

# **ACCESS TO JUSTICE FOR CHILDREN:** **COUNTRY REPORT CARD<sup>1</sup>**

## **UGANDA**

<b>I. Legal Status of the Convention on the Rights of the Child (CRC)</b>	
<b>A. CRC takes precedence over conflicting legislation (/10)</b> (no = 0; partial = 5; yes = 10)	0
<b>B. CRC has been incorporated into national law (/10)</b> (no = 0; partial = 5; yes = 10)	5 <sup>2</sup>
<b>C. CRC is directly enforceable in domestic courts (/10)</b> (no = 0; interpretive guidance = 3; some direct, some interpretive guidance = 6; yes = 10)	10 <sup>3</sup>
<b>D. CRC has been applied in legal proceedings (/10)</b> (no = 0; not systematically = 5; systematically = 10)	5
<b>OP3 is ratified (/5)</b> (no = 0; yes = 5)	0
<b>SCORE /40:</b>	<b>20</b>

<b>II. Legal Status of the Child</b>	
<b>A. Full range of legal claims is available to challenge rights violations (/20)</b>	
Specific standards: (2.5 each)	
• violations can be challenged even if they are not crimes	2.5
• can bring private prosecutions where the State will not carry out a criminal prosecution itself	2.5
• can challenge deprivation of liberty and/or lawfulness of detention	2.5
• mechanisms exist to investigate allegations against officials	2.5
Independent bodies capable of taking complaints before or on behalf of children: (2 each)	
• Independent institution exists with mandate that covers the protection and promotion of children's rights	2 <sup>4</sup>
• There is a specific department or person within the relevant institution that specifically deals with children's rights	0
• Institution is empowered to bring complaints in relation to violations of children's rights	2
• Institution has a transparent appointment procedure	2 <sup>5</sup>

<sup>1</sup> This report card is based on CRIN's Access to Justice for Children: Model Report, available at [www.crin.org/en/node/31972/](http://www.crin.org/en/node/31972/).

<sup>2</sup> Incorporated by statute (Children Act) but "with appropriate modifications to suit the circumstances in Uganda."

<sup>3</sup> The Children Act effectively re-enacts the CRC by expressly stating that children have the right to enforce all rights under the CRC.

<sup>4</sup> Human rights generally; the latest annual report does not mention child rights.

<sup>5</sup> The chairperson and other members of the Uganda Human Rights Commission shall be appointed by the President with the approval of Parliament: Uganda Human Rights Commission Act, s. 2:

<http://www.opm.go.ug/assets/media/resources/400/UGANDA%20HUMAN%20RIGHTS%20COMMISSION%20ACT.pdf>

<ul style="list-style-type: none"> <li>• Institution is empowered to review State's progress in realising children's rights</li> </ul>	2 <sup>6</sup>
<b>B. Children can bring cases alone or via a representative (/7.5)</b>	
Can bring a case in own name (no = 0; yes = 2.5)	2.5
Is generally not required to bring proceedings through a guardian ad litem or litigation friend (no = 0; yes = 2.5)	0
No conflict of interests in appointments of representatives (no = 0; yes = 2.5)	2.5
<b>C. Parents/guardians can bring cases on behalf of very young children (/10)</b>	<b>0</b>
Parents' ability to act on behalf of child is tempered by the principle of the best interests of the child (no = 0; partial = 5; yes = 10)	0 <sup>7</sup>
<b>D. Children/representatives are eligible for free legal assistance (/30)</b>	<b>14</b>
Settings: (2 each)	
<ul style="list-style-type: none"> <li>• civil</li> </ul>	0
<ul style="list-style-type: none"> <li>• criminal</li> </ul>	2
<ul style="list-style-type: none"> <li>• administrative</li> </ul>	0
<ul style="list-style-type: none"> <li>• family</li> </ul>	2 <sup>8</sup>
<ul style="list-style-type: none"> <li>• all other judicial settings</li> </ul>	0
Right to a lawyer of own choosing (no = 0; yes = 5)	0
Right to lawyer with experience commensurate with nature of claim / offence (no = 0; yes = 5)	0
Right to legal aid throughout the criminal process from arrest to trial and appeal (no = 0; partial = 5; yes = 10)	5
<b>E. No further legal limitations/conditions on children/representatives bringing, running or settling cases (/5) (deduct 1 for each limitation/condition)</b>	<b>5</b>
<b>SCORE /72.5:</b>	<b>37</b>

<b>III. Challenging Children's Rights Violations</b>	
<b>A. Children have complete access to all courts, complaints mechanisms (/10)</b>	
Settings: (2.5 each)	
<ul style="list-style-type: none"> <li>• criminal</li> </ul>	2.5
<ul style="list-style-type: none"> <li>• civil</li> </ul>	2.5
<ul style="list-style-type: none"> <li>• administrative</li> </ul>	2.5
<ul style="list-style-type: none"> <li>• informal, customary or alternative justice mechanisms available where appropriate</li> </ul>	0
<b>B. Courts have broad powers to remedy rights violations (/16)</b>	
Remedies: (2 each)	
<ul style="list-style-type: none"> <li>• restitution</li> </ul>	2
<ul style="list-style-type: none"> <li>• compensation</li> </ul>	2
<ul style="list-style-type: none"> <li>• stop the enforcement of a law</li> </ul>	2
<ul style="list-style-type: none"> <li>• stop the enforcement of subsidiary legislation</li> </ul>	2
<ul style="list-style-type: none"> <li>• order government to take steps to prevent a violation</li> </ul>	2

<sup>6</sup> <http://www.uhrc.ug/functions>.

<sup>7</sup> Children's Act refers to the child's welfare not best interests.

<sup>8</sup> A child has the right to legal representation in the Family and Children Court (which hears criminal charges against children and applications relating to child care and protection): Children Act, s. 16.

• launch investigation or bring proceedings at the court's initiative	0
• guarantee non-repetition	2
• repeal of law (partial = 1)	2 <sup>9</sup>
<b>C. Widespread violations can be challenged without naming individual victims (/10)</b>	
Named victims are not required (no = 0; partial = 5; yes = 10)	5
<b>D. Children can file group litigation to challenge multiple violations (/10)</b>	
Group and collective litigation available (no = 0; partial (selected types of actions only) = 2.5; yes = 7.5)	7.5
Courts have the power to combine cases to offer clear, consistent pronouncements of the law (no = 0; yes = 2.5)	2.5
<b>E. Non-governmental organisations can file, intervene in cases (/10)</b>	
Can file (no = 0; yes = 7.5)	7.5
Can intervene (no = 0; yes = 2.5)	0
<b>SCORE /56:</b>	<b>44</b>

<b>IV. Practical Considerations</b>	
<b>A. Venue (/5)</b>	
Formal restrictions relaxed as necessary and appropriate (no = 0; partial = 2.5; yes = 5)	2.5 <sup>10</sup>
<b>B. Legal aid / costs (/5)</b>	
Court fees and case related expenses are not payable (no = 0; yes = 5)	5
<b>C. Pro-bono / financing (/10)</b>	
Active legal and bar associations that offer pro-bono representation (no = 0; yes = 5)	5
Systematic procedures to promote pro-bono (no = 0; yes = 5)	5
<b>D. Timing (/10)</b>	
Limitation periods do not begin to run until a child reaches the age of 18 (no = 0; yes = 5)	5
No time limitation period for "serious violations of international humanitarian law" (no = 0; yes = 5)	0
<b>E. Evidence (/7.5)</b>	
Children may testify or give evidence in court proceedings (no = 0; yes = 2.5)	2.5
Opportunity to give evidence not under oath where this is not understood (no = 0; yes = 2.5)	2.5
Child friendly procedures to facilitate the giving of evidence (no = 0; yes = 2.5)	2.5
<b>F. Resolution (/10)</b>	
Cases involving children are resolved without undue delay (no = 0; partial = 5; yes = 10)	5 <sup>11</sup>
<b>G. Appeal (/10)</b>	
Children have right to appeal (no = 0; partial = 5; yes = 10)	10
<b>H. Impact and follow-up (/10)</b>	

<sup>9</sup> See Constitution Article 137.

<sup>10</sup> Family and children court available, plus other informal courts.

<sup>11</sup> Efforts have been made to expedite proceedings and reduce the backlog of cases.

Judicial decisions are enforced and respected (no = 0; partial = 5; yes = 10)	0 <sup>12</sup>
<b>I. Privacy (/10)</b>	
Privacy of children involved in legal proceedings guaranteed by law; public can be excluded; personal details unpublished (no = 0; yes = 10)	10 <sup>13</sup>
<b>J. Right to be heard (/10)</b>	
Explicit provisions in place to guarantee children's right to be heard and for his or her views to be taken into account during legal proceedings (no = 0; partial = 5; yes = 10)	5 <sup>14</sup>
<b>SCORE /87.5:</b>	<b>60</b>

**TOTAL WEIGHTED SCORE /261 = 161**

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<sup>12</sup> There have been reports of the government's refusal to enforce judicial decisions, and issues surrounding judicial independence:  
<http://jurist.org/paperchase/2011/09/uganda-chief-justice-says-judiciary-not-free.php#.U1qSXfhx0y0>

<sup>13</sup> Children Act s. 102.

<sup>14</sup> Limited circumstances only - see e.g. Children Act Schedule 1 s. 3