BACKGROUND INFORMATION

Child rights and protection: the legal framework

Child protection is located within a set of laws and instruments. Uganda has ratified international instruments and put in place an array of domestic legal instruments relating to children’s rights.

I. International Instruments

Key international instruments related to child protection that Uganda has ratified are the following:

1. The UN Convention on the Rights of the Child, 1989

The UN Convention on the Rights of the Child (1989) is a universally agreed set of non-negotiable standards and obligations, which provides protection and support for the rights of children (persons below the age of 18). It is a legally binding international instrument to incorporate the full range of human rights—civil, cultural, economic, political and social. Uganda is one of the 194 countries worldwide that are a signatory to the UN Convention. By ratifying this document, the government of Uganda has the responsibility to take all available measures to make sure children’s rights are protected, respected and fulfilled. All actions, decisions and policies shall be done in the light of the best interests of the child. The Convention spells out the basic human rights that all children – regardless of their sex, race, religion, cultural or socio-economical background, language, ability - everywhere have.

All children have the right to:

- Life, survival and development;
- Participation fully in family, cultural and social life;
- Registration, name, nationality and care;
- Preservation of identity;
- Live with their parents;
- Family reunification;
- Expression of views including respecting these views;
- Freedom of expression, thought, conscience, religion, association;
- Privacy;
- Access to information that is important to their health and wellbeing, including the mass media;
- Access to quality health care including safe drinking water and food;
- Assistance from government if affected by poverty or in need;
- Standards of living, good enough to meet their physical and mental needs;
- Governmental help when families cannot provide for appropriate living standards (food, clothing, housing);
- Free, primary education;
- Leisure, relax and play;
- Legal help and fair justice system;
Every child shall be protected from:

- Harmful influences, abuse and exploitation;
- Kidnapping and abduction;
- All forms of violence, mistreatment, abuse and neglect;
- Any form of discipline involving violence;
- Child labour;
- Drug abuse;
- Sexual exploitation;
- Abduction, sale and trafficking;
- Any form of exploitation;
- Detention and punishment in a cruel and harmful way including separation from families, sharing cells with adults, sentence to death or life imprisonment;
- War and armed conflicts including recruitment for armed conflicts;

Special protection for vulnerable children:

- Children deprived from family, and refugee children have the right to special care, protection and assistance.
- Children with disabilities have the right to special care and assistance so that they can fully participate in live.
- Minority or indigenous children have the right to practice their own culture, language and religion.
- Children, who have been abused, neglected and/or exploited have the right to special help to physically and psychologically recover and reintegrate in society.

2. Two Optional Protocols to the UN Convention on the Rights of the Child

In 2000, the United Nations General Assembly adopted two Optional Protocols to the UN Convention on the Rights of the Child to increase the protection of children from involvement in armed conflicts and from sexual exploitation. These are guided by the principles of non-discrimination, best interests of the child, and child participation.

The Optional Protocol on the involvement of children in armed conflict establishes 18 as the minimum age for compulsory recruitment and requires states to do everything they can to prevent individuals under the age of 18 from taking a direct part in hostilities (www.unicef.org).

The Optional Protocol on the sale of children, child prostitution and child pornography draws special attention to the criminalization of these serious violations of children's rights and emphasizes the importance of fostering increased public awareness and international cooperation in efforts to combat them (www.unicef.org).
3. **The ILO convention 182 on the Worst Forms of Child Labour, 1999:**

This convention obliges the states to take immediate and effective measures to ensure the prohibition and elimination of the worst forms of child labour. These include:

- All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and servitude and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children;

4. **The ILO Convention 138 on Minimum Age for Employment Admission, 1973:**

The convention obliges state parties to pursue a national policy to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest mental and physical development of children.


Uganda is among the 53 African countries that signed the 1999 African Charter on the Rights and Welfare of the Child (defined as human beings below the age of 18 years). This commits the country to protect children against the various forms of social, economic, cultural and political abuse and exploitation. State parties are obliged to undertake the necessary steps and adopt such legislative and other measures to give effect to the provisions of this charter. It spells out basic human rights that all children have.

*Every child has the right to:*

- Live, survival and development;
- Name, registration and nationality;
- Freedom of expression, association, peaceful assembly, thought, conscience and religion;
- Privacy;
- Education;
- Leisure, recreation and cultural activities;
- Health and health services;
- Special judicial treatment in a manner consistent with the child’s sense of dignity and worth;
- Parental care;
Every child shall be protected against:

- All forms of economical exploitation and against work that is hazardous, interferes with the child's education, or compromises his or her health or physical, social, mental, spiritual, and moral development;
- Child abuse and torture, inhuman or degrading treatment, and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse;
- Harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child;
- Recruitment in armed conflict;
- All forms of sexual exploitation and abuse;
- Drug abuse and the use for production and trafficking of drugs;
- Sale, trafficking, abduction and the use for all forms of begging;

Special protection for vulnerable children:

- Children with handicap have the right to special measures of protection and assistance ensuring his or her dignity and active participation in the community including the access to social, health and education services.
- Refugee children, internally displaced children and children separated from parents have the right to special and appropriate protection and humanitarian assistance.

Domestic Legislation

In Uganda, legal provisions relating to the protection of children can be found in an array of domestic legal instruments:

1. The Constitution of Uganda, 1995

The Constitution of Uganda comprehensively provides a framework for the Protection of all children in Uganda. It defines fundamental child rights, obliges parents to care for and bring up their children, and accord special protection to orphans and other vulnerable children. It is the duty of any citizen and the state to protect children from any form of maltreatment and ensure the registration of birth from each child.

Children have the right to:

- Be cared for by parents or those entitled by law to bring them up;
- Basic education;
- Medical treatment;
- Grow up together with their families or persons entitled to bring them up;
- Be kept separately from adult offenders during lawful custody or detention;

Children shall be protected against:

- Social or economic exploitation;
- Work that is likely to be hazardous or interferes with their education or to be harmful to their health or physical, mental, spiritual, moral or social development;
- Any form of abuse, harassment or ill-treatment
2. **The Children’s Act, 2003**

The Children’s Act provides a legal and institutional framework for child care and protection. It defines rights, which all children in Uganda have, accords specific rights for children with disabilities to ensure equal opportunities, and obliges the parents or any person in custody over the child to maintain the child ensuring education, guidance, immunisation, adequate diet, shelter and medical care. Further, it covers regulations for adoptions, approve homes, maintenance, foster care, parentage, bail and demands.

_Every child has the right to:_
- Stay and live with parents;
- Education and guidance;
- Immunisation;
- Adequate diet;
- Shelter;
- Medical attention;
- Assistance and accommodation if in need;
- Leisure and participate in sports, and positive cultural and artistic activities;

_Every child shall be protected from:_
- Any form of discrimination, violence, abuse and neglect;
- Social or customary practices that are harmful to the child’s health;
- Employment or any activity that is harmful to the child’s health, education, or mental, physical or moral development;

3. **The Children’s Statute, 1996**

The Children’s Statute makes the protection of children legally enforceable. It foresees the establishment of a Secretary of Children’s Affairs within the Local Council Structure, as well as children and family courts at district level to ensure the welfare of children in the judicial system.

4. **The Penal Code, 1950**

The Penal Code makes liable the following offences against children:
- Kidnapping and abduction of children under fourteen years;
- Indecent assaults;
- Defilement of girls;
- Procurement of girls;
- Stealing a child under the age of fourteen years;
- Infanticide;

Neglect (not providing sufficient food, clothes, bedding, and other necessaries to ensure the child’s health) of children of tender years and desertion of children under fourteen years are defined as misdemeanours, without specifying penalty measures.
5. **The Local Government Act, 1997**
The Local Government Act makes district councils responsible for the welfare of children. For this, it foresees an executive committee for each district, where a selected secretary cares for the health and welfare of children. District Councils have to ensure services, from which children are able to benefit. These include services for education, health, maternity and child welfare, probation and welfare services, and social rehabilitation. It also obliges the districts to ensure services for street children and orphans. The Act further foresees the establishment of an executive committee at each parish and village administrative unit, including a vice chairperson who shall be secretary for children welfare.

The National Council for Children Act foresees the establishment of a national council for children, to ensure proper coordination, monitoring and evaluation of all policies and programs relating to the survival, protection and development of a child. Through this body, the problems affecting children shall be communicated to the Government, and other decision-making institutions in Uganda. The Council further shall promote the implementation of programs; and maintain a database on the situation of children and activities relating to children in Uganda. It shall also support the implementation of district plans and the creation of district monitoring plans, as well as continuously analyze the changing needs of children, and promote discussion for emergency issues.

7. **The Trafficking in Persons Act, 2008**
The Trafficking in Persons Act is a comprehensive anti-trafficking law, which prescribes penalties of 15 years' to life imprisonment for child traffickers.

8. **The Employment Act, 1977**
The Employment Act forbids contracts with persons under the age of eighteen, and the employment of children under the age of twelve years, except from light work defined by the Minister. No child under sixteen years shall be employed underground and work during night, except for the purpose of apprenticeship. Moreover, no young person shall be employed in work that is injurious to health, dangerous or otherwise unsuitable.

9. **The Births and Registration Act, 1973**
The Births and Registration Act obliges the state to register the birth of each child.

10. **The Land Act, 1997**
The Land Act ensures security to land tenure to all Ugandans, and provides for children to give consent to sell off land where the family resides.

11. **The Child Labour Policy, 2006**
The Child Labour Policy provides a framework to mobilise all actors to take action to eliminate the practice. It explains the socio economic context of child labour, the nature, extend and magnitude, the causes, consequences and effects. It further outlines governmental response to the problem of child labour, and the institutional framework within the national child labour policy operates.
12. The Orphans and Vulnerable Children Policy, 2004

The Orphans and Vulnerable Children Policy provides a framework for the full development and realization of rights of orphans and other vulnerable children: children who live on the streets, those that toil under exploitative conditions of labour, as well as those that suffer sexual abuse and other forms of discrimination. It also states the situation of orphans and vulnerable children, the national and international framework, guiding principles for the implementation of the policy, and policy priorities the government of Uganda will focus on.

13. The Witchcraft Act, 1957

The witchcraft Act provides for protection of persons against ritual sacrifices. The Act outlaws the direct or indirect threat of a person with death by witchcraft or any supernatural means. This protects children, a group that has been particularly vulnerable to this practice.

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Note to the editor:
ANPPCAN, the African Network for the Prevention and Protection against Child Abuse and Neglect, is a Pan-African organization committed to addressing the problem of child abuse and neglect and promoting the rights of children in Africa. With this mandate, the organization was established in Uganda in 1992 and registered in 1995. ANPPCAN Uganda Chapter protects and supports children from all forms of maltreatment by providing psychological support, facilitating access to justice, sensitizing and training on child protection issues, empowering children for self protection, researching and advocating for child friendly policies. www.anppcanug.org

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