



## Status of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in National Law

### UGANDA

#### Applicability of the Convention and its Optional Protocols

Convention on the Rights of the Child (CRC)	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC)	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC)
<b>Signature:</b> August 17, 1990 <b>Ratification:</b> August 17, 1990	<b>Signature:</b> N/A <b>Ratification:</b> May 6, 2002	<b>Signature:</b> N/A <b>Ratification:</b> November 30, 2001
<b>Reservations:</b> None	<b>Declarations:</b> <i>"The Government of the Republic of Uganda declares that the minimum age for the recruitment of persons into the armed forces is by law set at eighteen (18) years. Recruitment is entirely and squarely voluntary and is carried out with the full informed consent of the persons being recruited. There is no conscription in</i>	<b>Declarations:</b> None

	<p><i>Uganda.</i></p> <p><i>The Government of the Republic of Uganda reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations, to add, amend or strengthen the present declaration. Such notifications shall take effect from the date of their receipt by the Secretary-General of the United Nations."</i></p>	
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#### OPSC Status in National Law

Ratified treaties do not automatically have force in Ugandan law, and the OPSC has not been directly incorporated into national law.<sup>1</sup> As such, the OPSC serves primarily as a source of interpretive guidance for Ugandan legislation.

Sale of Children (“any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration”)

<b>MEASURE REQUIRED (PROHIBITION)</b>	<b>CURRENT LAW</b>	<b>LEGAL REFORM</b>	<b>COMPLIANCE</b>
Selling children (Art. 3.1. (a))	Buying, selling, recruiting, transporting, transferring, harbouring or receiving children for the purpose of	The Prevention of Trafficking in Persons Act 2009 was introduced to prohibit all activities related to trafficking in persons,	On the high incidence of the sale of children and the lack of a plan to combat violations of the OPSC:

<sup>1</sup> See, e.g., Uganda Child Rights NGO Network (UCRNN), March 2007, Alternative report to the Ugandan Government's report to the Committee on the Rights of the Child, p.7, available at [http://www.crin.org/docs/Uganda\\_UCRNN\\_OPSC\\_NGO\\_Report.pdf](http://www.crin.org/docs/Uganda_UCRNN_OPSC_NGO_Report.pdf) (“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...”).

	<p>exploitation is liable to be prosecuted as trafficking in persons, aggravated trafficking in persons or trafficking in children. Trafficking in persons is punishable by imprisonment for 15 years; aggravated trafficking in persons is punishable by life imprisonment; and trafficking in children is punishable by death (Prevention of Trafficking in Persons Act, Sections 3 - 5).<sup>2</sup> Buying or selling a person in any way and unlawfully recruiting, transporting, harbouring or receiving a child for any purpose without authority of child's parent or guardian are both classified as promoting trafficking in persons, punishable by a fine of up to 240,000 shillings and/or 5 years' imprisonment for a first offence, or 7 years' imprisonment for each subsequent offence (Prevention of Trafficking in Persons Act, Section 7).</p> <p>In addition, the Penal Code prohibits child stealing, kidnapping, abduction,</p>	<p>including the purchase and sale of children.</p>	<p>“The Committee, while noting...that an Action Plan has been developed and [is] in the process of being adopted, regrets that there is no National Plan of Action in place to combat the violations of the Optional Protocol, in view of the high incidence of sale of children...”<sup>4</sup></p> <p>On the failure to incorporate all provisions of the OPSC into the Penal Code and the need to address trafficking in children:</p> <p>“The Committee, while noting the pending bill on the prevention of trafficking in persons, is concerned that not all the provisions of the Optional Protocol have been fully incorporated into the Penal Code.”<sup>5</sup></p> <p>“The Committee recommends that the State Party expedite the adoption of the legal reform bill and bring its Penal Code in full compliance with articles 2 and 3 of the Optional Protocol...”<sup>6</sup></p>
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<sup>2</sup> The Prevention of Trafficking in Persons Act is available at [http://www.thewayforwardproject.org/file\\_uploads/U03%20Uganda%20Prevention%20of%20Trafficking%20in%20Persons%20Act.pdf](http://www.thewayforwardproject.org/file_uploads/U03%20Uganda%20Prevention%20of%20Trafficking%20in%20Persons%20Act.pdf).

<sup>4</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 9, available at <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.OPSC.UGA.CO.1.pdf>.

<sup>5</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 22.

<sup>6</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 23.

	and buying or selling persons as slaves, punishable by 7, 10 or 15 years' imprisonment depending on the nature of the offence (Penal Code, Sections 126, 159, 239 – 247, 249, 250). <sup>3</sup>		
Offering, delivering or accepting, by whatever means, a child for the purpose of:			
Sexual exploitation of the child (Art. 3.1 (a) (i) a.)	<p>Trafficking in persons for the purpose of prostitution, pornography or sexual exploitation is specifically prohibited under the Prevention of Trafficking in Persons Act (Prevention of Trafficking in Persons Act, Section 3). Where the victim is a child, the offence is punishable by 15 years' imprisonment, life imprisonment, or death (see “Selling children”). Introducing or matching any person to any other person for the purpose of sexual exploitation is also an offence, punishable by a fine of up to 240,000 shillings and/or 5 years' imprisonment for a first offence, or 7 years' imprisonment for each subsequent offence (Prevention of Trafficking in Persons Act, Section 8).</p> <p>In general, performing a sexual act</p>	<p>The Penal Code (Amendment) Act 2007 amended Section 129 of the Penal Code to broaden the definition of defilement, which had previously covered only acts of sexual intercourse with girls, and reduced the maximum punishment from death to life imprisonment for non-aggravated defilement (Penal Code (Amendment) Act, Section 2).<sup>7</sup></p> <p>The Prevention of Trafficking in Persons Act 2009 was introduced to prohibit all activities related to trafficking in persons, including for the purpose of sexual exploitation.</p> <p>In 2011, a Sexual Offences Bill was proposed to amend and consolidate provisions addressing, among other things, rape, abduction, and detention for sexual purposes.<sup>8</sup> The Bill would</p>	<p>On the criminalisation of victims of sexual exploitation and the lesser protection afforded to boys: “The Committee is...concerned that child victims of sexual exploitation may be criminalized and notes that the Penal Code provides less protection for boys who have been victims of violations of the Optional Protocol.”<sup>9</sup></p> <p>“The Committee...recommends that in its legislation the State party ensure that all children affected by violations of the Optional Protocol be treated as victims, not offenders.”<sup>10</sup></p> <p>“[The Committee] notes that the law on sexual abuse is biased against the boy child.”<sup>11</sup></p> <p>“The Committee recommends that the State party...(c) Avoid</p>

<sup>3</sup> The Penal Code as enacted in 1950 is available at <http://www.publicservice.go.ug/public/The%20Penal%20Code%20Act%20120.pdf>.

<sup>7</sup> The Penal Code (Amendment) Act 2007 is available at <http://ebookbrowse.com/penal-code-of-uganda-amendments-pdf-d304857454>.

	<p>with a child is felony defilement punishable by up to life imprisonment, while attempting to do so is punishable by up to 18 years' imprisonment. In certain aggravating circumstances, including where the victim is under 14 years of age, the offender is a person with authority over the victim, or the offender has been previously convicted of a sexual offence, the maximum punishment rises to death for completed offences and life imprisonment for attempted offences (Penal Code, Section 129).</p>	<p>criminalise using authority, status, power, privilege or other undue influence to induce another person to perform a sexual act, and would also reduce the maximum punishment for aggravated defilement from death to life imprisonment (Sexual Offences Bill 2011, Sections 12, 25).</p>	<p>criminalizing child victims of sexual exploitation...”<sup>12</sup></p> <p>On the need to address the high incidence of child sexual exploitation:  “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.”<sup>13</sup>  “The Committee recommends that the State party: (a) Take appropriate legislative measures, including adoption of the long-standing bill on sexual offence[s], 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</p>
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<sup>8</sup> Specifically, the proposed Sexual Offences Bill would have amended Sections 123 – 128, 130, 133, 140, and 145 – 149 of the Penal Code. See Uganda Government, undated, Answers to UN Questionnaire on Violence Against Children, p. 8, available at <http://www2.ohchr.org/english/bodies/CRC/docs/study/responses/Uganda.pdf>.

<sup>9</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008, Concluding observations of the Committee on the Rights of the Child, para. 22.

<sup>10</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008, Concluding observations of the Committee on the Rights of the Child, para. 23.

<sup>11</sup> CRC/C/UGA/CO/2, 23 November 2005, Concluding observations of the Committee on the Rights of the Child, para. 75, available at <http://tb.ohchr.org/default.aspx?Symbol=CRC/C/UGA/CO/2>.

<sup>12</sup> CRC/C/UGA/CO/2, 23 November 2005, Concluding observations of the Committee on the Rights of the Child, para. 76.

<sup>13</sup> CRC/C/UGA/CO/2, 23 November 2005, Concluding observations of the Committee on the Rights of the Child, para. 75.

			<p>awareness-raising educational measures to prevent and eliminate the defilement of girls...”<sup>14</sup></p> <p>“The Committee also expresses its serious concern...that the State party does not have a clear strategy to combat the abuse and sexual exploitation of children.”<sup>15</sup></p> <p>“The Committee...suggests that informal education programmes be designed and adopted to prevent sexual abuse and exploitation of children...”<sup>16</sup></p>
Transfer of organs of the child for profit (Art. 3.1 (a) (i) b.)	Trafficking a person for the purpose of removing any body part or organ is punishable by life imprisonment, while trafficking a child and removing any part, organ or tissue from the body of that child for the purpose of human sacrifice or witchcraft is punishable by death (Prevention of Trafficking in Persons Act, Sections 4, 5; see “Selling children”).	The Prevention of Trafficking in Persons Act 2009 was introduced to prohibit all activities related to trafficking in persons, including for the purpose of removing a body part or organ.	
Engagement of the child in forced labour (Art. 3.1 (a) (i))	Offering, delivering or accepting a child for the purpose of exploitation is	The Employment Act 2006 introduced an offence relating to forced labor,	On the lack of legislation relating to the economic exploitation of

<sup>14</sup> CRC/C/UGA/CO/2 , 23 November 2005, Concluding observations of the Committee on the Rights of the Child, para. 76.

<sup>15</sup> CRC/C/15/Add.80 , 21 October 1997 , Concluding observations of the Committee on the Rights of the Child, para. 23, available at <http://tb.ohchr.org/default.aspx?Symbol=CRC/C/15/Add.80>.

<sup>16</sup> CRC/C/15/Add.80 , 21 October 1997 , Concluding observations of the Committee on the Rights of the Child, para. 38.

c.)	<p>prohibited under the Prevention of Trafficking in Persons Act (Prevention of Trafficking in Persons Act, Section 3). Where the victim is a child, the offence is punishable by 15 years' imprisonment, life imprisonment, or death (see "Selling children"). Knowingly engaging the labor or services of a victim of trafficking in persons is also an offence punishable by 10 years' imprisonment, and recruiting a child under 16 years of age into employment for the purpose of exploitation is punishable by a fine of up to 240,000 shillings and/or 5 years' imprisonment for a first offence, or 7 years' imprisonment for each subsequent offence (Prevention of Trafficking in Persons Act, Sections 6, 8).</p> <p>In addition, some activities relating to forced child labor are offences under the Penal Code. Buying or selling persons as slaves is punishable by up to 10 years' imprisonment, while abduction for the purposes of slavery is punishable by up to 15 years' imprisonment (Penal Code, Sections 245, 249). Using or assisting others in using forced labor is punishable by a fine of up to 96,000 shillings, 2 years'</p>	<p>prohibited all labor for children under 12, and prohibited all but light labor for children under 14.</p> <p>The Prevention of Trafficking in Persons Act 2009 was introduced to prohibit all activities related to trafficking in persons, including for the purpose of engagement in forced labour.</p> <p>A proposed bill to amend the Children Act would better specify and define hazardous work and child labor (Children (Amendment) Bill 2011, Section 8).<sup>21</sup></p>	<p>children:</p> <p>"The Committee is concerned about the insufficiency of legal and other measures to prevent and combat the economic exploitation of children, especially child domestic workers and others in the informal sector."<sup>22</sup></p> <p>"The Committee encourages the State party to give specific attention to monitoring the full implementation of labour laws in order to protect children from being economically exploited. It further suggests, inter alia, that the authorities adopt explicit legislation and measures to protect children from economic exploitation through employment as domestic servants and in other informal sectors, engage in research and collection of data, and promote integration and vocational training programmes..."<sup>23</sup></p>
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	<p>imprisonment, or both, while unlawfully compelling a person to work against their will is punishable by up to 2 years' imprisonment (Employment Act, Section 5; Penal Code, Sections 22, 252).<sup>17</sup> The Ugandan Constitution also prohibits holding any person in slavery or servitude or requiring a person to perform forced labor (Constitution, Article 25).<sup>18</sup></p> <p>A number of laws also purport to regulate the employment of children. The Constitution gives children under 16 the right to be protected from economic exploitation, hazardous work, or work that might interfere with their education or be otherwise harmful to their development (Constitution, Article 34). The Children Act confirms that children should not be engaged in activities harmful to their health, education or development (Children Act, Section 8).<sup>19</sup></p> <p>The Employment Act 2006 states that children under 12 are not permitted to</p>		
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<sup>17</sup> The Employment Act 2006 is available at <http://www.ilo.org/dyn/travail/docs/1835/Employment%20Act.pdf>.

<sup>18</sup> The Ugandan Constitution 1995 is available at [http://www.ugandaembassy.com/Constitution\\_of\\_Uganda.pdf](http://www.ugandaembassy.com/Constitution_of_Uganda.pdf).

<sup>19</sup> The Children Act as enacted in 1997 is available at [http://ugandaemb.org/The\\_Children\\_Act.pdf](http://ugandaemb.org/The_Children_Act.pdf).



	engage in any work, that children between ages 12 and 14 may only be employed to engage in light work that does not interfere with their education, and that children under 18 should not be employed in hazardous or otherwise unsuitable work (Employment Act 2006, Section 32). The Employment Decree 1975, meanwhile, sets the minimum age of employment at 14 and prohibits children under 18 from engaging in hazardous work (Employment Decree). <sup>20</sup>		
Adoption:			
Improperly inducing consent for adoption in violation of	Adoption procedures are governed by the Adoption of Children Rules 1997. <sup>24</sup>	The Ugandan Government has stated its intention to criminalise improperly	On the need to strengthen adoption regulations and ensure that practices

<sup>20</sup> CRC/C/3/Add.40, 17 June 1996, Report of state party to the Committee on the Rights of the Child, para. 259, available at <http://tb.ohchr.org/default.aspx?Symbol=CRC/C/3/Add.40> (“The Employment Decree 1975 is the only law in Uganda which caters for the category of children employed in industrial undertakings. The decree prohibits children of certain ages from a variety of work situations. Those under 18 are prohibited from employment in dangerous and hazardous jobs, those under 17 are not supposed to work at night, while those under 16 are not to work underground. A person under 12 years should only be employed in light work as prescribed by the Minister of Labour); International Labour Organization, International Programme on the Elimination of Child Labour, Child Labour in Uganda: A Report Based on the 2000/2001 Uganda Demographic and Health Survey, available at <http://www.ilo.org/ipecinfo/product/viewProduct.do?productId=739>, p. 6: “There exists the employment decree of 1975 that limits employment of children between 12 – 18 years and prevents (or prohibits) it for children below 12 years (Part IV). The decree however, restricts employment for those aged between 12 and 18 years and empowers labour inspectors to monitor compliance...The Employment Decree of 1975 and three other Labour Laws have been revised so that they are in line with the principles of the ILO Conventions Nos. 138 and 12. The revision takes care of the prohibition of persons below the age of 18 years from working in hazardous and injurious work. In addition, the minimum age of admission to employment has been set at 14 years.”).

<sup>21</sup> The proposed Children (Amendment) Bill 2011 is available at <http://wiki.childprotectionforum.org/file/detail/Uganda+Children+Act+Amendments+-+10+nov+2011.doc>. See also Uganda Law Reform Commission, 2009 Annual Report, p. 16, available at <http://www.ulrc.go.ug/wp-content/uploads/2011/annualreports/Annualreport2009.pdf>.

<sup>22</sup> CRC/C/UGA/CO/2, 23 November 2005, Concluding observations of the Committee on the Rights of the Child, para. 22.

<sup>23</sup> CRC/C/UGA/CO/2, 23 November 2005, Concluding observations of the Committee on the Rights of the Child, para. 39.

<sup>24</sup> The Adoption of Children Rules are available at [http://www.childsrights.org/html/site\\_en/law\\_download.php?id=345](http://www.childsrights.org/html/site_en/law_download.php?id=345).

<p>international instruments (Art. 3.1 (a) (ii))</p>	<p>Improperly inducing consent for adoption is not specifically criminalised under Ugandan law, although adopting or facilitating the adoption of a person for illicit purposes is punishable by a fine of up to 240,000 shillings and/or 5 years' imprisonment for a first offence, or 7 years' imprisonment for each subsequent offence (Prevention of Trafficking in Persons Act, Section 8).</p> <p>In addition, giving or receiving payments or benefits to obtain the consent of a person having control over another person in order to recruit, transport, transfer, harbour or receive that person is punishable as trafficking in persons (Prevention of Trafficking in Persons Act, Section 3; see "Selling children"). Forcibly or fraudulently taking, enticing away or detaining a child with the intent to remove that child from a parent or guardian's care is also punishable by up to 7 years' imprisonment, as is knowingly harbouring a child who has been taken in this manner (Penal Code, Section</p>	<p>inducing consent for adoption.<sup>25</sup> A proposed bill to amend the Children Act would not directly fulfil this ambition, but would expand regulations relating to inter-country adoption and provide for the creation of rules "prescribing measures to prevent improper financial gain in connection with adoption and to deter all practices contrary to the best interests of children" (Proposed Children (2011) Bill, Section 11).</p>	<p>comply with international law: "The Committee notes the rising number of applications for legal guardianship of children and the reduced number of applications for adoption. The Committee is concerned that this may be aimed at circumventing the regulations which apply to adoption and result in practices contrary to the Optional Protocol."<sup>26</sup></p> <p>"The Committee recommends that the State party stringently scrutinize applications for legal guardianship of children in order to avoid practices contrary to the Protocol. Furthermore, the Committee recommends that the State party ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption."<sup>27</sup></p>
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<sup>25</sup> CRC/C/OPSC/UGA/1, 7 April 2008, Report of state party to the Committee on the Rights of the Child, para. 40, available at <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.OPSC.UGA.1.doc>.

<sup>26</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008, Concluding observations of the Committee on the Rights of the Child, para. 20.

<sup>27</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008, Concluding observations of the Committee on the Rights of the Child, para. 21.

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Child Prostitution (“the use of a child in sexual activities for remuneration or any other form of consideration”)

MEASURE REQUIRED (PROHIBITION)	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Offering, obtaining, procuring or providing a child for child prostitution (Art. 3.1 (b))	Procuring a female under the age of 21 for unlawful sexual relations, to become a prostitute either in Uganda or elsewhere, or to join a brothel in Uganda or another country is punishable by imprisonment for up to 7 years, although convictions cannot be obtained on the testimony of one witness without corroborating material evidence (Penal Code, Section 131). Performing a sexual act with a child is felony defilement (see “Sexual exploitation of the child”), and allowing premises to be used for the defilement of a girl under 18 is punishable by up to 5 years' imprisonment (Penal Code, Section 133). In addition, knowingly leasing, using, or allowing premises to be used for exploitation, including sexual exploitation and other unlawful activity, is punishable by a fine of up to 240,000 shillings and/or 5 years' imprisonment for a first offence, or 7 years' imprisonment for each subsequent offence (Prevention of Trafficking in Persons Act, Section 7).	<p>The Penal Code (Amendment) Act 2007 broadened the definition of defilement, and a Sexual Offences Bill was proposed in 2011 but has not yet been enacted (see “Sexual exploitation of the child”).</p> <p>The Prevention of Trafficking in Persons Act 2009 criminalised allowing premises to be used for exploitation in general and specified that victims of trafficking should not be held responsible for resulting criminal offences committed.</p>	<p>On the high incidence of child prostitution and the need to adopt prevention strategies:</p> <p>“The Committee, while noting...that an Action Plan has been developed and [is] in the process of being adopted, regrets that there is no National Plan of Action in place to combat the violations of the Optional Protocol, in view of the high incidence of...child prostitution.”<sup>28</sup></p> <p>“The Committee...expresses its serious concern at the increase in the number of child prostitutes and the fact that the State party does not have a clear strategy to combat the abuse and sexual exploitation of children.”<sup>29</sup></p> <p>“The Committee recommends that the State party adopt a strategy to tackle the problem of children working and/or living on the street. The Committee further suggests that informal education programmes be designed and adopted to prevent sexual abuse and exploitation of</p>

<sup>28</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 9.

<sup>29</sup> CRC/C/15/Add.80, 21 October 1997 , Concluding observations of the Committee on the Rights of the Child, para. 23.

	<p>Prostitution is in and of itself illegal; solicitation, engaging in prostitution and benefiting from the proceeds of prostitution are all punishable by imprisonment for 7 years, as is maintaining premises for the purposes of prostitution (Penal Code, Sections 136, 137, 139). In addition, performing an act of gross indecency with another person and procuring a person to commit an act of gross indecency are both punishable by 7 years' imprisonment (Penal Code, Section 148). Victims of trafficking, however, are legally recognised as such and should not be penalised for any offences committed as a direct result of their being trafficked (Prevention of Trafficking in Persons Act, Section 12).</p>		<p>children, especially child prostitution.”<sup>30</sup></p> <p>On the failure to incorporate all provisions of the OPSC into the Penal Code:  “The Committee...is concerned that not all the provisions of the Optional Protocol have been fully incorporated into the Penal Code.”<sup>31</sup>  “ The Committee recommends that the State Party expedite the adoption of the legal reform bill and bring its Penal Code in full compliance with articles 2 and 3 of the Optional Protocol...”<sup>32</sup></p> <p>On the criminalisation of child victims of sexual exploitation and the lesser protection afforded to boys:  “The Committee is...concerned that child victims of sexual exploitation may be criminalized and notes that the Penal Code provides less protection for boys who have been victims of violations of the Optional Protocol.”<sup>33</sup></p>
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<sup>30</sup> CRC/C/15/Add.80, 21 October 1997 , Concluding observations of the Committee on the Rights of the Child, para. 38.

<sup>31</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 22.

<sup>32</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 23.

<sup>33</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 22.

			“The Committee also recommends that in its legislation the State party ensure that all children affected by violations of the Optional Protocol be treated as victims, not offenders.” <sup>34</sup>
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Child Pornography (“any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes”)

MEASURE REQUIRED (PROHIBITION)	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography (Art. 3.1 (c))	Producing, offering, making available, distributing, transmitting, procuring or possessing child pornography through a computer, or making pornographic materials available to a child, is punishable by a fine of up to 720,000 shillings, imprisonment for up to 15 years, or both (Computer Misuse Act, Section 23). <sup>35</sup>	The Prevention of Trafficking in Persons Act 2009 introduced a definition of pornography and prohibited activities related to pornography that could encourage trafficking in persons.  The Computer Misuse Act 2011 prohibited activities related to child pornography involving a computer.  In addition, an Anti-Pornography Bill	On the high incidence of child pornography: “The Committee, while noting...that an Action Plan has been developed and [is] in the process of being adopted, regrets that there is no National Plan of Action in place to combat the violations of the Optional Protocol, in view of the high incidence of...child pornography.” <sup>36</sup>

<sup>34</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 23.

<sup>35</sup> The Computer Misuse Act is available at <http://www.nita.go.ug/uploads/UGANDA%20Computer%20Misuse%20Act%20No.%202%20of%202011.pdf>.

	<p>In general, producing, distributing, exhibiting, possessing, importing, exporting or advertising obscene materials is punishable by up to 2 years' imprisonment or a fine of up to 2,000 shillings. Upon conviction, courts may also order that any such materials be destroyed (Penal Code, Section 166).</p> <p>In addition, advertising, publishing, printing, broadcasting or distributing pornography intended or likely to facilitate trafficking in persons is punishable by a fine of up to 240,000 shillings and/or 5 years' imprisonment for a first offence, or 7 years' imprisonment for each subsequent offence (Prevention of Trafficking in Persons Act, Section 7).</p> <p><i>Definition:</i> The Computer Misuse Act defines child pornography as “pornographic material that depicts a child engaged in sexually suggestive or explicit conduct; a person appearing to be a child engaged in sexually suggestive or explicit conduct; or realistic images</p>	<p>was proposed in 2011 to criminalise producing or participating in the production of, trafficking in, publishing, broadcasting, importing or exporting child pornography. The new offence would be punishable by a fine of up to 1,500,000 shillings and/or 15 years' imprisonment (Anti-Pornography Bill 2011, Section 14).</p>	<p>On the failure to incorporate all provisions of the OPSC into the Penal Code: “The Committee...is concerned that not all the provisions of the Optional Protocol have been fully incorporated into the Penal Code.”<sup>37</sup> “ The Committee recommends that the State Party expedite the adoption of the legal reform bill and bring its Penal Code in full compliance with articles 2 and 3 of the Optional Protocol...”<sup>38</sup></p>
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<sup>36</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 9.

<sup>37</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 22.

<sup>38</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 23.

	<p>representing children engaged in sexually suggestive or explicit conduct” (Computer Misuse Act, Section 23). The Prevention of Trafficking in Persons Act defines pornography in general as “any representation through publication, exhibition, cinematography, indecent show, information technology, or by whatever means, of a person engaged in real or simulated explicit sexual activities, or any representation of the sexual parts of a person for primarily sexual excitement” (Prevention on Trafficking in Persons Act, Section 2).</p>		
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#### Liability for Prosecution

MEASURE REQUIRED	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Attempt, complicity and participation in cited activities prohibited (Art. 3.2)	Unless otherwise specified, attempting to commit an offence is generally considered a misdemeanor and punishable by up to 2 years' imprisonment (Penal Code, Sections 22, 387). If the offence would have been punishable by death or imprisonment for at least 14 years, however, attempt is punishable by 7 years' imprisonment if no other	The Prevention of Trafficking in Persons Act 2009 criminalised attempting or conspiring to engage in trafficking in persons.	



	<p>punishment is provided (Penal Code, Section 388). Certain offences related to sexual exploitation also specifically punish attempt, including: defilement of a child, punishable by 18 years' imprisonment; procuring a female under age 21 for prostitution, punishable by 7 years' imprisonment; and procuring an act of gross indecency, punishable by 7 years' imprisonment (Penal Code, Sections 129, 131, 148).</p> <p>Where two or more persons operate together as joint offenders, each can be held fully liable for committing the offence (Penal Code, Section 20). In addition, conspiracy to commit a felony offence is punishable by the greater of either 7 years' imprisonment or the maximum sentence for committing the offence in question, unless otherwise specified, and conspiracy to commit a misdemeanor offence is punishable by 5 years' imprisonment (Penal Code, Sections 390, 391). Conspiracy "to effect any unlawful purpose" or "to effect any lawful purpose by unlawful means" is also punishable by 5 years' imprisonment, and assisting an offender to evade punishment is</p>		
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	<p>punishable by 3 years' imprisonment unless otherwise provided (Penal Code, Sections 392 – 394).</p> <p>In relation to trafficking, attempting to traffic in persons or conspiring to traffic in persons are both offences punishable by a fine of up to 240,000 shillings and/or 5 years' imprisonment for a first offence, or 7 years' imprisonment for each subsequent offence (Prevention of Trafficking in Persons Act, Section 8).</p>		
Legal persons liable to be prosecuted (Art 3.4)	<p>While legal persons are not generally liable to be prosecuted for all offences under the OPSC, legal persons convicted of trafficking in persons may be fined 2,000,000 shillings and temporarily or permanently closed, deregistered, dissolved or disqualified from practicing certain activities (Prevention on Trafficking in Persons Act, Section 3; see “Selling children”)</p>	<p>In 2009, the Prevention of Trafficking in Persons Act introduced provisions on criminal liability for legal persons convicted of offences related to trafficking in persons.</p> <p>In 2011, an Anti-Pornography Bill proposed to introduce criminal liability for legal persons found to commit offences related to pornography, with suggested penalties ranging up to double the fine prescribed for an individual committing the same offence (Anti-Pornography Bill 2011, Section 19).</p>	

### Additional Considerations

MEASURE	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Aggravating factors	Although there does not appear to be a list of general aggravating factors under Ugandan law, certain provisions of the Penal Code impose greater sentences where the victim is under a certain age or the offender has authority over the victim (Penal Code, Section 129).	The Penal Code (Amendment) Act 2007 amended Section 129 of the Penal Code on defilement and set out aggravating circumstances including the victim's age and a relationship of control between the victim and the offender (Penal Code (Amendment) Act 2007, Section 2).	
Definition of child	The Constitution and Children Act both generally define children as all persons below the age of 18 years (Constitution, Article 257; Children Act, Section 2), although the Penal and Labour Codes do not appear to follow the same definition in all instances (see “Sale of children”, “Child prostitution”).		
Removal of parental authority	Ugandan law does not appear to provide for the automatic removal of parental authority where a child's parents are convicted of an offence covered by the OPSC.		
Statute of limitations	There is no statute of limitations in		

	Ugandan criminal law, meaning that a person suspected of committing an offence can be charged at any time after the commission of that offence.		
Confiscation of proceeds	Courts may order the forfeiture or confiscation of any property used to commit or to facilitate the commission of any offence (Trial on Indictments Act, Section 131). <sup>39</sup> In addition, courts must order the confiscation of all proceeds or properties derived from offences related to trafficking in persons (Prevention of Trafficking in Persons Act, Section 22).	The Prevention of Trafficking in Persons Act 2009 introduced mandatory forfeiture for offences related to trafficking in persons.	
Closure of premises	Businesses convicted of trafficking in persons may be temporarily or permanently closed (Prevention on Trafficking in Persons Act, Section 3; see “Legal persons liable to be prosecuted”).	The Prevention of Trafficking in Persons Act 2009 introduced provisions on the closure of businesses convicted of offences related to trafficking in persons.	
Protection from Deportation	Where the repatriation of a foreign victim of trafficking in Uganda would expose that person to risk or compromise his or her safety, or where the victim is required to be present in Uganda for court proceedings, the	The Prevention of Trafficking in Persons Act 2009 introduced provisions allowing foreign victims of trafficking to remain in Uganda as necessary.	

<sup>39</sup> The Trial on Indictments Act as enacted in 1971 is available at <http://www.ulii.org/ug/legislation/consolidated-act/23>.

	Ugandan Government may permit the victim to remain in the country with appropriate assistance (Prevention of Trafficking in Persons Act, Section 14).		
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#### Jurisdiction

MEASURE REQUIRED	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Offences committed in territory or aboard registered ship or aircraft (Art. 4.1)	Uganda generally extends the courts criminal jurisdiction over “every place within Uganda” (Penal Code, Section 4).		
Offender is a national or resident (Art. 4.2 (a))	Citizens and permanent residents of Uganda may be prosecuted in Uganda for offences related to trafficking in persons committed outside Ugandan territory with the permission of the Attorney General (Prevention of Trafficking in Persons Act, Section	The Prevention of Trafficking in Persons Act 2009 granted Ugandan courts jurisdiction over offences related to trafficking in persons committed by Ugandan citizens or permanent residents outside Ugandan territory.	On the need to establish jurisdiction over all offences covered under the OPSC: “The Committee regrets that the Penal Code does not establish jurisdiction over all offences under the Optional Protocol...” <sup>40</sup>

	<p>19).</p> <p>There do not appear to be provisions that generally grant Ugandan jurisdiction over offences committed outside the territory where the offender is a national or resident of the country, but offenders who commit any part of an offence in Uganda may be prosecuted before the courts (Penal Code, Section 5). By the same token, offenders who conspire to commit an offence outside Uganda that would be unlawful both in Uganda and in the place where it would be committed may be prosecuted in Uganda (Penal Code, Sections 390, 391).</p>	<p>In 2011, a Sexual Offences Bill proposed to extend Ugandan courts' jurisdiction over Ugandan nationals and residents accused of committing a sexual offence against another national or resident of Uganda outside the country (Sexual Offences Bill 2011, Section 31).</p>	<p>“The Committee recommends that the State party ensure that all legal and practical measures necessary be undertaken in order to be able to effectively establish jurisdiction over offences in accordance with article 4 of the Optional Protocol.”<sup>41</sup></p>
<p>Victim is a national (Art. 4.2 (b))</p>	<p>offences involving trafficking in persons committed against a citizen of Uganda outside Ugandan territory may be tried in Ugandan courts with the permission of the Attorney General (Prevention of Trafficking in Persons Act, Section 19).</p> <p>In general, however, Ugandan law does not appear to grant jurisdiction over offences where the victim is a</p>	<p>The Prevention of Trafficking in Persons Act 2009 granted Ugandan courts jurisdiction over offences related to trafficking in persons committed against Ugandan citizens outside Ugandan territory.</p>	<p>On the failure to assert jurisdiction over Ugandan victims of trafficking: “The Committee...notes that the draft bill on prevention of trafficking in persons does not include the nationality of the victim as an element for the establishment of jurisdiction.”<sup>42</sup></p>

<sup>40</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 24.

<sup>41</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 25.

<sup>42</sup> CRC/C/OPSC/UGA/CO/1 , 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 24.

	Ugandan national.		
Offender is in territory and no provisions for extradition (Art. 4.3)	Ugandan law does not appear to grant jurisdiction where an offender is in Ugandan territory and there are no provisions in place for extradition.		
Extradition (Art. 5)	<p>Offenders may be extradited where an arrangement with the requesting country has been put in place (Extradition Act, Section 2).<sup>43</sup> The Ugandan Government has conducted a number of such arrangements that would cover offences under the OPSC.</p> <p>In addition, persons accused of offences related to trafficking in persons are specifically eligible for extradition under existing procedures (Prevention of Trafficking in Persons Act, Section 20).</p>	The Prevention of Trafficking in Persons Act 2009 specified that persons accused of trafficking in persons are eligible for extradition.	

### Child-Friendly Justice

MEASURE REQUIRED	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Procedures adapted to children's special needs as	<i>Investigation</i> Most but not all police stations have a	The Prevention of Trafficking in Persons Act 2009 introduced specific provisions	On the lack of training on the OPSC among professionals who work with

<sup>43</sup> The Extradition Act 1964 is available as originally enacted at <http://www.ulii.org/ug/legislation/consolidated-act/117>.

witnesses (Art. 8.1 (a))	<p>Children and Family Protection Unit that handles cases of child abuse and neglect, including offences under the OPSC, with the assistance of the general Criminal Investigations Department.<sup>44</sup></p> <p>However, there are reports that police officers, government attorneys, court officials and magistrates lack training on how to respond to child sexual abuse and exploitation and may hold negative attitudes towards victims of these offences.<sup>45</sup> In addition, although victims of trafficking are protected from criminal liability (see “Child Prostitution”), other child victims of sexual exploitation may be viewed in some circumstances as children in conflict with the law and tried as offenders.<sup>46</sup></p> <p><i>Testifying</i> Children who are not considered able to understand the nature of testifying under oath in legal proceedings are still permitted to do so where they are sufficiently intelligent to give credible</p>	<p>for proceedings related to trafficking in persons to be conducted in camera or outside the presence of the media.</p> <p>The Ugandan Government indicated in 2004 its intention to amend the Magistrates Court Act to remove the requirement that evidence given by children under oath be in all instances corroborated by other material evidence in order to result in criminal conviction of an offender, although these changes have yet to be brought into Ugandan law.<sup>48</sup></p>	<p>child victims: “The Committee...is concerned that training on the Optional Protocol among professionals, for example the police, lawyers, prosecutors, judges, social workers and immigration officials is insufficient.”<sup>49</sup> “The Committee recommends that the State party...(d) Continue and strengthen systematic gender-sensitive education and training on the provisions of the Optional Protocol for all professional groups working with child victims of the crimes covered by the Optional Protocol.”<sup>50</sup></p> <p>On the lack of resources for criminal investigations: “The Committee is concerned that insufficient resources have been allocated to the implementation of the provisions of the Protocol and in particular notes the lack of resources for criminal investigations...”<sup>51</sup> “The Committee encourages the State party to significantly increase</p>
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<sup>44</sup> CRC/C/OPSC/UGA/1, 7 April 2008, Report of state party to the Committee on the Rights of the Child, paras. 17, 18.

<sup>45</sup> ECPAT, Global Monitoring Report on the status of action against commercial sexual exploitation of children: Uganda, 2007, p. 25, available at [www.ecpat.net/A4A\\_2005/PDF/AF/Global\\_Monitoring\\_Report-UGANDA.pdf](http://www.ecpat.net/A4A_2005/PDF/AF/Global_Monitoring_Report-UGANDA.pdf).

<sup>46</sup> CRC/C/OPSC/UGA/1, 7 April 2008, Report of state party to the Committee on the Rights of the Child, para. 60.



	<p>evidence and can appreciate the importance of speaking the truth. This testimony must, however, be corroborated by other material evidence to result in the criminal conviction of an offender (Trial on Indictments Act, Section 40; Magistrates Court Act, Section 101).<sup>47</sup></p> <p>In prosecutions related to trafficking in persons, proceedings may be conducted in camera or outside the presence of the media, especially where these proceedings involve children or allegations of sexual exploitation (Prevention of Trafficking in Persons Act, Section 13).</p>		<p>budget allocations for coordination, prevention, promotion, protection, care, investigation and suppression of acts covered by the Optional Protocol, including by earmarking human and financial resources for the implementation of programmes relating to its provisions, and in particular for criminal investigations...”<sup>52</sup></p> <p>On the introduction of specialised police services for children: “The Committee notes as positive certain initiatives for preventive action, such as the introduction of Children and Family Protection Units in police station[s]...”<sup>53</sup></p> <p>On the treatment of child victims of sexual exploitation as offenders: “The Committee is...concerned that children who have been victims of offences under the Protocol are stigmatized and re-victimised by being treated as offenders.”<sup>54</sup></p>
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<sup>47</sup> The Magistrates Court Act is available as enacted in 1971 at <http://www.ulii.org/ug/legislation/consolidated-act/16>.

<sup>51</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 13.

<sup>50</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 12.

<sup>49</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 11.

<sup>48</sup> Uganda Government, undated, Answers to UN Questionnaire on Violence Against Children, p. 9.

<sup>52</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 14.

<sup>53</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 17.

			<p>“The Committee recommends that the State party: (a) Take all necessary measures, including prompt legal reform, to ensure that child victims of any of the crimes under the Optional Protocol not be criminalized. Child victims should be protected at all stages of the criminal justice process in accordance with article 8 of the Optional Protocol...”<sup>55</sup></p> <p>“The Committee recommends that the State party...(c) Avoid criminalizing child victims of sexual exploitation...”<sup>56</sup></p> <p>On the need to adapt the justice system to the special needs of child victims and witnesses:  “[T]he Committee encourages the State party to be guided by the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime...and should in particular...(b) Use child-sensitive procedures to protect children from hardship during the justice process, including by the use of special interview rooms designed for</p>
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<sup>54</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 26.

<sup>55</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 27.

<sup>56</sup> CRC/C/UGA/CO/2, 23 November 2005, Concluding observations of the Committee on the Rights of the Child, para. 76.

			children, child-sensitive methods of questioning; and by reducing the number of interviews, statements and hearings.” <sup>57</sup>
Children informed of rights/role and scope/timing/progress/disposition of cases (Art. 8.1 (b))	There do not appear provisions in Ugandan law that require all child victims to be informed of their rights, their role in legal proceedings, or the scope, timing, progress and ultimate disposition of cases that involve them. The Prevention of Trafficking in Persons Act, however, specifies that victims of trafficking should be informed in a language they understand about their rights and duties and the various stages of legal proceedings (Prevention of Trafficking in Persons Act, Section 12).	The Prevention of Trafficking in Persons Act 2009 provided that victims of trafficking be given certain information with regard to relevant legal proceedings.	
Children's views/needs/concerns presented (Art. 8.1 (c))	Ugandan law does not appear to provide for all child victims' needs, views or concerns to be presented in criminal proceedings, although the Prevention of Trafficking in Persons Act specifies that victims of trafficking should be offered assistance to enable their views and concerns to be presented and considered at the appropriate stage of related	The Prevention of Trafficking in Persons Act 2009 provided that victims of trafficking be enabled to voice their views and concerns during related criminal proceedings.	On the need to allow the views, needs and concerns of child victims to be presented in legal proceedings: “Furthermore, the Committee encourages the State party to be guided by the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime...and should in particular: (a) Allow the views, needs and concerns of child victims

<sup>57</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 28.

	proceedings (Prevention of Trafficking in Persons Act, Section 12).		to be presented and considered in proceedings where their personal interests are affected...” <sup>58</sup> “While noting with appreciation the efforts made by the State party to implement the principle of respect for the views of the child,...the Committee remains concerned that traditional societal attitudes appear to limit children in freely expressing their views in...the courts...” <sup>59</sup> “The Committee recommends that the State party strengthen its efforts to ensure that children’s views are given due consideration in...the courts and relevant administrative and other settings...” <sup>60</sup>
Support services provided throughout legal process (Art. 8.1 (d))	Under the Children Act, Probation and Welfare Officers are responsible for working with child victims of abuse and their families during legal proceedings. Among other things, Probation and Social Welfare Officers provide initial counselling to child victims, obtain medical or psychological examination reports where necessary, and present evidence before the court (Children Act,	The Prevention of Trafficking in Persons Act 2009 specified that support services be provided to victims of trafficking, that victims of trafficking have the right to be informed about these services, and that child victims of trafficking be given particular attention.	On the insufficient support services provided to child victims in legal proceedings: “The Committee is concerned that insufficient resources have been allocated to the implementation of the provisions of the Protocol and in particular notes the lack of resources for...legal assistance and physical and psychological recovery measures for victims...” <sup>62</sup>

<sup>58</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 28.

<sup>59</sup> CRC/C/UGA/CO/2, 23 November 2005, Concluding observations of the Committee on the Rights of the Child, para. 35.

<sup>60</sup> CRC/C/UGA/CO/2, 23 November 2005, Concluding observations of the Committee on the Rights of the Child, para. 36.

	<p>Sections 19 - 42).<sup>61</sup></p> <p>In addition, victims of trafficking are entitled to health and social services, medical care, counseling and psychological assistance. They have to right to receive information on the nature of the protection, assistance and support to which they are entitled, and any public officer or other actor involved in the trial of a trafficking offence must refer victims for appropriate assistance and support where necessary. Child victims of trafficking in particular should be provided assistance and support in accordance with their special needs, including accommodation, education and care (Prevention of Trafficking in Persons Act, Section 12).</p>		
Privacy/identity protected (Art. 8.1 (e))	<p>Criminal proceedings are generally open to the public, but judges have the discretion to exclude individuals from the courtroom or to close proceedings to the public altogether (Trial on Indictments Act, Section 137; Magistrates Court Act, Section 40).</p>	<p>Amendments have been repeatedly proposed to the Magistrates Courts Act that would specifically give judges the discretion to exclude the press and public from court proceedings involving child victims of sexual abuse or exploitation below the age of 12.<sup>63</sup> Similar</p>	<p>On efforts to protect the identity of child victims and witnesses in judicial proceedings: “The Committee notes efforts by the State Party to protect the rights of child victims and witnesses in judicial proceedings by protecting</p>

<sup>61</sup> CRC/C/OPSC/UGA/1, 7 April 2008, Report of state party to the Committee on the Rights of the Child, paras. 19, 50.

<sup>62</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008 , Concluding observations of the Committee on the Rights of the Child, para. 13.

<sup>63</sup> See Magistrates' Courts (Amendment) Bill, 2004, Magistrates' Courts (Amendment) Bill 2006. The Bills sought “to amend section 40 of the Act to require the court when trying the offence of defilement where the victim of the offence is a child below twelve years of age to consider the need in the interest of the child...to exclude the press and the public

	<p>In addition, the Prevention of Trafficking in Persons Act recognises the right to privacy of victims of trafficking and prohibits publishing victims' names or identifying information, with violators subject to fines of 500,000 shillings (Prevention of Trafficking in Persons Act, Section 13).</p>	<p>amendments have been proposed to the Trial on Indictments Act to allow for proceedings related to sexual offences to be conducted in camera, but it does not appear that either of these amendments has been enacted.<sup>64</sup></p> <p>In addition, a 2011 Sexual Offences Bill proposed granting courts the authority to exclude persons from proceedings related to sexual offences, particularly where these proceedings involve children (Sexual Offences Bill 2011, Section 27).<sup>65</sup> The Bill would also prohibit the publication of identifying information where proceedings are closed to members of the public, punishable by a fine of 240,000 shillings, six months' imprisonment or both (Sexual Offences Bill, Section 29).<sup>66</sup></p>	<p>their identity...’’<sup>67</sup></p>
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from proceedings before the court for reasons of morality,” and would have inserted section 40 (1a) into the Magistrates' Courts Act (“In particular, the court shall, when conducting a trial of the offence of defilement, where the victim of the offence is a child below the age of twelve years, consider the need, in the interest of the child, to exercise its power under article 28(2) of the Constitution, to exclude the press and the public from the proceedings before the court for reasons of morality.”).

<sup>64</sup> ECPAT, Global Monitoring Report on the status of action against commercial sexual exploitation of children: Uganda, 2007, p. 22; Uganda Government, undated, Answers to UN Questionnaire on Violence Against Children, p. 9 (“The Bill seeks to amend section 40 of the Magistrate's Courts Act to provide for proceedings in camera by Magistrates Courts when trying sexual offences. The intention is to protect the victims especially young children from public trials and to lessen the ordeal and embarrassment of the victims.”).

<sup>65</sup> The proposed section reads: “(1) ([1.1]) In criminal proceedings under this Act, the court before which such proceedings are held shall, to the extent authorized by the provisions of Article 28(2) of the Constitution, direct that any person whose presence is not necessary at such proceedings, not be present, unless the complainant and the accused otherwise request. ([1.2]) Where the complainant and the accused are disagreeing under subsection ([1.1]), the court shall decide as it thinks fit. (2) Where the complainant is a child, the court shall take into consideration, and act in accordance with the best interests of the child.

<sup>66</sup> The proposed section reads: “(1) Where a court directs under section 27 that any person or class of persons shall not be present at criminal proceedings, no person shall publish any information which may reveal the identity of a complainant or accused in the proceedings....(4) A person who publishes any information in contravention of this section, commits an offence and is liable on conviction to a fine of twelve currency points or imprisonment for six months or both.”

<sup>67</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008, Concluding observations of the Committee on the Rights of the Child, para. 26.

Providing for safety of victims/families involved (Art. 8.1 (f)/ Art. 8.5)	There is no specific law that provides for the safety of child victims and their family members involved in criminal proceedings in Uganda. <sup>68</sup> However, victims of trafficking are eligible for safe and appropriate accommodation and material assistance where necessary and possible; in particular, child victims of trafficking must be given protection in line with their special needs (Prevention of Trafficking in Persons Act, Section 12).	The Prevention of Trafficking in Persons Act 2009 made victims of trafficking, especially children, eligible for safe and appropriate accommodation.	
Avoid delay in disposition/compensation (Art. 8.1 (g))	There appear to be no provisions in Ugandan law that relate to avoiding delay in reaching a disposition for cases involving child victims or providing compensation to these victims.		
Best interests a primary consideration (Art. 8.3)	There appear to be no provisions in Ugandan law that would explicitly make the best interests of child victims involved in criminal proceedings a primary consideration.		

<sup>68</sup> CRC/C/OPSC/UGA/1, 7 April 2008, Report of state party to the Committee on the Rights of the Child, para. 63.

## Remedial Measures

MEASURE REQUIRED	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Assistance given to facilitate victims' recovery (Art. 9.3)	<p>Victims of trafficking are entitled to receive counseling and psychological assistance (Prevention of Trafficking in Persons Act, Section 12).</p> <p>In general, the Ugandan Government largely relies on civil society organisations to provide child victims with counselling and rehabilitation services, but recognises that assistance given to facilitate recovery is very limited and far from universal.<sup>69</sup></p>	The Prevention of Trafficking in Persons Act 2009 specified that counselling and psychological assistance be provided to victims of trafficking.	<p>On the lack of resources allocated to facilitate child victims' recovery: “The Committee is concerned that insufficient resources have been allocated to the implementation of the provisions of the Protocol and in particular notes the lack of resources for...physical and psychological recovery measures for victims.”<sup>70</sup></p> <p>“The Committee encourages the State party to significantly increase budget allocations for coordination, prevention, promotion, protection, care, investigation and suppression of acts covered by the Optional Protocol, including by earmarking human and financial resources...in particular for...physical and psychological recovery of victims to relevant authorities and civil society organizations.”<sup>71</sup></p> <p>“The Committee notes that social</p>

<sup>69</sup> CRC/C/OPSC/UGA/1, 7 April 2008, Report of state party to the Committee on the Rights of the Child, paras. 61, 84; CRC/C/3/Add.40, 17 June 1996; Report of state party to the Committee on the Rights of the Child, paras. 132, 133; ECPAT, Global Monitoring Report on the status of action against commercial sexual exploitation of children: Uganda, 2007, pp. 24, 25.

<sup>70</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008, Concluding observations of the Committee on the Rights of the Child, para. 13.

<sup>71</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008, Concluding observations of the Committee on the Rights of the Child, para. 14.



			<p>reintegration and physical and psychosocial recovery measures for child victims are quite inadequate...”<sup>72</sup></p> <p>“The Committee recommends that the State party (a) Ensure that resources be earmarked in order to strengthen social reintegration and physical and psychosocial recovery measures, in accordance with article 9, paragraph 3, of the Optional Protocol, in particular by providing interdisciplinary assistance for child victims...”<sup>73</sup></p> <p>“The Committee recommends that the State party...(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.”<sup>74</sup></p> <p>“The Committee is also concerned at the insufficiency of the measures taken by the State party for the physical and psychological recovery</p>
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<sup>72</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008, Concluding observations of the Committee on the Rights of the Child, para. 29.

<sup>73</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008, Concluding observations of the Committee on the Rights of the Child, para. 30.

<sup>74</sup> CRC/C/UGA/CO/2, 23 November 2005, Concluding observations of the Committee on the Rights of the Child, para. 76.

			and social reintegration of children victims of war and abuse and, further, that the existing alternative care institutions lack material and financial resources and specialized personnel.” <sup>75</sup>
Child victims have access to procedures to seek compensation from offenders (Art. 9.4)	It is a general principle of Ugandan law that all victims be awarded adequate compensation in both civil and criminal proceedings (Constitution, Article 126). In criminal proceedings, courts can order an offender upon conviction to compensate a victim for material loss or personal injury (Trial on Indictments Act, Section 126; Magistrates Court Act, Sections 160, 197). In addition, the Penal Code specifically grants courts the discretion to provide compensation to child victims of defilement, and the Prevention of Trafficking in Persons Act specifies both that courts be given the power to order compensation to victims of trafficking upon conviction of an offender in a criminal proceeding and that victims of trafficking be permitted to file civil lawsuits for damages without paying filing fees	<p>The Penal Code (Amendment) Act 2007 added Section 129B of the Penal Code to specifically provide courts with the power to grant compensation to child victims of defilement (Penal Code (Amendment) Act 2007, Section 2).</p> <p>The Prevention of Trafficking in Persons Act 2009 enabled victims of trafficking to receive compensation as a part of criminal proceedings and to file civil cases for damages without paying filing fees.</p>	<p>On the difficulties child victims face in accessing procedures to seek compensation:</p> <p>“The Committee notes that...victims face difficulties in gaining access to seek compensation.”<sup>78</sup></p> <p>“The Committee recommends that the State party...(b) Guarantee that all child victims of the offences described in the Optional Protocol have access to adequate procedures and to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9, paragraph 4, of the Optional Protocol.”<sup>79</sup></p>

<sup>75</sup> CRC/C/15/Add.80, 21 October 1997, Concluding observations of the Committee on the Rights of the Child, para. 24.

	<p>(Penal Code, Section 129B; Prevention of Trafficking in Persons Act, Sections 12, 16).</p> <p>The Ugandan Human Rights Commission is also empowered to order redress where it is found that a victim's human rights have been violated, and to recommend to Parliament the provision of compensation to victims of human rights violations (Constitution, Article 53; Uganda Human Rights Commission Act 1997, Section 7).<sup>76</sup></p> <p>However, the Government has noted that few child victims seek redress through either Commission or court procedures.<sup>77</sup></p>		
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### Further Resources

ECPAT, Global Monitoring Report on the status of action against commercial sexual exploitation of children: Uganda, 2007, available at [http://www.ecpat.net/A4A\\_2005/PDF/AF/Global\\_Monitoring\\_Report-UGANDA.pdf](http://www.ecpat.net/A4A_2005/PDF/AF/Global_Monitoring_Report-UGANDA.pdf)

<sup>76</sup> The Uganda Human Rights Commission Act as enacted in 1997 is available at [http://www.kituochakatiba.org/index2.php?option=com\\_docman&task=doc\\_view&gid=958&Itemid=36](http://www.kituochakatiba.org/index2.php?option=com_docman&task=doc_view&gid=958&Itemid=36).

<sup>77</sup> Uganda Government, undated, Answers to UN Questionnaire on Violence Against Children, p. 3.

<sup>79</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008, Concluding observations of the Committee on the Rights of the Child, para. 30.

<sup>78</sup> CRC/C/OPSC/UGA/CO/1, 16 October 2008, Concluding observations of the Committee on the Rights of the Child, para. 29.

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