



CHILD SEXUAL ABUSE IN UGANDA: THE LEGAL AND POLICY DEFICIT

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ABOUT JOY FOR CHILDREN- UGANDA

Founded in 2005, Joy for Children-Uganda (JFCU) registered with NGO Board in 2006 under Reg. no. S.5914/6687, having vast experience in managing Gender Based Violence, Sexual Exploitation and Abuse and Violence against Children. JFCU has since positioned itself as one of the leading organizations championing the rights of all children with a diverse programming anchored in a unique strategy that seeks to change adverse yet long held societal practices & traditions that tend to undermine the rights of children, girls and women.

JFCU coordinates Girls Not Brides Uganda which is an alliance of 109 organizations working in partnership to end child marriage and teenage pregnancy, and a member of the World Bank Global Gender-Based violence Task Force.

- **Vision:** All children in Uganda enjoying their rights, being protected and cared for and having equal opportunities to realize their full potential.
- Mission: To end violence against children in Uganda through capacity building, advocacy, psycho-social and legal support



CONTEXT

Child Sexual Abuse is a challenge in most parts of the world mostly affecting girls and young women. Child sexual abuse has grave consequences on the survivors, some of these effects may last a life time for instance psychological harm, disability, insecurity, fear physical harm and sometimes death.

The global prevalence of child sexual abuse has been estimated at 19.7% for females and 7.9% for males. Most child sexual abuse is committed by men; studies on female child molesters show that women commit 14% to 40% of offenses reported against boys and 6% of offenses reported against girls.

Globally, at least 120 million girls under the age of 20-about 1 in 10 have been abused sexually. More than half of all children in Africa experience physical abuse, while in some parts of the continent, 4 in 10 girls suffer from sexual violence before the age of 15. In addition, the studies revealed that Sexual violence against children with disabilities is high in many countries, ranging from two incidents per child in Senegal to four per child in Cameroon.

In some countries in Africa, 30–40 % of adolescent girls are victims of sexual violence before the age of 15. In Kenya, Malawi, Tanzania, Swaziland, and Zimbabwe, the prevalence of experiences of sexual violence during childhood varies between 22 and 38 percent for girls, and 9 and 17 percent for boys. The percentage of girls aged 18–24 who had experienced sexual violence before the age of 18 ranged from 15.6 percent in Kenya 27 to 33 percent in Zimbabwe 28 and 35 percent in Uganda. The prevalence of sexual violence against children on the streets, especially girls, is extremely high. More than 74 percent of surveyed girls living and/or working on the street in Uganda had been subjected to at least one form of sexual harassment or violence

According to Uganda Annual Police Crime rate report 2022, a total of 12,580 cases of defilement were reported, 4,725 cases were taken to court, 205 cases secured convictions and 4,515 cases still pending in court. Only a small proportion of sexual violence cases are concluded within a year approximately 5 percent every year. This is partly due to the large case backlog in courts. Such low levels of perpetrator apprehension enable impunity, allowing perpetrators to continue harmful practices and exacerbating the sexual violence faced by children

In Uganda, 43% of girls are married off before their 18th birthday (Demographic Health Survey 2016). The drivers of Child marriage and teenage pregnancy are cross cutting and deeply rooted in traditions, culture and poverty. Some communities have a belief that when a young girl begins experiencing menstrual periods, it implies she is ready for child bearing. But all is not doom and gloom.

There are significant efforts to end Child Sexual Abuse in Uganda. Uganda is signatory to a number of international instruments which include; the International Convention on Economic, Social and Cultural Rights, 1966, the Convention on the Elimination of All Forms of Discrimination against Women, 1979, the Convention on the Rights of the Child among others, 1989, and the African Charter on the Rights and Welfare of Children (ACRWC) 1990. Domestically, there are a number of statutes enacted by parliament intended to fight violence against children.

These include the 1995 Constitution of the Republic of Uganda as amended, the Children Act 1998, the Children (Amendment) Act of 2016, the Domestic Violence Act, 2020, Prevention of Torture Act, 2012, Prevention of Female Genital Mutilation Act, 2010, Trafficking in Person Act, 2009, Penal Code Act Cap 120, the Anti-Pornography Act, 2014, among others. The adoption of Agenda 2063, Agenda 2040, and the Sustainable Development Goals (SDGs) further augment the efforts within these binding legal instruments. Against this background, there is evidence of progress made in using legal frameworks to address CSA on the in Uganda.

The table below outlines a matrix of the various laws and policies that provide a protective frame work for children against sexual abuse and exploitation

LEGAL/POLICY FRAMEWORK	KEY PROVISIONS
Constitution of Uganda of 1995 as amended	The 1995 Constitution of the Republic of Uganda is the supreme law of the land, Article 34 Rights of children: children shall have the right to know and be cared for by their parents or those entitled by law to bring them up. Article 24: No person shall be subjected to any form of torture or cruel, inhuman or degrading treatment or punishment.
Penal Code Act Cap 120	Specifically on children, offences on violence against children include, defilement, kidnap with intent to rape, murder, assault, manslaughter, abduction among others. Section 123 of the Penal Code establishes the offence of rape Indecent assault: Section 128. The offence is committed by a person who unlawfully and indecently assaults any woman or girl. The punishment is fourteen years. Defilement: Under section 129 any person, who performs a sexual act with another person below the age of eighteen years, commits the offence of defilement and on conviction liable to life imprisonment.
Children (Amendment) Act 2016	Section 7, no person is obligated to expose to a child to any customary or cultural practice that is harmful to his health, well-being, education or social –economic development. Section 8A prohibits sexual exploitation: a person shall not engage a child in any work that exposes the child to activities of sexual nature whether paid or not.
Domestic Violence Act 2020	Section 2 domestic violence constitutes any act which harms, injures or endangers the health, safety, limb or well-being, whether mental or physical, of the victim or tends to do so and includes physical abuse, sexual abuse, emotional, verbal and psychological abuse
The Prohibition of Female Genital Mutilation Act 2010	Section 2 of the Act establishes the offence of female genital mutilation as well as punishment for the offence. A person who commits female genital mutilation on conviction is liable to imprisonment not exceeding ten years
The Anti-Pornography Act, 2014	Section 13 forbids child pornography. Where a person in the production of, traffics in, publishes, broadcasts, procures, imports or abets pornography depicting images of children, commits an offence and is liable on conviction to a fine not exceeding seven hundred and fifty currency points or imprisonment not exceeding 15 years or both
The National Child Policy 2020.	The Policy is premised on the following guiding principles; Rights and responsibility approach, Best interest of the child, Family-centered, Non-discrimination, Child participation among others. Whereas the policy is a welcome, its implementation has not been a success

The National Strategy to end Child Marriage and Teenage Pregnancy2022/2023-2026/2027	The strategy tackles the root causes of gender inequality and reshapes unequal power relations that moves beyond individual self-improvement among girls and women towards redressing the power dynamics and structures that serve to reinforce gendered inequalities.
Adolescent Health Policy	The Policy recognizes the unique health needs of adolescents, including those related to sexual and reproductive health. By providing age-appro priate &comprehensive reproductive health service. The policy empowers young girls to make informed decisions about their bodies, health, and future.
The National Sexuality Education Framework 2018	The framework was developed by Ministry of Education and Sports to create an over- arching national direction for providing young people with sexuality education in the formal education setting, empowering young people with information and skills that are age appropriate, culturally and religiously sensitive that will enable them to make safe and healthy life choices.

Key Milestones in Addressing Child Sexual Abuse

- 1. The development of the National Child Policy (2020), Amendment of the Children Act (CAP 59) -2016, National Family Policy (Draft – 2021), National Guidelines for the Prevention of Teenage Pregnancy in School settings in Uganda (2021) and Parenting Guidelines (2018) have all provided a legal, policy and regulatory framework in addressing Child Sexual Abuse in Uganda.
- 2. Life skills empowerment for girls and boys have been enhanced though formal education systems and non-formal education structures at the community levels. Formal school education has been one of the best mechanisms in preventing child Sexual Abuse as it helps in keeping children at school hence minimizing their exposure to risks of abuse and exploitation. Joy for children has supported over 70 children from underserved communities with school fees and scholastic materials. Keeping girls in school provides them with school-based mentorship programs that deliver life-skills education, comprehensive sexuality education, guidance and counseling which are offered and better provided in school settings.
- 3. To improve reporting of child abuse cases, the Ministry of Gender, Labor and Social Development has put in place the SAUTI toll free Child helpline 116. The helpline has helped in timely reporting of cases of child sexual abuse and also enabled timely provision of response services to cases reported.
- 4. The National Violence against Children report (2018) has provided evidence on the prevalence of child Sexual Abuse in Uganda, which data is currently being used in ending Child Marriage and Teenage Pregnancy programming in Uganda.
- 5. Multi-sectoral coordination mechanisms have been established and functioning. These include the National and Sub National Multi-Sectoral Task Force on ECM&TP. Joint monitoring and supervision activities have been conducted during the Strategy lifetime.

Existing Deficit Implementing Legal and Policy Framework on Child Sexual Abuse

• The government is not sufficiently engaging the communities to increase awareness of existing laws and policy framework. Many people do not know the legal ramifications of child Sexual Abuse and the laws themselves are not summarized translated into local languages for the locals to understand.

- The lack of harmonization among laws on Violence against Children creates an implementation conundrum. The Government of Uganda does not have a consolidated law on sexual offences, which could be remedied by the pending Sexual Offences Bill. The Bill is the first legislation that specifically addresses the issue of child marriage and child sexual abuse.
- UNICEF reports that approximately 66% of child brides are in informal unions, thus making it difficult for law enforcement to track and prosecute cases of child marriage, the worst form of Child Sexual Abuse.
- Uganda is plagued by deep-seated traditional and religious beliefs and practices that hinder the implementation of the laws on Child Marriage. Ingrained patriarchal notions base the value of a girl on her virtue thus, they are married off early to maintain their purity by controlling their sexuality, despite this leading to child sexual abuse within marriages. Dismantling these cultural and religious beliefs is a task that the law alone cannot tackle as any overt sanctioning of these practices will only drive them underground rather than solve the problem. There is the risk of communities perceiving laws that alter their way of living as imperial and trying to erase their culture.
- Lack of a clear understanding of implications of the law on people amongst parliamentarians and government officials and the need to utilize a human rights based approach while enacting laws on child sexual abuse.
- Sometimes there are no provisions in the law penalizing those who contravene the minimum age of marriage requirement and thus the seemingly conflict with the criminal law on sex with a minor.
- Lack of recognition of, or adequate provision of, sexual reproductive health services and rights (SRHSR) in the general legal framework.



Recommendations

- Capacitate, sensitize and engage policy makers in the development of the policies and legal frameworks to end child sexual abuse.
- Child and public participation by engaging meaningfully with children, families, and communities. These must be integral players in proposing and designing policies, strategies, and preventive and response programs.
- Families should be at the forefront of CSA prevention. Positive parenting must be the cornerstone of CSA prevention. This involves promoting non-violent approaches to parenting, alternative rites of passage to replace female genital mutilation/cutting, as well as supporting education and opposing child marriage and other forms of CSA.
- CSOs should place equal emphasis on advocacy and lobbying Government on enacting the sexual offences bill to enhance public awareness and create a critical need to address CSA.
- Joy for Children- Uganda should initiate dialogues with Ministry of Gender, Labor and Social Development to develop a national action plan to specifically address child sexual abuse in Uganda, with clear and comprehensive multi-sectoral strategies and initiatives which can rekindle political will.
- Government of Uganda must demonstrate its political will to address child sexual abuse (including through promoting high-level political champions for addressing child abuse and exploitation)
- It is important for parliamentarians to allocate adequate financial resources to implement national action plans, laws and policies against child sexual abuse. As CSOs we need capacity-building to engage in the budget process.
- Government of Uganda should adopt and domesticate international standard to ensure that laws that prohibit all forms of CSA are in place and adequately enforced and implemented, thus enabling effective child protection.



CONCLUSION

As the incidence of child Sexual Abuse remains alarmingly high and yet there is an existence of clear and strong legislative framework, there is need to carry out a baseline study to determine what would work best for full implementation of the existing laws. The legislative atmosphere sets a progressive foundation which government programming and stakeholder campaigns can use to end child Sexual Abuse.

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