned as a political tool to punish the body as means to social rehabilitation of offenders and labour for nation building. Whereas I will not be able to do full justice to the thesis of prisons as resources due to scarcity of statistical colonial data, we shall understand it within the broader framework of apparatus. Richardson and Gisa (2014)

suggest that material natural resources are made through processes and within assemblages, which I refer to as apparatuses, where values are at play. This article will show that the same holds for the creation of human resources in the form of prisoners and their labour.

## **Studying Colonial Law and Prisons**

A larger study of law, disorder and crime in Lugbara society (Alidri 2021) provided material for this article on the transformation of prison labour into a resource in colonial Uganda. Historical inquiry and anthropological studies were used to explore, retrieve and reconstruct the past (Carr 1990; Middleton 1963: 82). Official colonial prison reports, archival materials from the National Archives in Kampala and anthropological studies on the Lugbara were used to explore the function of prisons as a colonial hub to mobilize prison labour as a resource. Oral traditions, which provided a vivid narrative of the colonial prisons, were used to retrieve historical information on the nature of colonial law and prison as handed down through generations by word of mouth (Vansina 1985; Atkinson 2010). Oral history was used to recover personal experiences of the contemporaries such as Rasil Opindu and Sila Amaga, born in 1916 and 1936 respectively, who witnessed the dramatic unfolding of colonial prisons and carceral justice under the administration of Sir A. E. Weatherhead, the first District Commissioner in the West Nile District. Despite their advanced age, their narratives sketched the historical realities of both colonial and post-colonial prisons. Ex-convicts were interviewed to explore their experiences while serving their sentence. This enabled the study to explore the historical continuity of prisons in the post-colonial period. The snowball approach was used to identify respondents who had knowledge of the colonial prison system and institutions. In-depth narratives were recorded from the Lugbara cultural leaders (Lugbara Kari), clan elders (Ba'wara), retired civil servants and politicians, elderly women and men, and youth. They were identified based on their knowledge and experience of the history of the Lugbara and prisons in the West Nile region. Collective experiences and memories were retrieved through Focus Group Discussions and group interviews held with the council of elders of Ombia clan in Maracha and elderly women in Ayivu.

## **Historical Background**

The formal history of the prison and prison labour in West Nile is tied to the introduction of colonialism (Bruce-Lockhart 2017:19). Before the arrival of the Belgians among the Lugbara people, the Onzivu clan had settled the area around what became Arua hill. The Belgian troops arrived in the southern Enclave (West Nile) in 1892, becoming the first European forces on the ground, and two years later, on 12<sup>th</sup> May 1894 in Brussels, the Anglo-Belgian Agreement was signed, which set the limit to Belgian expansion to West Nile by defining the Nile-Congo watershed as the boundary between the British and Belgian territory (Leopold 2009: 466). The Belgians in the service of King Leopold II established a station there, setting up a cell for detaining persons who were considered 'unruly' for attacking the Belgians and failing to supply them with grains, cattle, sheep and goats (Leopold 2009: 466).

The first Belgian station in West Nile was established at Alenjua, present day Alua in Oluko, Arua District, probably in 1898. This station was transferred to Offude or 'Monr Wari', present day Alikua in Maracha District, in 1900, which became the main Belgian station among the Lugbara. Another station was established in Yumbe in Aringa County. Practically the whole

of West Nile fell within the Monr-Wari District, one of the three districts of the Lado Enclave. Other Belgian stations built included Dufile (1899), Wadelai (1900), and Yamba near Metu in Madi (Harris 1959: 19; Middleton 1963: 87). The period 1898 to 1914 was characterized by anarchy and skirmishes between the Lugbara and the foreign invaders comprising slave raiders and poachers, and imperial forces of occupation. In 1900, the Belgians set up bases in the towns of Lado, Arua and elsewhere in the Enclave, with some 1500 soldiers under an officer named Chaltin (Harris 1959: 19; Leopold 2009: 466). The stations were kept secure by armed askaris called by the Lugbara *Tukutuku* after the sound of their guns. By 1898, the Belgians were the sole organized military force in the Enclave (Leopold 2009: 466), ushering in the establishment of prisons. The Belgians were content to acquire the support of the surrounding chiefs without going any further afield. The Belgian administration created chiefs called *Makoto* who were in charge of mobilization of resources in the communities (Middleton 2013: 203).

The name 'Arua' came into use between 1892 and 1909. The to and fro movements from the villages to the colonial headquarters to visit relatives who were kept under custody gave the place its name *Aru-a*, meaning 'in prison' or 'from prison' or 'to prison'. Leopold (2005a:31) has a slightly different explanation of the suffix but emphasizes the derivation from the Lugbara word for prison. The place was originally known as Onzivu after the Onzivu clan, who were displaced by the Belgians and British, forcing them to relocate beyond the present day Barifa Forest to Muni where Muni University is established now. The fact that the Lugbara associated the colonial headquarters with the notion 'prison' suggests that the colonial station and incarceration was a striking innovation in their local experience. Indeed, imprisonment had no part in precolonial Lugbara justice. My research found that they perceived the colonial administration, its system of law and order, and the introduction of prisons as causes of increased social and economic instability and disorder.

## **Prison Labour Resources under King Leopold II's Administration among the Lugbara (1898-1910)**

The Belgian period witnessed the introduction of prisons among the Lugbara people, as a detention place for offenders, as well as slaves. Whereas there were no laws to protect the natives under the Belgian administration, colonial law criminalized communities that failed to satisfy the unceasing Belgian demands for foodstuffs and other resources. The punishment was imprisonment with hard labour. The Lombroisan law influenced the Belgian practice of prison labour as resource. King Leopold's territorial expansion 'was not inspired by anything other than the political and economic value of what it might absorb or attain. Its sole principles were those of greed' (Stengers 1969: 261-278). The prisons and prison labour became tools for the economic agenda of the Belgian administration in West Nile and among the Lugbara. According to Rasil Opindu who was the daughter to Awudele, an ally to the District Commissioner Sir Alfred Evelyn Weatherhead, and wife to Opindu the Colonial Court Clerk, the Belgian soldiers subjected individuals and communities considered deviant to hard labour including working on roads and constructing colonial stations. Individuals were released in exchange for animals and grains (Interview Rasil Opindu, 14<sup>th</sup> May, 2014). Sila Amaga in his narrative noted that, whereas King Leopold's administration among the Lugbara was ruthless, it was more severe among the communities in the contemporary Democratic Republic of Congo where punishment included cutting off the limbs of individuals who had failed to supply the economic resources such as labour, rubber, grains and animals (Interview Sila Amaga, 12<sup>th</sup> May, 2014).

## **Prison Labour Resources under British Administration among the Lugbara (1914-1962)**

On June 16, 1910, following King Leopold's death, the Lado Enclave was formally transferred to the Anglo-Egyptian administration (Prothero 1920: 23; Blake 1997: xv). Four years later, on April 21, 1914, the territory was ceded to the Uganda Protectorate (Leopold 2006: 187; Acemah 2013). Although the Belgian administration had withdrawn, the prison system and labour remained and were adopted by the British administration.

When the West Nile region was transferred to the British Protectorate in Uganda, Arua Township was established in June 1914 with Sir Alfred Evelyn Weatherhead as the District Commissioner for the West Nile District (Middleton 1971: 16). In the same year, a district jail was established in Arua to keep offenders and suspects under custody. The establishment of this prison was guided by the Uganda Prison Ordinance enacted earlier in 1903, which had established the Uganda Prison Service. The colonial administration further established fifteen gazetted prisons and one judicial lock-up throughout the Protectorate. Hoima was the provincial headquarter for the Northern Province composed of Acholi and Lango regions and the West Nile District (Uganda Protectorate 1913: 3-5). According to Rasil Opindu, there was a clear difference in the way prisons and prison labour was organized under the British colonial administration in the West Nile District in comparison with the Belgian counterpart. The shift was from ruthless body torture of the suspect or criminal under the Belgians, to an intensive exploitation of prison labour under the British colonial administration.

The prison institution had the responsibility to rehabilitate offenders through a regime of hard work. Rasil Opindu reminisced: 'a year after my father Awudele gave Jerekede (Sir Alfred Evelyn Weatherhead) land to establish the colonial headquarter, Weatherhead, the District Commissioner, introduced new laws among the Lugbara and began the construction of the Arua prison in 1915' (Interview Rasil Opindu 2014). In 1919 the administration began to levy taxes and implement extensive forced labour programmes (Leopold 2005b: 214). This resulted in the arrest and detention of a number of tax defaulters. Writing about British colonial Africa in general, Hynd (2015:260) states that the great majority of jailed Africans were imprisoned for minor infractions, mainly defaulting on tax payments and failure to pay fines for minor offenses.

In 1919, Governor Sir Robert Coryndon (1918-1922) proclaimed the Native Law and Native Authority Ordinance of 1919, which led to the establishment of the Native Courts in the West Nile District. The first set of chiefs appointed were Nubi who had served in Emin Pasha's forces and the King's African Rifles (KAR). Fademulla Ali Adu (Akutre Anyule), a Nubi who had made his first contact with the British officers at the time the district boundary was being surveyed, was appointed chief of Aringa (Blake 1997: 3; Leopold 2006: 189). Sultan Fademulla (Fadl el Mula) Murjan of Aringa, who had joined the ranks of the King's African Rifles, was appointed Wakil of Rumogi in 1916. The Nubi chiefs became colonial agents for mobilizing prisoners and labour for the colonial administration.

The colonial chiefs were employed as civil servants to support the administration of the district. Under the Native Law Ordinance of 1919, the Governor constituted native councils and prescribed the extent of the authority they might exercise including in appropriating community and prison labour as resources for the self-financing of the protectorate. The native councils had powers to amend native law by resolution and fix penalties for the breach of such law. This was subject to the Governor's powers of disallowance (Morris & Read 1966: 35). The Native Law and

Native Authority Ordinance of 1919 was part of an apparatus to legitimize indirect rule in the chief-less and non-kingdom societies such as the Lugbara in the northern part of Uganda. It defined 'chief' to mean 'any officer of an African local government recognized by the government as a chief and exercising collective authority' (Ibingira 1973: 22-23).

The law gave colonial chiefs powers to detain suspects, fine them and subject them to hard labour on colonial works such as construction and maintenance of administrative buildings and roads. The roles of the appointed chiefs included the maintenance of law and order, organizing moot courts, reporting crime, assessment and collection of taxes, enforcing the colonial policies and law, mobilizing labour for and supervising public works and organizing sensitization meetings called Barazas. Berman (1990) observed that the backing the chiefs received from the colonial administrators removed indigenous constraints on arbitrary power. The powers the chiefs accumulated upset the internal balance of the indigenous social formation (Berman 1990:213). The native administration in the service of their master became more oppressive and ruthless, and therefore unpopular in their role of mobilizing forced and prison labour.

As Hynd explains, a variety of forced labour was used in the early colonial period. Although slavery was abolished, slave-like conditions of labour continued for decades. Compulsory labour requirements were enforced by local chiefs up until the end of World War I for infrastructure and military projects. African colonial powers had other ways of coercing their subjects to work, so that it was not until after the inter-war period that the exploitation of prisoner labour became pronounced (Hynd 2015:253-256). Rasil Opindu vividly reminisced that in the 1930s when economic crops such as cotton and tobacco were introduced in the region, prisoners were used in the demonstration and pilot farms around present-day Mvara senior secondary school. Later prisons took to the production of cotton on large scale on prison farms.

The introduction of colonial law criminalized certain acts and cultural practices which led to an increased number of 'crimes' and convictions. It further introduced prisons as detention places for offenders. The Prison Report for 1912 noted a large increase in the number of those sentenced to short-term imprisonment. It noted that the short sentences constituted the most potent recruiting factor for the habitual criminals. The Report brought to the notice of the Government the desirability of adopting more practical and up-to-date measures (Uganda Protectorate 1913:7). In 1930 Arua Prison was upgraded into a modern prison facility to handle the increasing number of prisoners. Minor offenders were detained at the county and subcounty cells supervised by the county and subcounty chiefs respectively and these prisoners provided labour at the lower local government levels.

## **The Value of Prison Labour**

Colonial discourse often pointed to imprisonment as a means to train and reform Africans. In a report by H. Boulton Ladbury, the Chaplain of the Central Prison, the prisons had provision for spiritual growth to provide religious instruction to the inmates. 'It was hoped by these means to assist the prisons authority in their endeavor to form in the convicts a Christian character, to give the prisoners a new outlook on life, and to change these dregs of society into men and women who shall become a credit to the community in which they live' (Uganda Protectorate 1928:14-15). This would groom the convicts into quality human resources who would be able to provide labour even after serving their sentence.

The system of Convict Warders was instituted in the prisons as a move to assist in producing that esprit de corps which was necessary to good discipline. It was hoped that with a stricter discipline which will be rendered possible on the completion of the new jail at Luzira, on the one hand, and the spread of Christian Education on the other, a healthy moral consciousness will be formed which will be a very strong deterrent to wrong doing in these child races of Central Africa. (Uganda Protectorate 1928: 15)

According to the Prisons Report for 1927, disciplined and intelligent convicts, who had shown evidence of transformation in character were seconded as 'Convict Warder' to assist the Warders to maintain law and order within the prisons. Transformed convicts became human resources operating within the confines of the prison. The Commissioner further reported that the employment of convicts as clerks was due to shortage of clerical staff; however, it had proved unsatisfactory and was discontinued (Uganda Protectorate 1929: 8-9).

The prisons had a curriculum of training that was ostensibly designed 'to help prisoners to acquire a trade that will enable them to earn an honest livelihood on their release' (Uganda Protectorate 1913: 3-5). At the same time, skilling the prisoners made their labour a cheap economic resource. One may speculate that the prisoners benefited only coincidentally, as their improvement was not the primary aim of the prison curriculum. Ostensibly, the earnest desire of all was the reclamation of the prisoners from degradation and vice to a life of usefulness and self-respect. However, as Hynd (2015: 250) writes, colonial prisons had '...a conscious strategy to constrain bodies rather than discipline minds, serving to bolster the authority of colonial administrations and facilitating colonial economies rather than primarily to rehabilitate offenders.

After World War I, the Colonial government continued entrepreneurial training and skill development in the prison curriculum. According to the annual reports, prisoners' labour was directed towards the following: tailoring, carpentry, brick-making, basket-making, mat-making, swamp and drain clearing, planting, stone-breaking and general domestic duties such as upkeep of police and prison warders lines, and assistance to the Municipality (Uganda Protectorate 1925: 5).

The tailoring industry at the prisons repaired tents and produced khaki mail bags, specie bags, mattress covers, canvas chaguls and canvas mail bags. Clothing included khaki suits, pants, coats, armllets, caps, canvas capes, female prisoners' uniforms, and other garments including blue overalls. The prisons were perceived as a source of revenue for the protectorate government. The Commissioner reported that this industry alone had saved the Government £1,300 in the year 1924. The estimated savings to the government by the carpentry industry was £150, for basket-making it was Shs. 1,136/-. The labour value of swamp and drain clearing was Shs. 2,504/70 /- (Uganda Protectorate 1925:6).

Extramural convict labour was employed on farming, afforestation, anti-malarial work and utility work on the township (Uganda Protectorate 1935: 6). The hours of labour were 7 a.m. to 4 p.m. and each prisoner was to dig one hundred and twenty square yards (Uganda Protectorate 1944). In the period following World War I, prisons experienced an upsurge in the number of admissions. The rise was commensurate to the labour demand for the post-war recovery programme, which aimed at increasing productivity of agricultural raw materials for the home industry. These reports on the details of work, production and value indicate that the prison was a hub for mobilizing cheap, regular and reliable labour for the colonial administration and economy.

## **Punishment and Labouring Bodies**

Foucault (1977) relates the different punishments to the systems of production within which they operate. He argued that in a slave economy, punitive mechanisms served to provide an additional labor force. The prison constituted a body of ‘civil’ slaves in addition to those provided by war or trading. Foucault further noted that with feudalism, at a time when money and production were still at an early stage of development, there was increase in corporal punishments. With the development of the mercantile economy, the body being the only property accessible, forced labor and the prison factory appeared. However, Foucault noted that as the industrial system required a free market in labor, in the nineteenth century, the role of forced labor as mechanism of punishment diminished and ‘corrective’ detention took its place (Foucault 1977: 24-25). However, in colonial Uganda both moral reform and prison labour co-existed as prison purposes, reinforcing each other. Foucault further argues:

The systems of punishment are to be situated in a certain ‘political economy’ of the body: even if they do not make use of violent or bloody punishment, even when they use ‘lenient’ methods involving confinement or correction, it is always the body that is at issue— the body and its forces, their utility and their docility, their distribution and their submission. (Foucault 1977:25)

The discipline and punishment of prisoner’s bodies are described in the colonial records and the relation to labour resources is evident. One example concerns diet. From 1912, prisons introduced penal diet, with or without solitary confinement, as a new form of punishment for indiscipline. Punishable infractions included: bad character, smuggling tobacco into prison, possession of contraband tobacco, refusing to obey orders of prison officers, assaults on prison officers and inmates and refusing to work. In his Prisons report for the year 1927, Tremlett (Uganda Protectorate 1928) indicated that ‘the punishment of penal diet and solitary confinement appears to have the desired effect on the behavior of those deserving it.’ The penal diet included being denied meat or food for some days or feeding once a day depending on the severity of the offense. However, given the value of prison labour as a resource, the colonial administration adopted a change in penal diet which included providing meat in the diet, and providing two meals (breakfast and lunch) each day. This would keep them healthy and physically fit to provide labour. In his 1935 report, the Commissioner emphasized the importance of prison labour, noting that:

The inclusion of such large quantity of meat in the diet of native prisoners, in view of the fact that meat under normal conditions is not eaten regularly by natives is often criticized as an unnecessary and inappropriate luxury. It is necessary, however, to remember that by incarceration in prison for lengthy periods the prisoner is not only deprived of his liberty, his own food and drink but is also required to be maintained in a physical condition fit for hard labour. (Uganda Protectorate 1935: 11)

The humane treatment of the prisoner through provision of a balanced diet was to maintain a prisoner in health and strength in order to meet the labour demand of the Protectorate.

Whipping (5-24 strokes) was a form of colonial punishment aimed at inflicting pain on the body to induce hard work and exploit prisoner’s labour to the maximum. The Bushe Commission

of 1933, which objected to whipping, had noted that eleven months might elapse from the accused's arrest until the determination of his case (Morris & Read 1972: 93). This delay was due in part to the human resource challenge in the judiciary and was not intended as a punishment. Yet by incarcerating bodies it served to recruit prison labour. Under colonial rule, prisons and punishment were bound up with economic value and were situated within the 'political economy' of the body.

## **Colonial Law as Apparatus for Domination and Resource Exploitation**

As a resource, prison labour was part of a much larger apparatus that produced and continued to shape it. Agamben (2009:2), citing Foucault, defines 'Apparatus' as 'discourses, institutions, architectural form, regulatory decisions, law, administrative measures, scientific statements, philosophical, moral and philanthropic propositions' which have a dominant strategic function to respond to urgency. It is located in a power relation and a strategic means to manipulate relations of forces. It is as well a rational intervention to relations of forces to develop them in a particular direction, to stabilize them and utilize them. An apparatus in this work is understood as a game of power and a set of strategies to manipulate power relations and exploit the prison labour resource. Agamben (2009) expands Foucault's apparatus to include anything that has '...capacity to capture, orient, determine, intercept, model, control, or secure the gestures, behaviours, opinions, or discourses of living beings. Not only, therefore, prisons, madhouses, the panopticon, schools, confessions, factories, disciplines, juridical measures....but also, the pen, writing, literature, philosophy, agriculture....and—why not—language itself...' (Agamben 2009: 14). The history of prisons and prison labour in colonial Uganda is embedded in the broader system of political economy, including colonial views on the 'uncivilized native'. The apparatus was constructed through the system of Indirect Rule.

In West Nile, Nubian officers were recruited as district and county 'chiefs' to impose British administration and taxation, and they came to dominate the long-distance trading and much of urban life... the military role of the Nubi was partially transferred to [the Lugbara] as the Nubi became disproportionately involved in the colonial army and other coercive institutions such as the police and prison services. (Leopold 2006: 181)

The colonial army and police became enforcers for the effective mobilizing of both community and prison labour. In 1925, with the native local authorities achieving their initial taxing powers (Therkildsen 2006: 4), the chiefs, village heads and the parish chiefs had the role of assessing taxpayers, enforcing tax collection and arresting and imprisoning tax defaulters. Each native administrative unit was given a target amount of tax to collect. Detention of tax defaulters in the county or subcounty cells was to force the subjects to pay taxes. Thus, the imposition of taxes led to imprisonment and contributed to the increase of prison labour.

The introduction of Indirect Rule by Lord Lugard witnessed the establishing of a European form of law and order on the already existing African indigenous systems and institutions such as the native courts. Lugard appreciated that indigenous communities had mechanisms of making rules and adjudicating disputes within the family and society, overseen by selected members in whom indigenous authority was vested. The colonized people did not have the equivalent of the



colonial or modern prison system. Indirect rule witnessed the invention of ‘customary law’, a hybrid of indigenous and modern law, and the introduction of the native courts. Therefore, indirect rule and the colonial law were established on the already existing indigenous systems and institutions.

Colonial law and order were enshrined in Lord Lugard’s indirect rule policy and perceived as a strategy to introduce European civilisation among Africans. As Hailey noted, Native administration and colonial law ‘would assist in the introduction of higher standards of economic and social life in African society’ (Hailey 1951: 6). This made colonial law to function as colonial machination to introduce Western modes of life and governing among the Africans. To justify colonialism, Lugard argued that colonialism was beneficial to both Europeans and Africans, with the latter benefitting from an influx of manufactured goods and the substitution of law and order where barbarism was the order of the day. Europeans on the other hand profited from an increase in the services and resources which arose from the opening up of Africa at the end of the nineteenth century (Lugard 1922). He further noted that protectorates were mostly declared over uncivilized territories in which the native governments were incapable of maintaining law and order. It is worth noting that some of the raw material, such as cotton, used to manufacture the goods was a product of prison labour. In the name of the civilising mission, which was implemented concurrently with prison punishment, African labour was exploited and the colonial prison became one hub in that exploitation. Lugard argued that the courts of law and police were instituted for the benefit of both Europeans and natives. He asserted that colonial law was ‘a moral benefit’ to African societies because it curbed lawlessness and assisted in tribal evolution and progress to a higher plane (1922:233). Colonial law was used as a tool to direct African labour, including prison labour, to agricultural and revenue generating production.

Allott (1984) argues that native courts and native customary laws were an essential part of the apparatus of indirect rule and British colonial administration in Africa (1984: 58). The Indirect rule was also part of the apparatus by which African labour was exploited through Africans themselves. This affirms the Comaroff and Comaroff claim that customary law was a colonial invention introduced to the service of the colonial administration. Although customary law was developed from the indigenous moral values and practice, it aimed at promoting the colonial form of law and order which would enable the colonial administration to mobilize and exploit African labour. Chanock argues that indigenous societies never had customary laws and this was a colonial creation.: ‘The law (Customary) was the cutting edge of colonialism, an instrument of the power of an alien state and part of the process of coercion’ (Chanock 2001: 4). Customary law was therefore a colonial resource for control and domination. Rebranding indigenous law as ‘customary law’ was an imperialist strategy aimed at distorting and weakening indigenous law in order to consolidate colonial rule among the subject. Hobsbawm & Ranger described this as ‘the invention of tradition’ a syndrome of colonialism. The hybrid political elders drew upon colonial invented tradition-customary law to define and justify their role in society (Hobsbawm & Ranger 2012 211).

Colonial law and courts, police and prisons, and its personnel such as the judges and magistrates, administrative officers and police and prisons officers were means to mobilize labour by criminalizing the subjects (Killingray 1986: 413; Roberts & Mann 1991: 3). Under the guise of what Lugard described as an ‘ordered Government’ defined as one with its own native parliament, liberty and justice replacing native barbarism, chaos, bloodshed, and war (Lugard 1922: 617), crime was punishable by imprisonment including hard labour which was a resource to the colonial government.

The enactment of the Penal Code in 1930 led to the replacement of the Indian Penal Code with the English law in the Central Government courts. The Criminal Procedure replaced that of 1919. Offences such as treason, murder, manslaughter and rape were transferred to the Criminal Procedure Code and could not be handled by subordinates. Special districts were declared in which a magistrate tried Africans for criminal offences (Morris & Read 1966: 42).

The Lugbara perceived colonial administration and form of law and order as having caused increased exploitation of native labour, social instability and disorder. Colonialism introduced new laws and crime categories which were political and economic in nature; they related to respect of authority, taxation, labour, property and production. The effect of colonial law was the criminalization of the African for new offences, leading to increased crime rates.

The British made laws in their oversea colonies through which crime was invented, criminals made and prisons created in the service of the colonial administration. The colonial administration used strategies to criminalize the subject by providing a hegemonic definition which perceives crime as 'an action or omission that constitutes an offense that may be prosecuted by the state and is punishable by law' (Michalowski 2016: 184). The state uses law as a tool to define crime as illegal acts against the state and the political elite. State law was a tool to mobilize penal labour.

## **Crime, Punishment and Prisons as Colonial Resources**

Tales about Arua town characterized it as a place where natives were imprisoned, flogged, and subjected to hard labour and penal diet as forms of punishment (Interview Jackson Avutia 2014). The colonial administration in West Nile introduced prison confinement as a new form of punishment. Among the Lugbara people, punishment (*panga* in Lugbara) is an act inflicted on a person for an offense or misconduct. It depended on the nature and gravity of the offense. As punishment, a child who disrespected an elder was rebuked or caned instantly (Interview Jackson Abiria 2014). The common offenses included murder (the intentional killing of a person), manslaughter (the accidental killing of a person), patricide (the act of killing one's father), fratricide (the act of killing one's sibling), matricide, (the act of killing one's mother), infanticide (killing of an infant), uxoricide (the act of killing one's wife) and mariticide (the act of killing one's husband). While the colonialists defined these as offenses against the state, indigenous practice treated them as transgressions against the ancestral spirits, gods, the dead and the living. The offenses attracted punishments ranging from rebuke, caning, compensation, curse to excommunication. Indigenous punishment bore social and moral considerations and value. Detention in the Lugbara context was considered disruptive to social functioning and cohesion as it was retributive.

Bernault (2003) noted that 'Colonial conquest used the prison as an early instrument for the subjugation of Africans' (2003:3). Before colonial powers were in full control of territories, they erected prisons in all European garrisons and administrative outposts. In addition to prisons, the European colonizers introduced a range of techniques of confinement and discipline, including asylums, hospital wards, workers' camps, and corrective facilities for children. However, European colonizers continued to use primordial forms of punishment, such as corporal sentences, flogging, and public exhibition. In Africa, the prison supplemented public violence. Colonial administration emphasized the economic ends of the prison, and its role in the organization of forced labour (Bernault 2003:3). African prisons were models of social control imported from the West and covered a wide range of state and social strategies destined to restrain forms of deviance defined

by criminal law, and to promote the reproduction of social order needed to exploit African labour. Social control is considered an instrument of the state, which represents the ruling classes, to impose and legitimate social coercion (Bernault 2003: 3-4).

The argument is that the usefulness of punishment and prison to the colonial administration was in their ability to subdue, control and exploit the African subjects' labour to meet colonial political and economic needs. Colonial prisons were means to repress the subjects and freely exploit their labour. Foucault (1977) believes that: 'Prisons do not diminish the crime rate: they can be extended, multiplied or transformed, the quantity of crime and criminals remains stable or, worse, increases' (Foucault 1977: 265). Similarly, colonial prisons continued to increase and thrive. As Neveu (2007:21) asserts, prison labour is a 'jailed resource'. Colonial prison labour was a form of institutionalized modern slavery under the colonial economy and a resource used for the economic and political interest of the colonial administration. This is substantiated by the colonial archival prison reports.

## **The Increasing Role of Prison Labour**

The Prisons Committee Report of 1936 recommended a policy shift towards explicit promotion of prison labour, arguing that manual labour would lay the foundation for 'good citizenship', where 'good citizenship' meant 'modern, economically productive and disciplined colonial subjects.' Industrial training workshops increased and became Prison Industries, providing revenue to the colonial government. Prison farms had existed earlier but became stand-alone enterprises during World War II (Bruce-Lockhart 2022: 60). Long-termers of one or two convictions were sent to the prison farm.

The entrance of Uganda into the global economy, increased the significance of prison labour in the national and international economy. Prison labour was important for the post-war recovery as demand for raw materials increased in the metropole, putting pressure on the colonial governments to increase production to meet the growing demand for raw materials and goods back home in Europe. The district prisons accommodated short-termers to whom only limited reformatory measures could be applied. These included brick-laying, making handicrafts and furniture and providing labour in public works to meet colonial revenue and labour needs (Uganda Protectorate 1944).

The prison record for 1947 indicated the Lugbara committed to Luzira Central prison formed the third highest population of 165 prisoners. Baganda convicts were 615 and Batoro were 231. The same year Arua District prison received 326 committals, the fifth highest figure in the Protectorate with daily average prison population convicted and remanded standing at eighty-six (Uganda Protectorate 1948: 6, 20, 21). In 1948, the number of Lugbara committed dropped to 130 (Uganda Protectorate 1949:7).

In-mates in Arua Prison were transferred to provide labour on prison farms at Ope nzinzi in Adjumani and Ragem in Junam. Apart from growing cotton, the two prison farms produced food crops to support other prisons, especially Luzira prison which had specialized in prison industry characterized with an assorted economic activity. Similarly, the prison farms in the West Nile District produced cotton for export.

Summing up the character of the Ugandan prison system during the colonial period, Bruce-Lockhart writes:

Uganda's prison system, much like others elsewhere, was a site of violence used by the state to manage those perceived to be "deviant." This was especially clear in the late colonial period, when the state responded to anticolonial mobilizations by incarcerating thousands of Ugandans and deporting their leaders, another form of punitive confinement. During the post-World War II period, the prison also had an important economic purpose: along with being a place to punish those who didn't participate in the colonial capitalist economy, it also became a site where prisoners' labor could be exploited in the name of "development." Many of the features of the colonial penal system would leave a lasting imprint after independence. (Bruce-Lockhart 2022:69)

The apparatus that produced prisoners and their labour was strengthened in the immediate post-colonial period when political uncertainty accompanied the constitutional crisis arising from the relationship between the Government of Uganda and Buganda Kingdom. In 1967 the Public Order and Security Act was passed, legalizing preventative detention and the imposition of restrictions on the movement of persons in the interests of public order, public security and defence. It increased the number of political prisoners, setting a dangerous precedent and a new pattern as it introduced and legalized the practice of Government arresting and detaining people without trial. After 1971, Idi Amin's regime witnessed the creation of paramilitary organizations that included the State Research Bureau, the Military Police, and the Public Safety Unit who effected arbitrary arrest and imprisonment without trial (Bruce-Lockhart 2017: 22-24).

In her book *Carceral Afterlives*, Bruce-Lockhart traces the 'imprint' of the colonial penal system from 1962 to the accession of the present government in 1986. Here I jump to the present day in order to draw out some further continuities.

## **Prison Labour and Post-colonial Continuity**

The legacy of the colonial era lives on into the present. Arua still means 'in prison'—for more and more people. The Report of the Auditor General for the year ending June 2022 found that Arua prison, with a capacity for 193 prisoners, held 1,179, giving an occupancy rate of 611%. In Uganda as a whole prisons are extremely overcrowded. The explanation given by the Auditor General was that more people were being arrested, longer sentences were being given and the case backlog in the courts meant a high number of prisoners were kept on remand. The report showed that prisoners on remand exceeded the number of convicts. Petty offenders were kept on average 3.7 months in contrast to the two-month mandatory remand period.

Today, as the Auditor General Report (2022) noted, many offenses are criminalized, so even petty offenders are imprisoned; longer sentences are being imposed. Most important, the courts produce a very large number of prisoners on remand because they are slow and have a large backlog. The inefficiency of the judicial system is responsible for half of the inmates in today's prisons. We can thus see that today, as in colonial times, prison labour as a resource is made available and maintained through a broader apparatus. The law, the courts and aspects of political economy together function to produce prisoners.

The role of prison labour as resource is stipulated in the core function of the Uganda Prisons Service (UPS), an organ of the state under the Ministry of Internal Affairs. The constitution of the Republic of Uganda, 1995 (Article 215 - 217) establishes the Uganda Prisons Service and the Prisons Act of 2006. The legislated mandate is custody of prisoners and rehabilitation of offenders while the assigned mandate is production of cotton, seed and furniture for Ministries, Departments and Agencies. This is further seen in Uganda Prison's Strategic Objective Number 4: Enhance prisons production and productivity while facilitating delivery of correctional services.

The Uganda Prisons' workshops are controlled through funding, setting standards, and reward and punishment to improve the workshops' performance in terms of efficiency, effectiveness and sustainability (Akodo & Nandudu 2012:394). This is further seen in the national Offender Rehabilitation and Reintegration figures. The number of prisoners on formal education programs in the FY2019/20= 2,839, FY2020/2021= 2,756 and FY2021/2022= 3,153. The number of Prisoners under vocational skills training programs in the FY2019/20= 21,449, FY2020/2021= 21,996 and FY2021/2022= 18,193. The number of prisoners doing vocational training is many times greater than those doing formal education. The national statistics point to the importance of prisoner labour as economic resource.

In a 2019 conference presentation, the Commissioner of Prisons stated that: 'Rising rates of incarceration and shrinking State budgets have renewed interest in putting imprisoned persons to work helping to defray the costs of their incarceration and reducing the potential for violence that results from enforced idleness in crowded cellblocks'. He spoke of the 'labour potential' in the daily average 29,000 convicted prisoners (he did not mention the equal number on remand). Among the country's 254 prisons are 23 prison farms with considerable resources of arable land—48,000 acres in all. 'We must develop the human resource... Offenders have great potential that can be tapped for both individual and state productivity', he concluded (Aloka 2019). The presentation showed the efforts to use this 'human resource' to produce, cotton, maize and seeds on prison farms and furniture and other craft items in Prison Industries.

Putting prisoners to work is construed as good for them; they learn livelihood skills and work discipline, which may benefit them after release. It is also good for the underfunded prison system in that prisoners' labour contributes to the maintenance of the institution that incarcerates them. This same logic was evident in the colonial records, albeit with more racist overtones. African prisoners were to be 'civilized' through training and labour. And the prisons, together with the colonial apparatus of which they were part, became more self-sufficient through prison production (Hynd 2015:265). This need to generate income for running the prisons is explicit in the title of the Commissioners presentation: 'Transforming Prisons in Africa to Productive Services: a Strategic Objective'.

The conditions under which this potential was being tapped had been critically examined in a comprehensive report by Human Rights Watch (2011) eight years earlier. The report found that prisoners were being forced to work under difficult conditions, sometimes even when ill. According to law, prisoners on remand should not be forced to work, yet they were treated as labour resources alongside convicts. Three models of agricultural labour were identified. 1) Prisoners were made to work on official prison farms; the proceeds were supposed to go to prison headquarters for distribution to prisons nationwide, but some might be held back to support the producing prison. 2) Prison labour was contracted to outside people with the declared intent of supporting the administration of the prison, which received insufficient financing from the centre. 3) Prisoners provided free labour for staff's private farms (HRW 2011: 26-29).

The Human Rights Watch study suggests that colonial treatment of prisoner bodies—inflicting pain in order to extract labour—has parallels in the present. It also raises the question of who benefits from the labour resources. Ostensibly, prisoners work to maintain the prison and prison system, just as colonial era prisoners contributed to the self-sufficiency of the Protectorate. Hiring out prisoners to private employers might serve the same purpose, but it is hard to know if the proceeds always revert to prison administration. Certainly, in cases where prisoners are made to do domestic and agricultural work for staff, the beneficiaries are individuals rather than institutions, as was also the case in the colonial era (Hynd 2015:268).

## Conclusion

The central argument of this article is that colonial prisons in Uganda had a significant role as labour resource. The study of the colonial period shows how the formation of a legal and political apparatus was necessary to produce and maintain this resource in the era of colonialism and capitalism. The promulgation of laws and the establishment of a court system provided the framework for prisons and prison labour. The examination of the colonial apparatus also shows how racist assumptions about the white man's 'civilizing mission' were part of the facilitating apparatus.

Several different justifications for penal labour appear in the records from colonial to contemporary times. Hard labour may be considered a punishment in itself on a par with other bodily assaults. It may be seen as formative, teaching discipline and productive skills that will be useful for the prisoner after release. Such assertions were part of the denigrating discourse of the colonial period on the need to 'uplift' Africans. A common rationale for prison labour is the need to contribute to the sustainability of the system. In the colonial period, prisons were supposed to be self-supporting and also to contribute to the functioning of the colonial system. The same rationale is evident today, as we saw in the 2019 assertion of the Commissioner of Prisons that prisoners must defray the costs of their incarceration. The unspoken interest in, if not explicit justification of, prison labour is that it provides value to individuals, who make use of it for personal purposes, and to a larger system linked to state hegemony and to international capitalist concerns.

Once an apparatus has brought a resource into existence, that resource can become a commodity or, as in this case, it can be obliged to produce commodities. As I have shown here, the colonial apparatus itself and the prison labour resources that it made possible were characterized by deep inequalities of power. What I have demonstrated is that penal labour itself, obviously an example of power disparity, must be understood within wider relations of domination inherent in the apparatus of law and courts.

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