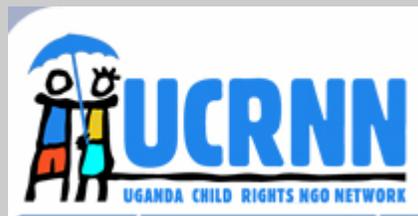


**NGO ALTERNATIVE REPORT TO THE GOVERNMENT
REPORT ON IMPLEMENTATION OF THE OPTIONAL
PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE
CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION
AND CHILD PORNOGRAPHY**

**PREPARED AND SUBMITTED BY UGANDA CHILD RIGHTS
NGO NETWORK TO THE UN COMMITTEE OF EXPERTS ON
THE RIGHTS OF THE CHILD**



March 2007

NGO Complementary Report on the Sale of Children

List of Acronyms

CAO	Chief Administrative Officer
CFPU	Child and Family Protection Unit
CSOPNU	Civil Society Organizations for Peace in Northern Uganda
CRC	Convention on the Rights of the Child
DDPs	District Development Plans
DPAC	District Plan of Action for Children
FCC	Family and Children's Court
GoU	Government of Uganda
ILO	International Labour Organization
IPEC	International Programme for Elimination of Child Labour
MoES	Ministry of Education and Sports
MoFPED	Ministry of Finance, Planning and Economic Development
MoGLSD	Ministry of Gender, Labour and Social Development
NCC	National Council for Children
NGOs	Non-governmental Organizations
PCA	Penal Code Act
PEAP	Poverty Eradication Action Plan
PSWOs	Probation and Social Welfare Office/Officer
SCA	Secretary for Children Affairs
SDIP	Social Development Sector Strategic Investment Plan
SDS	Social Development Sector
UBOS	Uganda Bureau of Statistics
UDHS	Uganda Demographic and Health Survey
UN CRC	United Nations Convention on the Rights of the Child
UCRNN	Uganda Child Rights NGO Network
UNICEF	United Nations Children's Emergency Fund
UNPAC	Uganda National Programme of Action for Children
UPE	Universal Primary Education
UPDF	Uganda People's Defense Force
UPFC	Uganda Parliamentary Forum for Children

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Foreword

All children desire to live in a world free from violence and exploitation. In 1990, the Government of Uganda ratified the UN Convention on the Rights of the Child and in 2002, ratified the Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

The Government of Uganda has demonstrated commitment to uphold the inalienable rights of children by putting in place legal, policy and administrative measures to protect and promote children's rights. As a State Party, the Government has prepared its initial report on the implementation of the Optional Protocol.

This report was prepared by Uganda Child Rights NGO Network (UCRNN) as a complement to the Uganda Government report. Generated through a consultative process with members, government and other actors, the report provides a comprehensive assessment of measures taken by Government of Uganda to implement the provisions of the Optional Protocol.

The report acknowledges progress made by Government in putting in place a favourable legal, policy and institutional framework to combat the sale of children, child prostitution and pornography. However, it also captures gaps in policy and legislation, administrative bottlenecks, poverty and conflict that continue to threaten protection of children from sale, prostitution and pornography. It therefore urges Government to conduct a comprehensive review of policies and legislation, enforcement of laws and policies, strengthen coordination and to leverage resources for children.

On behalf of UCRNN and children in Uganda, I take the opportunity to thank UNICEF-Uganda for the technical and financial support to the preparation of the report. We are further indebted to members, partners and all organizations and individuals who supported the process.

My humble appeal is for all duty bearers to use this report to design effective interventions to combat the sale of children, child prostitution and child pornography.



Jolly P.T Nyeko,
Chairperson,
Uganda Child Rights NGO Network.

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1.0 Introduction

The Government of Uganda ratified the United Nations Convention on the Rights of the Child (UN CRC) in 1990. In 1996 Uganda domesticated the CRC by enacting a law for children, the Children Statute, now Children Act (Cap 59), Laws of Uganda. To further strengthen the protection of children, Uganda also ratified the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography on 19th August 2002.

As part of its obligation as a State Party to the Optional Protocol, the Government of Uganda has prepared its initial report on the implementation of the Protocol. While governments have the duty to promote, protect and defend the rights of their citizens, Non Governmental Organizations (NGOs) have an obligation to track on these government roles. The CRC also mandates NGOs to report on Government implementation of the Convention. Article 45(a) of the CRC provides that:

“The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities.”

In fulfilment of this mandate, Uganda Child Rights NGO Network (UCRNN) has prepared an Alternative Report to the Government's Report on the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (hereinafter referred to as the Protocol). The Alternative Report provides the basis for NGOs continued lobbying for a supportive legal and social regime for children in Uganda.

UCRNN is a coalition of NGOs working in the field of child rights in Uganda. UCRNN aims at upholding child rights as laid out in the UN CRC, the African Charter on the Rights and Welfare of the Child (ACRWC) and the Uganda's Children Act.

UCRNN was initially formed to spearhead the preparation of the Alternative Report to the UN Committee on the Rights of the Child in response to Uganda Government's initial report in 1997. The network has since then played a major role in providing a collective voice in advocating for child rights in Uganda and in monitoring the implementation of international, regional and national legal and policy instruments that relate to children in Uganda.

1.1 Structure of the Report

The report begins with an overview of the situation of children in Uganda. It is very important to situate the child in context when talking about the sale of children, child prostitution and child pornography. That way, one is better able to understand the complexity as well as the gravity of the subject at hand as well as the urgency in doing

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everything possible to eliminate violence and exploitation of children. The second part of the report looks at the institutional mechanisms in place to address implementation of the Protocol and highlights the various challenges related to the institutional framework and proposals for better protection of children. The third part of the report examines the existing laws in place relating to sale of children, child prostitution and child pornography, identifies gaps and makes proposals for change. The fourth and last part gives general recommendations for improvement of implementation of the Protocol.

1.2 Overview of the situation of children in Uganda

Over the last decade, Uganda has made specific commitments to incorporate a human rights based approach as an integral component of the country's development focus. This has included the ratification of international commitments to human development including the CRC and ACRWC; the adoption of the Millennium Declaration of 2000 and the World Fit for Children Declaration of 2001; the development of strategic policy frameworks including the Poverty Eradication Action Plan (PEAP) 2004/05 to 2007/08; law reform to introduce child-friendly provisions; improved accountability to children within government systems; provision of better access to and improved quality of basic services and mobilization of local communities as partners in their own development through decentralization.

However, despite these measures, children are still at risk of and experience gross violations of their rights. A number of basic causes form the interlinked web that defines the environment within which the realization of children's rights is constrained. These include poverty, insecurity, conflict, HIV/AIDS, demographic changes and gender discrimination.

Poverty:

About 5.7 million children in Uganda live in poverty and this is a worsening trend. Child poverty is a complex phenomenon of severe deprivation that multiplies the vulnerabilities of a child. Poverty is an attribution of the environment in which children live, a situation where families and communities are unable to nurture and protect children and where children are unable to develop to their full potential. These deprivations cause suffering in the short term and hinder development in the long term. Given the multidimensional nature of child poverty, the children who tend to be most adversely affected by poverty and hence the most vulnerable include orphans, children with disabilities, street children, working children, children affected by armed conflict, children heading households and children in single parent-headed (especially female headed) households. The need to supplement family income, to be self reliant, to pay school fees and have pushed children into commercial sexual exploitation and other forms of exploitative labour¹.

As part of the process to enrich the PEAP Review Process, UCRNN commissioned a study entitled "Uganda's Poor, Vulnerable Children and the Rights of the Child: An Analysis of the PEAP from a Child Rights Perspective, Proposals for Action and Recommendations for the Next PEAP".² In the report, UCRNN strongly recommends mainstreaming child rights

¹ ILO 2007: Rapid assessment report in trafficking of children into worst forms of labour, including child soldiers in Uganda

² Report released in August 2003

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issues in macro economic policies as one way to demonstrate commitment to address child poverty.

Conflict

The 19 year old conflict in Northern and North-Eastern Uganda has been responsible for grave and repeated human rights violations committed on the resident population. Children remain vulnerable to a long list of threats including sexual and gender based violence, abduction, child labour and to recruitment as combatants and sex slaves for fighters. The above, coupled with difficulty in accessing social services (especially education and health) and a weak social fabric have undermined children's potential for growth and development³.

HIV/AIDS:

The HIV/AIDS pandemic continues to take its toll on Ugandan society and is a major contributing factor to children's vulnerability. An estimated half of Uganda's 1.8 million orphans have lost one or both parents to HIV/AIDS. HIV/AIDS is both a result of and a contributing factor to violations of children's rights. Children infected and affected by HIV/AIDS often face stigmatization, discrimination, domestic violence, abandonment and loss of inheritance rights. In some instances, children from either suspected or confirmed HIV-positive families have been prevented from entering school, from obtaining health services and from being placed in foster homes.

Childhood is a period of dependency and dependence by its very nature is characterized by vulnerability. This therefore means that children by their very nature are the most vulnerable to HIV/AIDS and the most vulnerable among children are even more disadvantaged.⁴ Vulnerable children include children with disabilities, child prostitutes, children engaged in child labour, children living on the street and children affected by conflict. The extended system that absorbed orphans and other dependents in the past has weakened making children susceptible to sale and prostitution. ILO-IPEC⁵ (2004) notes that because of their circumstances, many orphaned boys and girls are forced to migrate into urban areas and landing sites in search of work opportunities and end up in prostitution and other illicit activities. The need for protection of children affected by HIV/AIDS from sale, prostitution and pornography is eminent.

High Population

The high population growth rate and the large proportion of children in the population aggravate the threats to the realization of children's rights, making it much more difficult to provide adequate health, education and other social services. Children constitute 56.7% of Uganda's population. Of this percentage, 62% are under the national level poverty threshold.⁶ The continuing large size of families is one of the fundamental reasons why many parents and guardians, particularly among the poor, find it difficult to provide adequate care for their children, with large families stretching resources available for food,

³ CSOPNU 2007: Worst Place to be A child: The Impact of Armed Conflict on Children in Northern and North-Eastern Uganda

⁴ See UCRNN Report titled "As Easy As 'ABC'?: The ABC Strategy and Preventing HIV/AIDS Among Vulnerable Children" September 2006

⁵ ILO-IPEC (2004): Report on the Sectoral Study on Child Labour and Commercial Sex Exploitation of children in Uganda

⁶ UCRNN PEAP Report 9August 2003), page 9

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clothing, education and other needs. Large families are one of the key underlying factors behind the high rate of child mortality, low rates of school retention and completion and other violations of children's rights.

Gender discrimination

Discrimination against girls is commonplace in families and communities especially regarding education, domestic work and early marriages. The persistence of certain harmful traditional practices results in other forms of abuse of girls. Child marriage is still widespread, resulting in the betrothal of young girls, many in their early teens, without their consent, often to much older men. Many children are subjected to domestic violence and sexual abuse. A study conducted by ILO-IPEC in 2004 on CSEC in Uganda revealed that majority of 12,000 children involved in CSEC are girls between the ages of 14-17 (a ratio of 9 girls to one boy). Many studies in Uganda also reveal that many girls are sold to urban areas as child domestic workers⁷.

1.3 Child Protection Issues in Uganda

Large numbers of children in Uganda are growing up in conditions that restrict their life opportunities and put them at risk of not developing their full potential as healthy, social and active citizens. Some of these children are vulnerable to violence, exploitation and abuse, which are not only human rights violations, but are also under-recognized and under-reported barriers to child survival and development. The essence of child protection is both to address the consequences of violence, exploitation and abuse and to prevent it in the first place.

In Uganda child protection is a relatively new area of rights based practical programmatic intervention involving concepts and approaches that are evolving and not yet widely understood. Many forms of abuse such as sexual abuse of young children or rape are socially shameful in Uganda and remain hidden, creating barriers to an accurate assessment of incidence and prevalence. This hidden nature of sexual abuse also creates problems in generating comprehensive analyses of social and other contexts and consequences and in developing appropriate programming for prevention and response. As might be expected in a relatively new field, there remains the inconsistency between agencies involved in child protection in the definition of concepts and categories. There are a few commonly agreed indicators and even fewer that are consistently monitored. However, the existence of violence against children, child exploitation and of child abuse is neither a new issue nor an unrecognized one. Since the 1990s, studies of poverty, the HIV/AIDS pandemic and conflict have all generated information about children at risk.

While child protection is a relatively new area in Uganda, its importance is recognized by the Government. In certain key areas such as the legal protection of children, juvenile justice, responses to disability concerns and movement away from institutionalization of orphans

⁷ See ILO 2002, ANPPCAN 2004, Child Action 2000, UBOS 2002, WAYS 2001

⁸ Child protection is broadly understood as seeking to safeguard and create an enabling environment to facilitate holistic development of all children as well as to enable them exploit their full potential. It includes measures that promote children's physical and emotional well being, provide them with equal access to basic services and safeguard their human and legal rights.

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and other vulnerable children, Uganda has been a regional leader. The 1995 Constitution (as amended) enshrines special protection for children in general and for vulnerable children in particular. As part of the efforts to operationalise the Constitution and other laws and policies that relate to children, Government enacted the Children's Act that consolidates law relating to care, protection and maintenance of children and makes important provisions for children in conflict with the law. The challenge however, is to improve official understanding of child protection issues, to strengthen the technical aspects of response, and to significantly enhance and expand implementation. There is also need to amend the Children's Act to incorporate issues related to sexual exploitation and trafficking of children.

1.4 Child Labour in Uganda

Defining the extent of child labor in Uganda is not easy. Different studies use different criteria and report contradictory findings. It has been estimated that there are approximately 2.7 million working children in Uganda.⁹ A MoGLSD/ILO report suggests that up to 70% (1,890,000) of Uganda's of working children are engaged in child labor.¹⁰ The 2000-2001 Uganda Demographic and Health Survey (UDHS) reported that 9% of the total population aged 5 – 17 (700,000) are laboring.¹¹ These children are engaged in different kinds of work, mainly in the informal sector. Children work in restaurants and bars as waiters and waitresses, cooks and cleaners. They wash cars, porter goods, clean offices, work in kiosks or markets, hawk on the streets. They farm, look after livestock, pick tea, harvest coffee. Children work in mines and quarries, make bricks, dig sand and clay and some children, especially girls, are engaged in domestic labor and sex-work. Some of this work is hazardous and some of it exploitative and is often damaging to health, safety and development of children.

Labour exploitation is a problem in itself but in addition a child whose family or personal situation has led him or her to exploitative work is also at risk of other forms of abuse. The excerpt below illustrates this very clearly:

Child slavery, labour and sexual exploitation....(Taken from report by Save the Children Uganda titled 'A Chronic Emergency: Child Protection Issues Among Communities in the Karamoja Region'¹²)

“Ochorimongin is not the only destination for girls. There is a man called MW in Kakajo Zone in Kisenyi II, Kampala who does borehole drilling. Karimojong girls are taken to him for work. They work for example, as pump attendants and winnowers. However, before placing them on any kind of work the girls have to have sex with him and his workers”

⁹ UBOS, 2003a. Child Labor in Uganda: A Report Based on the 2000/2001 Demographic and Health Survey, p. 23

¹⁰ ILO & MoGLSD (2004). *Report of the Sectoral Study on Child Labor and commercial Sex Exploitation of Children in Uganda*. International Labor Office and Ministry of Gender Labor and Social Development. Kampala. Uganda. p. 3

¹¹ UBOS 2003a, p.28

¹² Save the Children in Uganda, 2006 A Chronic Emergency: Child Protection Issues Among Communities in the Karamoja Region p. 36

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The conditions that force children into labour are often the same ones that expose children to violence and sexual exploitation. Almost by definition the poorest children have the least power and the least ability to resist other threats. While some forms of labour are by definition exploitative and hazardous (for example commercial sex work), others apparently less overtly risky can expose children to social conditions that make them vulnerable to other abuse.

Gender roles and expectations contribute to the differing experiences of girl and boy labourers. Approximately 19% of girl labourers are working as domestic servants (25% of girl labourers in the age range of 5-11), an occupation that can lead to social exclusion.¹³ Between 7,000 and 12,000, the majority girls, are estimated to be involved in commercial sex work, one of the most hazardous forms of child labor.¹⁴ Many other girls engage in survival sex aimed at securing basic needs. This worrying trend prompted the Committee on the Rights of the Child, in its Concluding Observations to Uganda's second periodic report on the UNCRC in September 2005 to urge the state party to develop a comprehensive programme to combat child labor.¹⁵

1.5 Sexual Violence and Exploitation

For girls in general, female subordination means that they are not in a strong position to resist sexual advances or abuse, especially if they are poor and not protected by a supportive family. Over 46% of girls interviewed by Save the Children reported being touched against their will or being forced to kiss an adult or older boy. The majority (32%) of children who reported sexual abuse said it took place in the home. Over 20% of girls interviewed reported being forced or coerced into sex, effectively being raped.¹⁶ Unsurprisingly, a study by Uganda Law Reform Commission (ULRC) found that rape occurs in all parts of Uganda and is not readily reported for fear of stigmatization. Paradoxically, the rape of girls is largely legally invisible in Uganda because the violation is usually addressed by using the offense of defilement- unlawful (outside marriage) sexual intercourse with a girl under 18 years – which does not require dealing with the issue of consent. The law therefore treats forced or coerced sex involving an under 18 year old girl as the same offense as consensual sex between 2 teenage children. This is an unsatisfactory situation that causes significant problems in the implementation of the law and does little to protect girls and boys.

Estimates of the number of children involved in commercial sex amount to 7,000 to 12,000 children (90% girls) nationwide, many working in bars.¹⁷ However, the lines between commercial sex and transactional sex are easily blurred and girls may quickly slip into situations of exploitation over which they have little control. Commercial sexual exploitation of boys is less recognized with inadequate studies undertaken in this area. Sexual abuse and

¹³ MoGLSD/ILO 2004a, p.49

¹⁴ MoGLSD/ILO 2004b, p.30

¹⁵ Committee on the Rights of the Child, 30 September 2005, Concluding Observations of the Committee on the Rights of the Child CRC/C/15/Add.270 p.15

¹⁶ Nakar, D., 2005. Violence Against Children: The Voices of Ugandan Children and Adults. Save the Children in Uganda p.26

¹⁷ MoGLSD/ILO, Ibid p.30

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exploitation is another issue about which the Committee on the Rights of the Child expressed concern in its concluding remarks.

Comments by the Committee on the Rights of the Child on Sexual Exploitation¹⁸

75. The Committee is concerned that according to some recent studies a considerable number of children are victims of sexual exploitation. Furthermore, the Committee is deeply concerned at the very high incidence of defilement of girls, constituting more than half of the cases of child abuse. In addition, it notes that the law on sexual abuse is biased against the boy child.

76. The Committee recommends that the State party:

(a) Take appropriate legislative measures, including adoption of the long-standing bill on sexual offence, and develop an effective and comprehensive policy addressing the sexual exploitation of children, including the factors that place children at risk of such exploitation;

(b) Undertake awareness-raising educational measures to prevent and eliminate the defilement of girls;

(c) Avoid criminalizing child victims of sexual exploitation;

(d) Implement appropriate policies and programmes for the prevention, recovery and social reintegration of child victims, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children.

2.0 Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography

2.1 *The Legal Status of the Optional Protocol in Domestic Law*

The Government of Uganda ratified the Optional Protocol to the Convention on the Rights of the Child in 2002. However, to date there is no specific law that domesticates this Optional Protocol, as the Government clearly concedes in its report. This is despite the fact that during the Constitutional Review Process to amend the 1995 Constitution, various civil

¹⁸ Committee on the Rights of the Child, 30 September 2005, Concluding Observations of the Committee on the Rights of the Child CRC/C/15/Add.270 p.15

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society organizations recommended that international human rights instruments ratified by Uganda should automatically become part of the law of Uganda without going through a domestication process precisely because the pace of law reform in Uganda is [painfully] slow. For example, amendments to the Penal Code sections dealing with sexual offenses (which were comprehensively amalgamated into the Sexual Offences Bill) have been proposed since 1999, but to date the Sexual Offences Bill has not even been debated by Parliament.

Some of the provisions of the Protocol are addressed in the Penal Code Act (as amended). These include the sections on offences against morality or sexual offences. The section on sexual offences covers prohibition of prostitution and sexual intercourse with a person below the age of 18 years. The offences in the Penal Code Act are not in themselves exhaustive to protect children against offences that the Protocol covers. For example, the challenge with the phraseology of the section on prohibition of prostitution means that instead of protecting children against prostitution, it actually criminalizes prostitution of any kind and therefore child prostitutes find themselves in conflict with the law instead of being protected by it. The offence reads as follows:

In this Code, ‘prostitute’ means a person who, in public or elsewhere, regularly or habitually holds himself or herself out as available for sexual intercourse or other sexual gratification for monetary or other material gain, and ‘prostitution’ shall be construed accordingly.

Any person who practices or engages in prostitution commits an offence and is liable to imprisonment for seven years.¹⁹

Section 3 of the report gives a more detailed critique of the laws related to sale of children, child prostitution and child pornography in Uganda.

One thing though is clear and that is that Uganda needs to review the Children’s Act to make it more compliant with the Protocol as well as review where necessary, and pass the Sexual Offences Bill.

2.2 Institutional Framework for Implementation of the Protocol

While protection is recognized by the Government of Uganda as a cross cutting issue, it is usually framed in relation to poverty rather than violence, exploitation and abuse and there is no child protection sector as such. Rather, protection is subsumed within the Social Development Sector (SDS) which also promotes issues of gender equality, equity, human rights, culture, decent work conditions, and empowerment of different groups such as women, children, unemployed youth, internally displaced persons, the elderly and persons with disability. MoGLSD is the lead government body for the implementation of the SDIP and is responsible for bringing together other key stakeholders such as Ministry of MoFPED, MoES and the Office of the Prime Minister (OPM), among others.

Under the MoGLSD leadership, the SDS has developed a five year plan (SDIP 2003 – 2008). The five broad objectives of the Plan are:

¹⁹ Section 138 and 139 of the Penal Code Act, Cap 120, Laws of Uganda

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- (a) To empower communities to appreciate, access, participate in, manage and demand accountability in public and community based initiatives
- (b) To protect vulnerable persons from deprivation and livelihood risks
- (c) To create an enabling environment for increasing employment opportunities and productivity for improved livelihoods and social security for all, especially the poor and vulnerable
- (d) To ensure that issues of inequality and exclusion in access to services across all sectors and at all levels are addressed
- (e) To improve the performance of social development institutions to coordinate and implement the SDIP at various levels.²⁰

Protection from violence, exploitation and abuse are not explicitly mentioned but some of the above named objectives are relevant to protection issues.

The MoGLSD is also the lead institution responsible for investigating and addressing complaints related to child labour. In 1999, Uganda launched a national programme to eliminate child labour with particular emphasis on children working in hazardous occupations such as construction, street children, commercial sex, domestic workers, commercial agriculture, fishing and cross border smuggling and drug trafficking. The MoGLSD established a Child Labour Unit to develop policy and to promote coordination and networking among the key stakeholders.

The MoGLSD also takes lead in ensuring the implementation of the Protocol and works with other institutions as well. The section below looks at the challenges the various institutions face with regard to implementing the Protocol.

2.3 The Ministry of Gender Labour and Social Development

The chief challenge for the MoGLSD is that it is poorly resourced. The mandate for the protection of children largely falls under MGLSD. As noted above, the Ministry has put in place a number of policy and legislative measures to ensure realization of the child's right to protection in line with national and international instruments. To fulfill their mandates, governments departments responsible for child protection require ample resources to among other things ensure that:

- Communities are adequately sensitized and mobilized regarding the rights of children
- Policies and legislation is implemented
- Facilities for children in institutional care promote rather than violate the rights of children
- Family structures are strengthened and facilitated to play their caring role
- Children who are displaced or are on the street or in institutions are reintegrated with their families
- Sufficient technical staff is available to ensure delivery of quality services

²⁰ MoGLSD 2003, Social Development Sector Strategic Investment Plan, p.vi

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- There are sufficient measures to ensure the protection of the particularly vulnerable children.
- Adequate oversight work is done by MoGLSD to local authorities and NGOs

The concern however is that most of these remain unimplemented due to lack of resources.

The MoGLSD also suffers from poor staff capacity and has not made a clear paradigm shift from a target group orientation (e.g. orphans, children, youth, etc) to a functional approach (e.g. child protection, community mobilization).²¹ Currently the MoGLSD retains an organizational structure that combines target group and functional departments. A clear functional orientation would create a more systematic approach to child protection and would make roles and responsibilities easier to define, which would in turn facilitate coordination.

The MoGLSD runs many programmes that include the protection of children from violence, exploitation and abuse as one dimension but no department actually has clear leadership responsibility. Programming is duplicative and piece-meal and the issues of violence, exploitation and abuse do not get the kind of systematic or holistic attention they require. In this kind of environment, there is even a risk that efforts to improve coordination are duplicative. For example, both the National Psychosocial Core Team and the National OVC Steering Committee discuss issues concerning child protection but generally without reference to each other.²²

The National Strategic Programme Plan of Interventions for Orphans and Vulnerable Children (NSPPI) developed by the MoGLSD in 2004 represents an opportunity to develop a more comprehensive protection response for vulnerable children. Many aspects of the NSPPI, which embrace families as well as children, contribute to protection although protection is only directly mentioned in relation to strengthening legal, policy and institutional frameworks. The NSPPI envisages strong collaboration and coordination between local government, civil society and private sector at the community level. However, implementation has been slow and coordination of national and district levels is poor.²³

While recognizing that child protection is multi-sectoral, there is need for stronger leadership at the national level and this is largely the responsibility of the MoGLSD. To discharge the leadership effectively, the MoGLSD needs to arrive at a clearer internal definition of roles and responsibilities which are explicit as to which section has the role of ensuring coordination on child protection. The MoGLSD also needs stronger capacity to provide technical guidance, to set standards and to monitor performance.

Another necessary element is increasing funding to the MoGLSD, the institutions responsible for implementation of the Children Act, and protection activities at district level. The Social Development Sector, led by the MoGLSD, needs to make explicit provision for child protection as an area for priority funding under Poverty Action Fund (PAF). In

²¹ MoGLSD, *Ibid* pp.8-10

²² UNICEF October 2005, Report on the Situation of Children and Women in the Republic of Uganda, p.138

²³ *Ibid*

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September 2005, the Committee on the Rights of the Child urged Government to prioritize and increase budgetary allocations for children at national and local levels and called for particular attention to be paid to vulnerable children.

2.4 The National Council for Children

While the National Council for Children (NCC) is a body that was created by government to coordinate and monitor all issues pertaining to children, its effectiveness has been hampered by a number of factors, namely:

- (a) The NCC's policy body consists of members drawn from 10 ministries, 4 representatives of indigenous NGOs, 3 special members as well as 5 persons of proven integrity and knowledgeable in children's welfare. The law further specifies that the persons (civil servants) to be members of the council should not be below the rank of Under Secretary. However, their involvement in the Council is only part time and since most of them are employed as civil servants, it is always difficult to raise quorum for council meetings
- (b) Most of the members of the NCC are not in a position where they can influence policy in the sectors in which they are based
- (c) There is also considerable overlap of roles between the NCC and the MoGLSD. Whereas the NCC is the statutory coordinating body on children matters, the MoGLSD has a youth and children's department which more or less performs the same task.

In recognition of the structural and other problems of the NCC, the Government has proposed the restructuring of NCC with the intention of replacing NCC with the Ugandan National Children Authority (UNCA). However, UCRNN is concerned at the delay in this restructuring process, which may undermine the efforts to implement the rights enshrined in the Protocol in a well-coordinated manner. Government should expedite the process of restructuring NCC in order to ensure full implementation of the Protocol. UCRNN further recommends that the Government provide NCC and, as soon as it is established, UNCA with adequate human and financial resources to execute its mandate, including the effective coordination of the activities at the national and district levels for the implementation of the Protocol.

2.5 The Poverty Eradication Action Plan (PEAP)

The PEAP is Uganda's national development framework and medium term planning tool, prepared through wide stakeholder consultations and participation. The PEAP guides the formulation of government policy and implementation of programmes through sector wide approaches and decentralised governance system. The expenditure implications of the PEAP are translated into concrete spending decisions through the Medium Term Expenditure Frameworks (MTEFs) and annual budgets.²⁴ For concerns to be included in national development and financial plans, it is critical that they are included in the PEAP.

²⁴ PEAP revision guide, MFPED, 2003 p.4

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While children are considered a cross cutting theme alongside other disadvantaged groups, several challenges remain:

- Children are usually left out of the picture because of their inability to speak for themselves. As a result, focus has tended to be on vulnerable adult groups rather than children.
- The risk with labeling something cross-cutting is for it to be seen by mainstream sectors as a non-priority. Extra effort has to be made for mainstream sectors to think about, analyse, plan for and allocate and disburse resources to ‘cross-cutting themes’.
- The MoGLSD that is the parent ministry for vulnerable groups faces many challenges in ensuring that other mainstream ministry’s incorporate and adequately address cross-cutting issues of vulnerable groups. Inadequate co-ordination, financial limitations and limited influence are challenges the Ministry faces in playing its role.
- The NCC whose mandate pulls together all government Ministries in matters relating to children is best placed to rally support, funding and implementation of interventions across Ministries to address the interests of poor children. Unfortunately, it is floundering and seems to lack the influence to guide mainstream ministries accordingly.

Recently, the PEAP came under review in the first even Annual PEAP Implementation Review (APIR)²⁵, a process overseen by the Monitoring and Coordination Unit of the Office of the Prime Minister. The APIR aims to become institutionalized as a core process and event informing stakeholders annually about progress being made in implementing the PEAP. The APIR is based on linkages, synergies and complementarities between sectors and pillars. The overall objective of the APIR is to improve planning, budgeting and implementation of activities leading to realization of the PEAP outputs and outcomes and provide inputs to current adjustments of the PEAP with the Results and Policy Matrix using an inter-sectoral review mechanism. The APIR is the framework that will enable Government and stakeholders like civil society, private sector and development partners to make decisions that will keep the implementation of the PEAP on track.

A precursory look at the first APIR report shows that there is no specific mention of how the PEAP implementation has impacted the disadvantaged groups specifically. Given this scenario, it may be wise for the national planners, policy and decision makers to consider, in addition to the cross-cutting approach, specifically providing for and funding initiatives that address child poverty – especially those that promote protection of children from abuse. With targeted funding and provision, the poor and vulnerable children will not miss out as they have usually done.

2.6 The Local Government Council

At the district level, statutory child protection activities are led by the District Probation and Social Welfare Officers (PSWOs) while community based activities are more within the remit of the District Community Development Officers (CDOs) and assistants. The latter are also responsible for a wide range of other community development issues and so they are generally over-stretched and unable to focus effectively on child protection. Districts do not receive conditional grants from the MoFPED to cover child protection. As a result, child protection is rarely made a priority issue within district plans of operation and there is very

²⁵ Meeting was held on February 20th to 21st and Speke Resort Munyonyo, Kampala

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limited deployment of human and financial resources in programmes and projects at the district and sub county levels. For example, resource constraints negatively impact the implementation of the Children Act and the NSPPI. There is a general lack of logistical capacity within districts to monitor and guide protection programmes in the field.

The box below shows an example of the work of a District Probation and Social Welfare Officer in Kotido District and the challenges with regard to issues of child protection.²⁶

Existing Protection Strategies	Child	Activity	Gaps in Delivery Mechanism
Regular monitoring visits to prisons		Monitoring prisons to ascertain whether there are juveniles placed in same prisons with adults	Failure to secure release of juveniles from prisons due to lack of funds to send them to remand homes
Child rights training	Advocates	Supported by MoGLSD, child rights advocates identify OVC categories; assess their needs and make proposals for interventions	District has no remand home Lack of funds to carry out child protection activities
Psychosocial Training	LP skills	CDO trained in psychosocial LP skills to handle child related concerns at sub county level. Cases that fail are referred to DPSWO	Lack of funds to carry out child protection activities
Liaison between DPSWO and court	Police,	Police report child cases to DPSWO; DPSWO advises court on child related cases	Inadequate flow of information to facilitate efficient delivery of child protection services
Awareness raising among LG on child labor		Awareness about child labor issues during meetings and the need to stop employing children as laborers in homes	Sections of LG staff still employing children in child labor practices- contrary to Children's Act and OVC policy

In general, there is still limited understanding and knowledge among local government staff and local councilors of the various child related policies and of good child protection practice. This needs to be addressed by the Government/MoGLSD as a matter of urgency.

²⁶ Save the Children in Uganda, Ibid at 4 p.64

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2.7 Uganda Human Rights Commission

The Uganda Human Rights Commission (UHRC) is an independent Constitutional body established to promote and protect human rights. It is established under article 51(1) of the Constitution of the Republic of Uganda of 1995 and by the *Uganda Human Rights Commission Act No.4 of 1997*. The function of the UHRC is to empower the public by giving them basic knowledge about their rights.

While the government in its report states that the Commission is doing a lot in the areas of training police force and other child advocates on issues that concern child protection and investigating violations of Children's rights, an analysis of the UHRC reports of 2003 and 2004 shows that this is not the case. In 2003 out of the 107 reported major conferences, workshops, presentations and lectures given by the Commission, only 2 were overtly about children's rights while another three could be said to have touched on children's rights, although without the content it would be hard to ascertain. In 2004, out of the 98 conferences, workshops and appearances, only one touched on children's rights.

Thus either the UHRC should designate a particular office/officer to issues of children's rights or should increase its education on children's rights. The Annual Report of the Human Rights Commission is a very powerful tool that the Commission can use to report on and champion issues related to the Protocol. The Commission should dedicate its next report to children's rights issues. Moreover the Commission has a whole office in charge of monitoring Uganda's compliance with international and regional human rights instruments. The Commission should write a report on its assessment of Uganda's implementation of the Protocol.

The PEAP proposes that in line with the CRC and Children Act, the UHRC will and should support and coordinate data collection on abuse, neglect and exploitation of children.

The Committee on the Rights of the Child recommended that Uganda establish within the UHRC a separate department or mechanism with the necessary expertise to independently monitor the implementation of the Convention on the Rights of the Child. It should also be provided with the necessary human and financial resources to receive and investigate complaints from or on behalf of children on violations of their rights.

2.8 The Uganda Police

According to the Government Report, "There is a Children and Family Protection Unit (CFPU) in most police stations and these handle cases of child abuse and neglect including those provided by this Optional Protocol. This unit has been instrumental in protecting women and children from violence and abuse as well as educating the public on laws and legal procedures."

Information obtained by UCRNN from the Uganda Police indicates that the CFPU was established in 1998 to deal with violations against women and children such as rape, defilement, sexual harassment, child neglect, child abuse, domestic violence and trafficking in women and children. Apart from working with the Criminal Investigations Department

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(CID) department to investigate these cases, the CFPU is also responsible for creating public awareness on rights of women and children, counseling child victims of abuse, visiting schools to talk to teachers and students about child abuse as well as carrying out educational programmes on crime prevention.

Of the 124 gazetted police stations in Uganda, 85 have a CFPU, representing 68.5%. The Police further revealed to UCRNN that there are no crime statistics on child prostitution, sale of children, and in their words, 'information on child pornography is completely lacking'.

The Police was able to provide statistics on child abduction, kidnap and disappearance in Uganda 2006 as follows:

Nature of reported cases	Jan	Feb	Mar	April	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Child Stealing	0	1	3	0	2	2	3	3	0	0	0	0	14
Child Abduction	17	12	15	10	15	13	17	4	3	1	1	0	108
Child Disappearance/missing	1	2	11	5	5	5	7	8	6	1	1	1	53
Child kidnap	0	2	0	1	0	3	0	1	2	0	1	0	10
Murder	0	1	0	0	0	1	1	1	0	0	0	0	04
Total	18	18	29	16	22	23	2	16	11	02	03	01	189

Regarding the status of the cases, 106 are still under investigation, 5 have been dismissed by court, 18 are currently being heard by court and conviction has only been secured in 3 cases.

In their own words, the Uganda Police faces the following challenges:

- (a) Inadequate funding to handle children in conflict with the law: there are few police units with separate cells for children, and there are four remand homes and one reformatory school in the country
- (b) Limited skills in handling children's issues; There is no manual to guide officers when handling cases involving children. There is need to train all officers in the CFPU. There is also need to equip the Police force personnel with counseling and interviewing skills among others
- (c) No comprehensive data collection mechanisms; There is need to enhance the data collection system to capture all information relating to violation of children's rights in the CRC and the Optional Protocol
- (d) There are no Family and Family Children's Courts in districts outside Kampala, yet these were to act as the referral points for the CFPU.

The Uganda Police while being a key stakeholder in protection of children in the areas covered under the Optional Protocol is one of the poorest funded institutions in Uganda. They have rudimentary tools for crime prevention, protection and information gathering. In their own words, they have no statistics on the critical crimes covered by the Optional

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Protocol. It is thus very easy for crimes such as child prostitution, trafficking and child pornography to take place unabated in such a resource vacuum.

Government of Uganda needs to increase the budgetary allocation to the Police as a key institution in preventing child prostitution, trafficking and child pornography. This matter needs to be addressed urgently.

2.9 Family and Children's Courts and Family Protection Units

The Children Act provides for Family and Children's Courts (FCC). The court has jurisdiction to hear criminal cases against a child, except those which carry the maximum death sentence such as murder, defilement and rape; and civil cases related to only applications concerning childcare and protection such as maintenance cases, or parentage cases. Grade II Magistrates in the various districts in Uganda have the jurisdiction to handle cases brought to the FCC. While FCCs are not fully functional in all the districts, plans are underway to institute them in all districts. Working along side FCCs are CFPUs offering emergency, preventive and supportive services to child victims of violence. The Units are intended to provide child friendly services addressing violence and abuse as well as engage in community outreach, sensitization programmes in schools and counseling. Some locations also have Police Community Liaison Officers under the Community Policing Programme whose duties include intervention in juvenile crime cases.

Despite these initiatives, access to justice for children remains a serious challenge. Staffing shortages, inadequate financing, logistical constraints and corruption remain major barriers to justice for children. Local Council (LC) courts still remain the court of first instance for most child-related issues. Many have poor understanding of the principles of juvenile justice and child protection issues and routinely handle cases beyond their jurisdiction. Few LC courts have a good grasp of the best interests of a child as a guiding principle. LC courts are often open to manipulation by powerful individuals. Although the police and magistrates are generally aware of child protection issues, delays in gathering evidence, lack of sufficient transport, the absence of complainants when cases are finally brought to trial and the work load of state attorneys combine to limit their adherence to principles of juvenile justice.

For cases beyond the jurisdiction of the FCC, children are tried in ordinary courts and are supposed to be detained in remand homes. In its report, Government states that functional remand homes exist in Kampala, Kabale, Mbale, Kabarole and Gulu. However, the tables below, taken from the Social Development Sector Ministerial Policy Statement of the MoGLSD for Financial Year 2006/2007²⁷ shows this not to be the case. One of the key indicators for a functional remand home is that adequate staff is in place to provide the necessary services to the children on remand. However, as the tables below show, most key staff positions in the named 'functional' remand homes are vacant, so the homes cannot be said to be fully functional.

²⁷ MoGLSD 30th June 2006, Social Development Sector Ministerial Policy Statement, Vote 018, Ministry of Gender Labour and Social Development, Financial Year 2006/2007 presented to Parliament for the Debate of Estimates of Revenue and Expenditure, pp.39-42

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Kabale Remand Home:

Post title	Required	Filled Post	Vacant Post
Probation and Welfare Officer	1	0	1
Warden	1	0	1
Assistant Probation and Welfare Officer	1	0	1
Matron/nurse	1	1	0
Assistant Instructors	4	0	4
Stores Assistant	1	0	1
Senior Records Assistant	1	0	1
Assistant Caterer	1	0	1
Guardians	4	1	3
Office Typist	1	0	1
Kitchen Attendants	4	0	4
Driver	1	0	1

Fort Portal Remand Home:

Post title	Required	Filled Post	Vacant Post
Probation and Welfare Officer	1	0	1
Warden	1	1	0
Assistant Probation and Welfare Officer	1	0	1
Matron/nurse	1	1	0
Assistant Instructors	4	0	4
Stores Assistant	1	0	1
Senior Records Assistant	1	0	1
Assistant Caterer	1	0	1
Guardians	8	3	5
Office Typist	1	0	1
Kitchen Attendants	4	1	3
Driver	1	0	1

Naguru Remand Home:

Post title	Required	Filled Post	Vacant Post
Probation and Welfare Officer	1	0	1
Warden	1	0	1
Assistant Probation and Welfare Officer	1	1	0
Matron/nurse	1	1	0

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Assistant Instructors	4	0	4
Stores Assistant	1	1	0
Senior Records Assistant	1	0	1
Assistant Caterer	1	0	1
Guardians	8	1	7
Office Typist	1	0	1
Kitchen Attendants	4	0	4
Driver	1	0	1

Mbale Remand Home:

Post title	Required	Filled Post	Vacant Post
Probation and Welfare Officer	1	0	1
Warden	1	0	1
Assistant Probation and Welfare Officer	1	1	0
Matron/nurse	1	0	1
Assistant Instructors	4	0	4
Stores Assistant	1	1	0
Senior Records Assistant	1	0	1
Assistant Caterer	1	0	1
Guardians	8	1	7
Office Typist	1	0	1
Kitchen Attendants	4	1	3
Driver	1	0	1

Besides being poorly staffed, conditions in remand homes are poor and staff are reported to use harsh punishments despite the provisions of the Children Act. It is thus not only imperative that the institutions that support child protection and juvenile justice are adequately funded, they personnel also need to be properly trained and equipped with the requisite skills for their tasks.

2.10 The dissemination of information to public about the Protocol

There is no adequate mechanism to disseminate the Optional Protocol. While a few child rights NGOs have disseminated the Optional Protocol, this in itself is not enough because these organizations do not have enough money to carry out a nation wide dissemination exercise. Also, while the Government mentions that the UHRC has disseminated the Protocol the analysis provided in 2.7 above clearly shows this not the case. The MoGLSD should therefore step up efforts to coordinate and ensure that dissemination is actually being done, with a mapping of the players and the targets for dissemination.

The MoGLSD should strengthen its efforts to ensure that the provisions of the Protocol are widely known and understood by adults and children. The MoGLSD should also reinforce the adequate and systematic training of all professional groups working for and with

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children, in particular law enforcement officials, teachers, including teachers in rural and remote areas, health personnel, social workers and personnel of childcare institutions. MoGLSD should continue its dialogue with MoES, UHRC and other key stakeholders on including human rights education in the official curriculum at all levels of education.

2.11 Evaluation of the Implementation of the Protocol

In its report, the Government lists various institutions that are responsible for various aspects of the Optional Protocol. These include a Street Children's Desk, a Child Labor Unit and the Uganda Parliamentary Forum for Children (UPFC). What the report does not clearly show is the concrete results in terms of addressing the issues related to the Optional Protocol. As an example, while the Government cites the UPFC (which was inaugurated in the 7th Parliament), it does not state how or whether the Forum is operational in the 8th Parliament, it does not state the achievements of the Forum in the 7th Parliament, e.g. whether and how many times the Forum raised issues related to children, how or whether the Forum proposed or demanded enactment of legislation and other measures to address child protection. Without this concrete evidence, it becomes difficult for the people of Uganda to know what the institutions have done to improve child protection in the country.

UCRNN proposes that the institutions in place be made to account on how they are implementing the Optional Protocol with concrete evidence of success. The process for accountability should be systematized and better coordinated by the MoGLSD.

2.12 Challenges of Implementing the Protocol

There is no clearly defined institutional mechanism with clear mandates for the implementation of the Optional Protocol. Currently it is everybody's responsibility and thus no one's in the end. For domestication and implementation of the Optional Protocol to take effect the institutions need to be defined and made aware of their roles and what is expected of them.

Budgetary allocations and expenditures on departments that are responsible for implementation of the Optional Protocol is low both at the national and districts levels. From the analysis of central government on community and social services which include children among several other issues only less than 1% is allocated them. At the district level, the situation is the same. The Community Services directorate which handles children among several other issues receives barely 1% of the financial resources. The other issues handled by community department include community development, gender, social rehabilitation, labor, culture and youth.

The delay in domesticating the Optional Protocol is also a challenge on the part of the implementing institutions. This is compounded by the fact that there is low awareness amongst the public and policy makers about the Optional Protocol. The parliamentarians may not be aware of the existence of this protocol and this could probably explain part of the delay in domestication.

While the Children Act has provisions relevant to the Optional protocol, it does not effectively provide for protection of children against sexual abuse and exploitation. This also

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means that these issues cannot be reflected in the PEAP and therefore cannot be implemented by the sectors and the districts. The review of the Children Act will go a long way to address this challenge.

3.0 Existing Laws on Prohibition of the Sale of Children, Child Prostitution and Child Pornography

3.1 Introduction

It is hard to determine the exact prevalence of sale of children, child pornography and child prostitution in Uganda; however this report has endeavored to point to some figures. The challenge for the Government is that laws alone may not address child protection issues in the face of other predisposing factors such as poverty, which increase children's vulnerability to violence and exploitation. The Government not only needs to ensure that there are appropriate laws in place, but that these laws are enforced, and that children, parents and communities are provided with real choices and chances to improve the lives of children.

A Recent study by Save the Children in Uganda assesses child protection issues in the Karamoja region of Uganda, and while the challenges there may be made acute by conflict, it can rightly be said that all vulnerable children in Uganda face a similar fate. The following quote by an elder expresses the dilemma and hopelessness parents and communities face in matters related to child protection:

“What else is there? Many have nothing to give their children; so what choice do we have left but to let other people take our children so that they may be lucky to escape the snare at home waiting to catch its prey. Who can protect the Karimojong but God alone the Creator and the Government.”²⁸

The report further goes on to state that child trafficking, though an issue that is under reported and under-investigated, is an issue that is gaining currency in Uganda and especially in Karamoja. The challenge related to sale of children is that it happens (and is acquiesced by society and local leaders) because of poverty and shortage of food due to drought among other things. Because of the inability of parents to provide food for themselves and for their children, many of them encourage their children to leave home to look for work to provide for the family.

The desperate need among families to have children work for food and the ‘willingness’ of the host communities to provide ‘work’ were for the most part described as ‘a morally correct thing anyone caring could do for them’ given the prevailing living circumstances. This puts children in situation where food and other needs have to be met as a matter of urgency obtainable by any means. The cost to the children in terms of violation of their rights as well as exploitation is relegated to the back burner. The following are real life situations that communities have to deal with:

²⁸ Save the Children in Uganda, 2006 Ibid at 5 p.7

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“I saw a woman from Matanyi who had a baby and a young girl of about 6. They all looked very hungry. She was selling her older daughter. One woman bought her at 30,000/= . However, this woman pleaded in tears with the mother who had sold her daughter to her to let her have the baby as well for 15,000/= . But the mother said ‘I cannot sell you my baby. I have sold you her sister in order to feed her (my baby). Since I now have some money, let me feed her until she grows. Then perhaps I may give you this child as well.’”

An LCI Secretary narrates this story “One day I went to Ochorimongin. I disguised myself as an Iteso and joined the others to take ajono – a local brew – on the eve of the Friday market. In the home where we were drinking from, there were two women – SL and LJ and a number of girls aged 14 and above...what I saw broke my heart. These women had gathered the Karimojong girls and they were using them to cater for their survival. One of the Itesot men came and asked the women to let him have one of the girls to work for him. The woman demanded a fee and the man promised to pay 4 – 5 pieces of cassava tubers for 4-5 hours of work. Another cyclist came in and asked to have a girl, for a ‘wife’. This cyclist mobilized other men to come and take ‘wives’

“This morning (18/07/06) I saw many young children leaving in a bus going away. Very young children between the ages of 7-15 are leaving to search for food. There is a generational extinction coming to our area. During holidays because there is no food provided, children go out to look for food. They only come back when school resumes. When children come home and find their parents have gone to look for food, they also go away. I was also informed about EG from Teso. EG collects children from Matanyi and parades them under a tree in Ochorimongin nicknamed ‘supermarket’. People come all the way from Mbale, Kapchorwa, Iganga and Jinja to this ‘supermarket’ to buy girls. When asked why he is selling children he says these children are already married ‘The Karimojong stole our cattle and that means we have already paid bride price for these children so they are ours.’ EG demands 3,000/= as a ‘transport refund’ for each girl taken” – Chairperson LC2²⁹

3.2 Existing laws on sale of children, child prostitution and child pornography

The following table provides a synopsis of the current laws in Uganda that address the crimes related to the Protocol, examines the gaps and makes proposals for change:

Laws	Positive Points	Gaps/Challenges	Recommendations
The Children Act, Cap 59	Provides for the care, protection and maintenance of children. It provides for local authority support for children and makes provision for children charged with offences including the establishment of Family	Act faces several implementation challenges in that it requires an enormous amount of resources Law was enacted in 1996 and needs revision to take into account issues	The Uganda Law Reform Commission is mandated to review the Children Act and should do so as a matter of urgency. The time table proposed by the Commission is a year long process September 2006 to October 2007).

²⁹ Save the Children in Uganda 2006, Ibid at Note 5, pp 34-36

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and Children's Courts (FCCs). The Act is child friendly and based on children's rights. The Act is premised on the understanding that matters concerning children are best handled in the communities in which they live and thus facilitates the quick resolution of matters relating to children at local level. The Act charges every Local Government Council with the duty to safeguard and promote the welfare of children within its area and to designate one of its members as Secretary for Children's Affairs.

addressed under the Protocol and other areas that may be new or as a result of other Government commitments made at regional or international level.

Government needs to commit the necessary funds to enable a comprehensive review of the law

The Uganda Parliamentary Children's Forum (as chief champion of children's rights in Parliament) needs to keep track of the review process and ensure that the MoGLSD gives periodic reports on the progress of review.

Parliament, specifically the Children's Forum and the Legal Affairs Committee needs to ensure that once the law is ready it is brought to parliament for debate and enactment and ensure that this process does not drag on.

Child Rights NGOs under their umbrella UCRNN also need to keep track of the review process to ensure timely enactment

Penal Code Act, Cap 120

The Code prohibits sexual intercourse with a girl below 18 years, prohibits procurement of girls with the intent of having unlawful carnal knowledge, prohibits detention of persons for purpose of sexual intercourse, criminalizes prostitution and indecent assault of boys below 18

Code does not adequately protect boy children against sexual violence and exploitation

Code does not make a distinction between child prostitution and other prostitution and thus invariable criminalizes child victims of sexual exploitation

Code does not address sale of children.

While the government offers initial protection to children separated

The Law Reform Commission conducted a study and made recommendations for reform of the law on sexual offences.

The Sexual Offences Bill should be debated and passed by Parliament as a matter of urgency

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		<p>from the LRA, it does little to care for those exploited in prostitution and does not offer protection for child victims of commercial sexual exploitation.</p>	
<p>Child Pornography</p>	<p>Penal Code prohibits the traffic in obscene publications that includes dealing in obscene publications and pornographic materials; trading, distribution, publicly exhibiting, making or possessing obscene writings, drawings, prints, paintings, printed matter, pictures, posters, photographs, cinematography films tending to corrupt morals of others. The law further orders the destruction of such materials in pursuance of Article 7 of the Optional Protocol on confiscation goods and materials and proceeds from the offences.</p> <p>The Electronic Media Act provides for the Media Council to protect children from exposure to pornography by monitoring activities of the electronic media.</p> <p>In a sense addresses exposure by children to pornography</p>	<p>There is no law that protects children from being used in making or distributing pornographic material</p> <p>Pornographic material is easily available and accessible on news stands along the streets in the city and is not hidden from children</p> <p>Media council has not been active in monitoring activities of the electronic media and thus has not been active in protecting children from exposure. Part of the challenge is that the Media Council is under-funded</p>	<p>The Government has started the process of developing a Policy Against Pornography. Government should speed this process up and ensure to involve children to obtain children's views about the dangers they face with regard to pornography</p> <p>Government should increase budgetary allocations to the Media Council to enable it carry out its monitoring function. Media Council should make a specific report about its activities to protect children from exposure to pornography. Child rights NGOs and the Parliamentary Forum on Children can play key role in ensuring the Media Council plays its role</p> <p>Government should ensure that the Sexual Offences Bill adequately address the issue of child pornography with a view to protecting victims and punishing perpetrators</p>
<p>Sale of Children /Child Trafficki</p>	<p>Section 126 of the Penal Code prohibits abduction of persons below 18 years</p>	<p>The law is not comprehensive enough law however, during the 7th</p>	<p>The Government of Uganda does not fully comply with the minimum standards for the</p>

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ng³⁰

Parliament, a member of parliament drafted a comprehensive anti-trafficking law and lobbied for support.

The penal code specifies penalties for several trafficking-related offenses, such as forced labor, but there have been no trafficking cases prosecuted under these laws.

elimination of trafficking; however, it is making significant efforts to do so. To further its anti-trafficking efforts, the government should prosecute perpetrators of child commercial sexual exploitation, develop a mechanism for providing protective services to all types of trafficking victims, take steps to pass a comprehensive anti-trafficking law, and clarify which cases of child defilement meet the definition of trafficking in persons.

The Parliamentary Children's Forum (as a chief champion of children's rights in the Parliament) and Parliament generally should follow up on the proposed Anti Trafficking law and lobby for its enactment to be a priority for Government

Child Labour

Sections 50 to 57 of The Employment Act prescribe conditions for employment of young persons. Generally persons below the age of 18 should not be employed but where they are involved in work, regulations have to be set for their protection

There is no standard definition in the law of what amounts to child labor or who bears the duty to protect children from illegal employment

Children involved in the informal sector are not adequately protected by the law

Review the law to define child labor with definite consequences for exploiting children

Establish mechanism to protect children in the informal sector who often are involved in the worst forms of child labor

Address issues such as food security, security of the person, measures to retain children in school, which would in turn reduce underage child labor

The National

Art. 25 prohibits holding any person in slavery or

Varying provisions on definition of a

There is need for Government to harmonize

³⁰ Extracted from U.S. State Dept Trafficking in Persons Report, June 2006, available on the worldwide web

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Constitution, 1995	servitude Art. 34 protects children from social or economic exploitation Children should not be employed or required to perform any activity that is likely to be hazardous to their health, physical, mental and social development	child e.g. for Employment Children are persons below 16 years Consent of marriage is 18 years Ability to legally enter contacts is 21 years Exercise of civil rights like voting is 18 years	definition of a child to avoid contradictions
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4.0 General Recommendations to improve Implementation of the Protocol

While recognizing efforts made by Government in implementing the Protocol on Sale of Children, Child Prostitution and Child Pornography, the Government needs to step up efforts in the area of:

- (a) Legislative review and enforcement: Rights can only be meaningful if they are comprehensively covered in national legislation and if they are properly enforced. Laws also need to be adequately disseminated to the right people, through the right channels. Government needs to step up efforts in this regard
- (b) Government needs to improve coordination and monitoring of child protection issues and more specifically of the crimes covered under the protocol as these limit children's chances to exploit their full potential. Government should encourage and stress backwards and forward linkages of all players, right from national to district level. In order to coordinate better, government also needs to improve data collection and information flow to the various players in order for them to make informed decisions and to respond in time to issues of child violence and exploitation. Monitoring of the informal sector is also very important and has to be overseen by Government. Good coordination also means the right structures are in place staffed with the right people
- (c) Along side coordination, government needs to provide adequate resources to the various stakeholders to enable them protect children against violence and exploitation

The other more specific recommendations are contained in this report for Government action and UCRNN commits to following up Government on the proposed actions.

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