

**A HUMAN RIGHT PERSPECTIVE ON SEXUAL ABUSE AND EXPLOITATION OF A
GIRL CHILD THROUGH THE CULTURAL PRACTICES IN UGANDA**

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**A RESEARCH REPORT SUBMITTED TO THE SCHOOL OF LAW IN PARTIAL
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DECLARATION

I, **BAREKYE LINDA**, do solemnly declare, that apart from reference to other peoples' work which has been duly acknowledged, this work is the product of my intellect and academic exercise and has not been presented to any university or other institution of higher learning anywhere in the world by anyone, either in part or as a whole for the purpose of a certificate, diploma, LLB- Bachelor of Laws degree. I also certify that I prepared by myself specifically for the partial fulfillment for the award of the degree in law at Kampala International University, Uganda.

Dated^{1st}..... this day of August....., 2019

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APPROVAL

This is to certify that, this research entitled "*A HUMAN RIGHT PERSPECTIVE ON SEXUAL ABUSE AND EXPLOITATION OF A GIRL CHILD THROUGH THE CULTURAL PRACTICES IN UGANDA*" has been carefully supervised and approved to meet regulations governing dissertation writing of School of Law, in partial fulfillment of the award requirements for the award of Bachelor of Laws (LLB) Degree from School of Law of Kampala International University, Uganda.

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LIST OF ABBREVIATIONS

ACRW	African Charter on the Rights of Women
CRC	Convention on the Rights of Children
CEDAW	Convention on Elimination of all Forms of Discrimination against Women
WHO	World Health Organization
ILO	International Labour Organization
WIPO	World Intellectual Property Organization
ACRWC	African Charter on the Rights and Welfare of the Child
HIV	Human Immune-Deficiency Virus
AIDS	Acquired Immune-Deficiency Syndrome
STD	Sexually Transmitted Diseases
UNICEF	United Nations Children's Fund
UN	United Nations
NGOs	Non-Governmental Organizations
VAC	Violence Against Children
FGM	Female Genital Mutilation
DHS	Demographic and Health Surveys
UNFPA	United Nation's Fund for Population Activities

Regionally, the African Charter on the Rights and Welfare of the Child (ACRWC)⁸ and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)⁹ are the documents that entail the protection of the child from sexual abuse and exploitation. The member states to these instruments have an obligation to protect children from sexual abuse and exploitation.¹⁰ This can only be a success where the relevant stakeholders in those states take the role of abolishing all cultural practices that condone sexual abuse and exploitation of children in their societies.¹¹ Any custom of practice that is harmful or prejudicial to the health of a girl or a child must be discouraged and prohibited.¹²

The United Nations in 1950s acknowledged the need for states to prohibit cultural practices that are harmful.¹³ This was due to colonial administrators concern about the harmful customs practiced in their colonies. These were later condemned by the Convention on the Elimination of Discrimination against Women (CEDAW).¹⁴ These practices include Female Genital Mutilation, Early Marriage which is the cause of early pregnancy.¹⁵ These practices are regarded not harmful but amounting in sexual abuse and exploitation of the girl child.¹⁶

⁸ The African Charter on the Rights and Welfare of the Child (ACRWC) Centre for Human Rights Compendium of key human rights documents of the African Union (2005); ACRWC was adopted by the 26th Ordinary Session by the Assembly of Heads of State and government of the Organisation of African Unity in 1990 and came into force in 1999; art 16(1) & art 27 of ACRWC.

⁹ The Women's protocol to the African Charter on Human and Peoples' Rights (the protocol) Centre for Human Rights Compendium of key human rights documents of the African Union (2005); came into force on the 25 November 2005.; art 4(2) of the Protocol.

¹⁰ International Labour Organisation 'Sexual exploitation of children' World of Work (42) 2002 available at <http://www.ilo.org/public/english/bureau/inf/magazine/42/yokohama.htm> (accessed on 24 March 2019).

¹¹ ACRWC, Art 21.

¹² ACRWC, Art 21(1)(b) & art 21(2); ACRWC, Art 21(1)(a).

¹³ B Winter et al 'UN approach to harmful traditional practices: some conceptual problems' International feminist journal of politics (2004) 74.

¹⁴ The Convention on the Elimination of Discrimination against Women (CEDAW) it came into force on 3 September 1981, Art 5(a). available at <http://www.unhchr.ch/html/menu3/b/e1cedaw.htm> (accessed on 26 March 2019).

¹⁵ Ibid n13.

¹⁶ Roselyn Hanzi, Sexual abuse and exploitation of the girl child through cultural practices in Zimbabwe: a human rights perspective, A dissertation submitted in partial fulfilment of the requirements of the LLM (Human Rights and Democratisation in Africa) Faculty of Law, Centre for Human Rights, University of Pretoria, October 2006.

The ACRWC provide that the act of involving children in sexual activities is detrimental to the existence and development of a child.¹⁷ Sexual exploitation undermines the child self-esteem directly and permanent.¹⁸ The sexual exploitation remains in the victims' mind even when they enter into adulthood. Sexual abuse causes effects such as anxiety, depression, substance abuse, personality disorders and low self-esteem.¹⁹ Suicide is also one of the effects of sexual abuse and exploitation.²⁰ Victims also have chances of being infected with sexually transmitted disease (STDs) such as HIV/AIDS.²¹

The European Commission of Human Rights specifically commented on the mental suffering of children because of sexual abuse. It concluded that sexual abuse results in acute psychiatric disturbances that fall in the category of treatment prohibited under article 3 that prohibits torture inhuman and degrading treatment.²²

In Uganda, the Government realized that the overall goals for a child for there to be sustainable realization of them then child protection interventions are central. However, the girl child protection in Uganda by government and other stakeholders has face challenges specifically on efficiency, effectiveness and coverage. The reason behind this under development of the sector is

¹⁷ ACRWC, Art 5(1).

¹⁸ J Steel et al 'Psychological sequelae of childhood sexual abuse, related characteristics coping strategies and attribution style' *Child abuse and neglect* (2004) 576; R Roberts 'The effects of child sexual abuse in later life' 28 *Child sexual abuse and neglect* (2000) 525.

¹⁹ Ibid.

²⁰ RK Oates 'Sexual abuse and suicidal behaviour' *Child Abuse and Neglect* 28 (2004) 487; Ibid n 18 R. Roberts.

²¹ BA Davar 'Rethinking gender persecution, sexual violence and women's rights: a new conceptual framework for political asylum in international human rights law' 6 *Texas law journal of women and the law* (1997) 489; There is a myth that sex with a virgin cures HIV infections see R Jewkes 'The virgin cleansing myth: cases of child rape are not exotic' *The Lancet* (2002) 11; L Ackermen et al 'Social factors that make South African women vulnerable to HIV infection' (2002) 102; A high school teacher in Zimbabwe was recently convicted of raping a six year old girl whom he infected with HIV he was sentenced to 17 years imprisonment, available at <http://www.unicef.org/media/media_35154.html> UNICEF shocked and outraged at latest case of child rape in Zimbabwe (accessed on 3 April 2019); at least 1800 children are infected by HIV/ AIDS they are below the age of 15 years and they account for 13% of the HIV/ AIDS global infections see UNICEF 'State of the world's children: 2006' (2006) 16 available at <http://www.unicef.org/sowc06/pdfs/sowc06fullreport.pdf> (accessed on 14 April 2019).

²² X and Y v Netherlands available at <<http://worldii.org/eu/cases/ECHR/1985/4.html>> (accessed on 3 April 2019).

due to financial, human and logistical limitations. There is further lack of cooperation among the relevant stakeholders in the protection of the girl child. Consequently, vulnerable children are not yet able to access the necessary integrated and comprehensive, preventive and rehabilitative package of services that are so critically required to ensure the safety and wellbeing of all Uganda's children.

It is against this background that the Ministry of Gender, Labour and Social Development with support from UNICEF, commissioned a national mapping process of the country's child protection system. This was geared at informing the process of strengthening the national child protection response and building an effective and integrated child protection system.

1.1. Statement of the Problem

In Uganda, sexual abuse and exploitation prevalence is high even though Uganda has ratified a number of international and human rights instruments that protect the girl child from sexual abuse and exploitation. The country's Ministry of Gender, Labour and Social Development is the institution tasked with the mandate of protection of the girl child and children at large. In as much as the child protection mandate rests with the Department of Youth and Children Affairs, it is also spread across other departments, notably that of Gender and Women Affairs, Culture and Family Affairs and of Labour and Industrial Relations. Beyond the Ministry, the mandate for child protection is shared with the Ministry of Internal Affairs, Ministry of Justice and Constitutional Affairs, Ministry of Education and Sports and Ministry of Health. At the district level, the mandate for child protection is with the Community Based Services Department.

The major issue between this extensive departments and ministries in charge of girl child protection is that there is need to cooperate among them for proper supervision and achievement of goals set to protect girl child for menace such as sexual abuse and exploitation. However even

though there are a number of coordination mechanisms in existence they are yet to deliver any fruitful outcomes. Further, the lack of logistical and human resources constrains the relevant institutions and stakeholders in achieving the goals of protecting the girl child from sexual abuse and exploitation within the Ugandan jurisdiction.

There are some preventive interventions by both government and NGOs that are geared at addressing the underlying beliefs and practices that predispose children to abuse and neglect. Unfortunately, their coverage remains limited and the overall pace of social change has been slow despite efforts at community mobilization and awareness creation. There are also several interventions and institutions that seek to respond to violence against children. However, the response efforts are constrained by lack of a service package for the different types of cases and there is no unified mechanism for case documentation and follow up. Alternative care options for children deprived of parental care are also poorly developed with institutional care remaining the most predominant formal option available to children despite the fact that the vast majority of child care institutions are neither approved nor being monitored by the government. Also, the legal procedures for inter-country adoption are not being followed, and instead, guardianship orders, that take as little as two weeks to process, are being used. Access to justice for children remains a major gap although there are a number of promising practices that are being pioneered by the Justice, Law and Order Sector to fast track children's cases.

Most of the weaknesses and gaps in the functionality of the child protection system in Uganda is attributed to inadequate public resourcing of child protection structures, institutions and programmes. Apart from salaries of government child protection staff, most of the funding for child protection programmes is donor dependent. This is partly attributable to the failure of the sector to package and communicate child protection services in a manner that makes them

amenable to increased public financing as well as the fact that the bulk of donor support is provided outside the government budget framework which does not create obligations for government to invest in child protection. All this is exacerbated by the absence of effective mechanisms for tracking and monitoring the use of the resources allocated to institutions with a child protection mandate.

1.2. Objectives of the Research

1.2.1. Main Objective

To analyze the cultural beliefs that are the major contributors to the sexual abuse and exploitation of girl child within the human rights framework in Uganda.

1.2.2. Specific Objectives

1. To study the Uganda's legal framework on the protection of girl child from sexual abuse and exploitation;
2. To determine the International and Regional Human Rights Legal framework that Uganda is a party to that protects the girl child from sexual abuse and exploitation;
3. To look and a number of cultural beliefs in Uganda that majorly contribute to the sexual abuse and exploitation of the girl child; and
4. To determine the challenges and solutions faced by stakeholders in the protection of the girl child in Uganda against sexual abuse and exploitation.

1.3. Research Questions

The following questions are to be addressed by this study: -

1. What is Uganda's national Legal Framework on the protection of Girl Child against sexual abuse and exploitation?

2. What is the International and Regional human right legal framework on the protection of Girl Child against sexual abuse and exploitation?
3. What are the major causes of sexual abuse and exploitation of the girl child in Uganda?
4. What are the major challenges and solutions for the protection of girl child in Uganda from sexual abuse and exploitation?

1.4. Scope of the Study

The topic of child protection is a wide area that the researcher may not be able to cover it all. Thus, the research shall focus in one of the specific areas which is girl child protection and only on matters pertaining sexual abuse and exploitation brought about by cultural practices.

The research shall also consider this topic based on the human rights perspective. Looking at the International and African Regional human rights treaties and conventions focused on the protection of girl child against sexual abuse and exploitation from cultural practices. The research will further consider the national framework in Uganda and discuss the same. The geographical scope of the research shall be limited to Uganda.

1.5. Significance of the Study

The finding of the research has a crucial significance both in theory and in practice in the interest of the development of Human Rights Law as well as Gender and the law. It will provide perceptions and understanding on the influence of cultural practices on the sexual abuse and exploitation of girl child in Uganda. The findings will provide valuable information to government, stakeholders in child protection sector, researchers and the community leaders on how to manage and stop the cultural practices that contribute to the sexual abuse and exploitation of girl child.

The findings of the research will be of importance to the stakeholders in the child protection sector, as they will provide an understanding on the effects of cultural practices to the girl child in order to provide recommendations on how to address the problem posed by cultural beliefs to local people and the children in Uganda.

The findings of the study also will be of great significance to the government through the Ministry of Gender, Labour and Social Development as they will provide on the measures need to be taken in order to protect the girl child from sexual abuse and exploitation. It will also help them develop laws and regulations governing protection of girl child from abuse for the interest of all stakeholders involved.

Through adoption of the recommendations of these research findings, the community leaders will get to know on how to safeguard and protect the interests of both their people and the country at large.

1.6. Research Methodology

The researcher shall strictly adopt the doctrinal research method. This shall be done via an analysis of the relevant provisions of the Constitution of the Republic of Uganda and the relevant statutes as well as the international and regional human rights treaties and conventions that Uganda is a party to in order to establish the legal framework on the protection of girl child from sexual abuse and exploitation. Thereafter the researcher will review both primary and secondary sources of law to determine whether there is compliance of the relevant laws. The use of primary sources shall involve the collection of relevant data that is most suitable for the research from Statutes, case laws, Treaties and Conventions while the use of secondary sources will involve the collection of data from sources such as textbooks, articles, dissertations, panel discussions reports, and productive resources found on the internet.

CHAPTER TWO

LITERATURE REVIEW

The purpose of this literature review is to give a clear guidance on the human right perspective on sexual abuse and exploitation of a girl child through the cultural practices in Uganda. This shall be by critically analyzing different existing scholarly writings that provide the guidelines on how sexual abuse and exploitation of girl child through cultural practices is contrary to the international and national human rights standards.

Esther Oluka,²³ Sexual violence encompasses sexual abuse and exploitation of children including forced sex, erotic touches such as grabbing or fondling of the child.²⁴ Sexual violence also includes harassment, threats and tricks directed towards a child in exchange for sex.²⁵

One in three young girls in Uganda have experienced sexual abuse and exploitation in their childhood.²⁶ Further, one in four young adults who experienced sexual abuse in their childhood had their first abuse experience at 13 or at a much younger age.²⁷

Additionally, most frequent perpetrators of sexual violence against girls during their childhoods were neighbours and strangers. These girls, aged 13 to 17 years, most frequently experienced sexual violence on the road, their own respective homes and school.²⁸

²³ Esther Oluka, Children still face sexual violence, Monitor, AUGUST 24 2018, Available at <https://www.monitor.co.ug/SpecialReports/Children-still-face-sexual-violence-/688342-4726328-av9i5x/index.html> Accessed on 15th May 2019.

²⁴ Ospina, Maria, Christa Hartsall and Liz Dennett, Sexual Exploitation of Children and Youth over the Internet: A rapid review of the scientific literature, Institute of Health Economics, Edmonton, Alberta, 2000.

²⁵ Ibid.

²⁶ According to the statistics Uganda Violence Against Children survey report findings released on August 2018

²⁷ Kaboggoza- Ssembatya, Child Sexual Abuse Prevalence in Uganda, Child Protection in Crisis Uganda: March 2012 Learning Retreat.

²⁸ Langan, Patrick A., Erica L. Schmitt and Matthew R. Durose, Recidivism of Sex Offenders Released from Prison in 1994, U.S. Dept. of Justice, Washington, DC, 2003; Lievor, Denise, Recidivism of Sexual Assault Offenders: Rates, risk factors and treatment efficacy, report prepared for the Office of the Status of Women, Australian Institute of Criminology, Melbourne, June 2003; Gelb, Karen, Recidivism of Sex Offenders,

Children who suffer sexual abuse and exploitation get affected in different ways. They may get mental disorder as a result of recurrent sexual episodes playing in their minds. For example, if a girl was raped, there is a likelihood that she will keep thinking of what happened to her, and, in the long run, this may cause her mental agony.²⁹

Rape also comes with the high risk of exposure to HIV/Aids and other sexually transmitted diseases including gonorrhea and syphilis.³⁰ Some girls also get pregnant in the process. Sadly, because some of these girls conceive at a time they are still very young, they end up losing their life as well as that of the baby.³¹

Then, some of these victims may either resort to run away from home or committing suicide out of shame. Sometimes these victims can end up detesting men or relationships.³²

Uganda is a signatory to a number of international instruments including the United Nations (UN) Convention on the Rights of the Child (CRC), article 19, which requires that children are protected from all forms of violence (including sexual abuse).³³ However, there are existing challenges towards reporting cases of abuse.³⁴

These included limited understanding of children's rights and responsibilities, mismanagement of reported cases of violence among children as well as gaps in the existing laws on violence

Sentencing Advisory Panel, Melbourne, 2007; Knight, Raymond A. and David Thornton, Evaluating and Improving Risk Assessment Schemes for Sexual Recidivism: A long term follow up of convicted sex offenders, U.S. Dept. of Justice, Washington, DC, 2004.

²⁹ WHO, Guidelines for Medico-Legal Care for Victims of Sexual Violence, Child Sexual Abuse. Available at https://www.who.int/violence_injury_prevention/resources/publications/en/guidelines_chap7.pdf

³⁰ C Fong, Post-exposure prophylaxis for HIV infection after sexual assault: When is it indicated? Emerg Med J 2001; 18: 242-245.

³¹ Ibid.

³² Ibid.

³³ United Nations (UN) Convention on the Rights of the Child (CRC), article 19.

³⁴ Ministry of education and sports report, Response, Tracking, Referral, and Response (RTRR), guidelines on violence against children in schools, 2014.

ignorance and illiteracy, poverty, cultural beliefs, ignorance of the law, sharing accommodation with older children which exposes them to early sex, child neglect as parents abdicate their duty of parenting; offering proper guidance and advice, permissiveness and generally moral degeneration.⁴⁰

The Ugandan law defines defilement as the act of having sexual intercourse with a girl under 18, while rape is having sex with a woman without her consent, usually by force.⁴¹ Often defilement involves relatives, married men, religious or professional people in the community. Worse still, some men rape or defile their own daughters.

Rape and defilement can lead to physical injuries inside and outside of the body (including cuts, tears, severe bleeding and damage to internal reproductive organs, which sometimes requires surgery); psychological damage to victims (including depression, fear, anxiety, mistrust and sometimes suicidal thoughts), unwanted pregnancies, HIV/AIDS and other sexually transmitted diseases, Interruption of schooling (as victims are often forced to drop out of school), social stigma, infertility or even death.⁴²

This therefore calls for the need for stakeholders to play their role in ensuring that children live in safe and loving environment free from any form of abuse. The government, parents, law enforcement officers, religious, cultural leaders and girls themselves all have a role to play.⁴³ Parents abdicating their role especially need to be apprehended and should face the law lest defilement will dominate court and police statistics. Many children, especially the girls, are exposed to these acts by their parents and guardians. Very many young girls are seen in most

⁴⁰ East, Central and Southern African Health Community (ECSA-HC), Child Sexual Abuse in Sub-Saharan Africa: A review of the literature, ECSA-HC, Arusha, 2011.

⁴¹ Penal Code (Amendment) Act, Section 129.

⁴² Effects of defilement on children's psychological wellbeing: a case of children counseled at Embu Provincial General Hospital, Embu County. Published on the Department of Psychology (<https://psychology.uonbi.ac.ke>).

⁴³ Ibid.

parts of the country vending maize, roasted meat, tomatoes, bananas and other goods at awkward hours.⁴⁴

With the help of the government and other stake holders, this problem can be overcome if there is determination, zeal and the right strategies to handle defilement and deal with poverty, ignorance and illiteracy.⁴⁵

This will call for the need to intensify enforcement of the law to ensure offenders are prosecuted to protect the girl child. Change the norms which allow communities to negotiate out of court as this perpetuates the vice- a common practice in poverty-stricken areas.⁴⁶

The government and all stakeholders including but not limited to social workers should also sensitize communities about the dangers of defilement and the referral mechanisms for reporting and addressing it.⁴⁷

The media has done well in publishing reports and incidents of defilement, this must continue for parents and communities to know the extent of the problem and the dangers it poses.⁴⁸

More awareness is needed for law enforcement agents on how to deal with defilement because victims of defilement in most instances need reassurance that the reporting of the case will not harm them further by questioning their integrity or publicizing the information although they too need protection.⁴⁹

⁴⁴ Sommarin C, Kilbane T, Mercy J, Moloney-Kitts M, Ligiero D, "Preventing Sexual Violence and HIV in Children." *Journal of Acquired Immune Deficiency Syndromes* 66 (2014).

⁴⁵ ANPPCAN Uganda, "Baseline Survey to Assess Violence against Children in Arua, Apac, Kitgum, Mukono and Rakai Districts." (2011).

⁴⁶ Lalor K., &McElvaney R, "Child sexual abuse, links to later sexual exploitation/high-risk sexual behavior, and prevention/treatment programs." *Trauma Violence & Abuse*. 11, 159-177 (2010).

⁴⁷ Sumner SA, Mercy JA, Buluma R, Mwangi MW, Marcelin LH, et al. "Childhood Sexual Violence Against Boys: A Study in 3 Countries." *Pediatrics* 137(5) (2016).

⁴⁸ Devries KM, Kyegombe N, Zuurmond M, et al. "Violence against primary school children with disabilities in Uganda: a cross-sectional study." *BMC Public Health* 14 (2014).

⁴⁹ Dennis, Jane A., Omer Khan, Michael Ferriter, Nick Huband, et al., 'Psychological Interventions for Adults who Have Sexually Offended or Are at Risk of Offending', *The Cochrane Library*, no. 12, 2012; Hanson, R. Karl, Guy Bourgon, Leslie Helmus and Shannon Hodgson, 'The Principles of Effective Correctional Treatment also Apply to Sexual Offenders: A meta-analysis', *Criminal Justice and Behavior*, vol. 36, no. 9, 2009, pp. 865–

But most importantly, there is need to engage and empower key actors in designing and implementing strategies that help to “completely” curb child sexual abuse. Parents, caregivers, service providers and practitioners from different disciplines, community members, local leaders, decision-makers and policymakers are all critical team members.⁵⁰ Their participation ensures policies are contextually relevant, applicable in the local context and are implemented in a coherent and coordinated way.

At the end of it all, it is the responsibility of all of us to ensure that children live in a secure and safe environment free from any form of abuse since they hold the “keys to the future of this Nation.” (How is this all this literature related to your study? What are the loopholes in these studies? How do you Plan to fill these gaps?

KaboggozaSsembatya⁵¹. There is a growing sexual violence against children at homes, schools and communities. This violence is one that is least reported and addressed. Uganda as a country lacks national surveillance on child sexual abuse.⁵² This has led to more than two thirds of the children in Uganda which approximately 75.8% facing sexual violence such as being touched.⁵³ Among this girls are the most affected by sexual violence; 46.5% of the girls reported to have been sexually touched while 20.5% being forced to have sex against their will.⁵⁴

Sexual violence against girl child of much higher age has been one that has been overlooked and never taken seriously. This has been majorly in schools and in the communities where these girls

891; Andrews, D.A. and James Bonta, *The Psychology of Criminal Conduct*, Third edition, Anderson, Cincinnati, OH, 2003; Lösel, Friedrich and Martin Schmucker, ‘The Effectiveness of Treatment for Sexual Offenders: A comprehensive meta-analysis’, *Journal of Experimental Criminology*, Vol. 1, no. 1, 2005, pp. 117–146.

⁵⁰ Keesbury, Jill and Ian Askew, *Comprehensive Responses to Gender-based Violence in Low-resource Settings: Lessons learned from implementation*, Population Council, Lusaka, 2010.

⁵¹ KaboggozaSsembatya: Assistant Commissioner, Children’s Affairs, Ministry of Gender, Labour and Social Development; *Child Protection in Crisis in Uganda: March 2012 Learning Retreat. Child Abuse Prevalence in Uganda*.

⁵² Susan Hillis, James Mercy, AdaugoAmobi, Howard Kress, *Global Prevalence of Past-year Violence Against Children: A Systematic Review and Minimum Estimates*, *Pediatrics*, March 2016, Volume 137, Issue 3.

⁵³ DepakNaker, *Violence Against Children: The Voices of Ugandan Children and Adults*, 2005.

⁵⁴ Ibid.

come from. This has led to serious effects on these children in completing their education and majority of them become school dropouts.⁵⁵ The age bracket of most of the children being sexually abused is between the ages of 14 years to 18 years.

The urban setting has lead in the statistics regarding to sexual violence compared to rural areas. NGOs being one of the crucial stakeholders in the fight against sexual violence and abuse have a limitation towards its actions. The government is the important stakeholder to make necessary guidelines and initiatives to make sure the protection of girl child against such menace.⁵⁶

The lack of coordination between the stakeholders majorly the government and the civil societies has played a major role in the failure of implementation of the action plan against sexual abuse and violence.⁵⁷

Though the study has addressed the statistics of sexual violence on children in Uganda. The study did not address the cultural contribution and specifically on the girl child which shall be a detail address of this research.

David Walker, Paola Pereznieto, Grace Bantebya and Eric Ochen⁵⁸, Cross-generational and transactional sex among the adolescent girls in Uganda has become something within the public domain. Around 11.8% of adolescent girls in Uganda are affected due to this. Majorly, due to

⁵⁵ Clarke K, Patalay P, Allen E, et al Patterns and predictors of violence against children in Uganda: a latent class analysis *BMJ Open* 2016;6:e010443. doi: 10.1136/bmjopen-2015-010443.

⁵⁶ Wandera SO, Clarke K, Knight L, Allen E, Walakira E, Namy S, Naker D, Devries K, Violence against children perpetrated by peers: A cross-sectional school-based survey in Uganda. doi: 10.1016/j.chiabu.2017.04.006. Epub 2017 Apr 14.

⁵⁷ Muhangi, Denis. Child Maltreatment in Uganda: Discourses and Representations in the Ugandan Print Media. 10.1007/978-3-319-48535-5_5. (2017).

⁵⁸ David Walker, Paola Pereznieto, Grace Bantebya and Eric Ochen, Cross-generational and transactional sexual relations in Uganda: income poverty as a risk factor for adolescents - full report, Research reports and studies, December 2014

economic poverty, social norms and cultural beliefs.⁵⁹ Major stakeholders such as government, NGOs, donors and civil societies have been training to fight this problem head on.

HIV/AIDS has also not been left behind especially with the cultural beliefs that have form the basis upon which prevention mechanisms to HIV/AIDS are inapplicable.⁶⁰ Marriages of young girls to older men due to cultural beliefs is also rooted in the Ugandan society.⁶¹ Parents value the dowry more than the life of the young girls being forced into early marriages with men the size of their fathers.⁶²

Peer pressure has also been determined to be a cause for sexual predicaments to young girls both in rural and urban areas. This is a major problem for stakeholders to counter it before it explodes further.⁶³

The research is focused on the cross-generational and transactional sex among adolescent girls. However, this research looks at the sexual violence of it based on cultural practices existing in Uganda.

⁵⁹ Population Reference Bureau, Combating Cross-Generational Sex in Uganda, January 21, 2009. Available at <https://www.prb.org/crossgenerationalsex/> Accessed on June 5th 2019.

⁶⁰ The DHS HIV/AIDS Sero-Behavioural Survey for Uganda, 2004-2005, indicated that the prevalence for girls ages 15 to 17 was 9.4 percent and for ages 18 to 19 was 9.9 percent. No data is shown for the 2006 numbers on cross-generational sex, nor is it subdivided by age groups other than 15 to 19. There is no explanation of the decline in the 2006 DHS report.

⁶¹ The World Bank, Educating Girls: A Way of Ending Child Marriage and Teenage Pregnancy, December 2017.

⁶² Ibid.

⁶³ Ochen AM, Chi PC, Lawoko S, Predictors of teenage pregnancy among girls aged 13-19 years in Uganda: a community-based case-control study. 2019 Jun 24;19(1):211. doi: 10.1186/s12884-019-2347-y.

CHAPTER THREE

NATIONAL AND INTERNATIONAL LEGAL FRAMEWORK ON THE PROTECTION OF GIRL CHILD.

3.1. Introduction

Uganda is a party to several international instruments that are vital for the protection of girl child. The conventions have been incorporated in some of the national legal frameworks that are operating within the country. The critical question is whether the implementation of the national and international legal framework plays a critical role on the protection of the girl child from sexual abuse and exploitation especially in the wake of cultural beliefs deeply rooted within the communities in Uganda that subject the girl child to cultural beliefs that abuse and exploit her sexuality.

This chapter of the research shall categorically address the national and international legal framework that Uganda is a party to that protect the girl child from sexual abuse and exploitation and how effective the framework is.

3.2. National Legal Framework

The Constitution of Uganda is the Alpha and Omega of everything that is legal and legitimate, all laws derive their validity from the Constitution.⁶⁴ In the hierarchy of laws the Constitution becomes the supreme then followed by Acts of Parliament. This section of the research shall discuss the laws in their hierarchical manner.

3.2.1. Constitution of Uganda

The protection of the girl child under the Constitution of Uganda is derived first from Article 33 of the Uganda Constitution which grants women full and equal dignity with men.⁶⁵ Further, the

⁶⁴ Constitution of the Republic of Uganda, 1995 (as amended), Article 2.

⁶⁵ Ibid. Article 33(1).

state has an obligation to provide facilities and opportunities to enhance women's' welfare for them to be able to realize their full potential and advancement.⁶⁶

The Constitution enhances its supremacy over matters that undermines the status of women especially regarding laws, cultures, customs or traditions that operate in a manner that undermine the dignity, welfare or interest of women. The Constitution prohibits such laws.⁶⁷ Though, the Constitution makes it clear there is still an existence of laws, customs and practices that undermines women and in specific girl child who undergo such practices that sexually abuse and exploit the girl child.¹⁵

3.2.2. Penal Code Act

Uganda's penal code act provide for sexual offences that are punishable.⁶⁸ The act provides for the offence of rape which is basically having "the unlawful carnal knowledge by a person of a woman or girl without her consent or with her consent, if the consent was obtained by force, threats or intimidation."⁶⁹ The maximum penalty on conviction for rape is death.⁷⁰

Further, the act provides that where the person commits the sexual act with a person under the age of 18 years then it amounts to an offence of defilement and on conviction will be liable to life imprisonment.⁷¹ This section also provides for the offence of "aggravated defilement" punishable by death.⁷²

⁶⁶ Ibid. Article 33(2).

⁶⁷ Ibid. Article 33(6).

⁶⁸ The Penal Code Act. Chapter XIV.

⁶⁹ The Penal Code Act, Section 123.

⁷⁰ Ibid. 124.

⁷¹ The Penal Code Act, Section 129; This provision was brought into effect with the recent Penal Code (Amended) Act 2007.

⁷² Aggravated Defilement is defined as where "a person performs sexual act with another person who is below the age of eighteen years in circumstances where the victim is below the age of fourteen years; the offender is infected with HIV; where the offender is a parent or guardian of, or a person in authority over the victim; where the victim is a person of disability; or where the offender is a serial offender." Under this law, the offence of attempted defilement is punishable by a maximum prison term of 18 years.

The Penal Code does not recognize marital rape as a criminal offence, mainly due to the presumption, especially in customary law that consent to sexual intercourse is given by the act of marriage.⁷³

3.2.3. The Female Genital Mutilation Act

The Prohibition of Female Genital Mutilation Act 2010 (FGM Act) is a comprehensive piece of legislation that sets out the offences and punishments for FGM in Uganda. It defines FGM as ‘all procedures involving partial or total removal of the external female genitalia for non-therapeutic purposes.’⁷⁴

The Act provide for the criminal offences related to the aspects of FGM.⁷⁵ They include carrying out FGM⁷⁶, aggravated FGM⁷⁷; whereby (a) the offence results in death of the victim, (b) the offender is a parent, guardian or has authority over the victim, (c) the victim suffers a disability, (d) the victim is infected with HIV as a result of the FGM, or (e) FGM is carried out by a health worker, carrying on FGM on yourself⁷⁸, attempts to carry out FGM⁷⁹, procuring, aiding or abetting FGM⁸⁰ and participating in any event that leads to FGM.⁸¹

Part II also states that neither consent nor any culture, custom, ritual, tradition or religion is a defense to the crime of FGM in Uganda.⁸² Sections 11 and 12 provide protection to women and girls who have not undergone FGM, together with their husbands, parents or relatives, from discrimination when engaging and participating in any economic, social, political or other

⁷³ Amnesty International Uganda: proposed national framework address impunity does not remove government’s obligation to arrest and suspend LRA leaders to the International Criminal Court (AI Index AFR 59/002/2007).

⁷⁴ The Prohibition of Female Genital Mutilation Act 2010, Section 2.

⁷⁵ The Prohibition of Female Genital Mutilation Act 2010, Part II.

⁷⁶ Ibid. Section 2.

⁷⁷ Ibid. Section 3.

⁷⁸ Ibid. Section 4.

⁷⁹ Ibid. Section 5.

⁸⁰ Ibid. Section 6.

⁸¹ Ibid. Section 7.

⁸² The Prohibition of Female Genital Mutilation Act 2010, Part II, Section 9 & 10.

activities in the community.⁸³

Part III grants a magistrate's court the authority, under Section 14, to issue protective orders if they are satisfied that a girl or woman is likely to undergo FGM.⁸⁴ If the application is in respect of a child, the Family and Children Court has authority to issue appropriate orders for the child as it deems necessary.⁸⁵

Part IV sets out the duty to report FGM to the police or another authority for appropriate action.⁸⁶

Section 16 requires any person to report any awareness of FGM, whether the procedure is in progress, has occurred in the past or is planned. It is illegal not to report such knowledge to the police or another authority within 24 hours. It is also a criminal offence to threaten, harm or inhibit anyone who is reporting or planning to report FGM.⁸⁷

Section 3 of the FGM Act 2010 states that, if FGM is carried out by a 'health worker', it is classified as 'aggravated FGM' and the perpetrator is liable on conviction to life imprisonment.⁸⁸

'Health worker' is defined as a person qualified in the promotion of health, the prevention of disease and the care of the sick and who is registered and enrolled under the Medical and Dental Practitioners Act, the Nurses and Midwives Act or the Allied Health Professionals Act.⁸⁹

The lack of data on medicalisation could indicate that the classification of FGM performed by a health worker as 'aggravated' has prevented medicalised FGM from becoming prevalent in Uganda. However, the lack of information could also indicate under-reporting for a variety of reasons, including the perception that the medicalised form of FGM is 'safe' or that the repercussions are too severe for practitioners or individuals to come forward and report.

⁸³ The Prohibition of Female Genital Mutilation Act 2010, Section 11 & 12.

⁸⁴ The Prohibition of Female Genital Mutilation Act 2010, Part III, Section 14 (Court Orders and Jurisdiction).

⁸⁵ Ibid.

⁸⁶ The Prohibition of Female Genital Mutilation Act 2010, Part IV (Duty to Report).

⁸⁷ The Prohibition of Female Genital Mutilation Act 2010, Section 16.

⁸⁸ The Prohibition of Female Genital Mutilation Act 2010, Section 3 (Aggravated female genital mutilation).

⁸⁹ The Prohibition of Female Genital Mutilation Act 2010, Section 2.

The penalties for offences set out under Part II of the FGM Act 2010 reflect both the perpetrator of the crime and the degree of harm caused. A person who performs FGM is liable on conviction to imprisonment of up to ten years⁹⁰, a person committing aggravated FGM is liable on conviction to life imprisonment, carrying out FGM on oneself carries a punishment of up to ten years in prison⁹¹, anyone who attempts to carry out, procure, aid or abet FGM, or participates in any event leading to FGM is liable on conviction to imprisonment of up to five years⁹², where the offender who attempts, procures, aids or participates in any event leading to FGM is the parent, guardian, husband or a person having authority or control over the victim, the offender is liable on conviction to imprisonment of up to eight years⁹³ and any person who discriminates against a woman or girl who has not undergone FGM or their husbands, parents or relatives is liable on conviction to imprisonment of up to five years.⁹⁴

Following conviction under the FGM Act 2010, under Section 13 the court may also order the offender to pay compensation to the victim of an amount considered by the court as just, having regard to the injuries suffered by the victim and their medical and other expenses.⁹⁵

Anyone failing to report FGM or threatening, harming or in any way inhibiting someone who is reporting or planning to report FGM under Section 16 is liable on conviction to a fine not exceeding twelve currency point (approximately US\$65.00) or imprisonment of up to six months, or both.⁹⁶

Anyone found guilty of exposing a child to any customary or cultural practice under Section 7 of

⁹⁰ The Prohibition of Female Genital Mutilation Act 2010, Section 2.

⁹¹ Ibid. Section 4.

⁹² Ibid. Section 5, 6 and 7.

⁹³ Ibid. Section 8.

⁹⁴ Ibid. Section 11 & 12.

⁹⁵ The Prohibition of Female Genital Mutilation Act 2010, Section 13.

⁹⁶ Ibid. Section 16.

the Children Act 1997 is liable on conviction to imprisonment of up to seven years or a fine not exceeding 168 currency points (approximately US\$910)¹⁴, or both.⁹⁷

Any person who unlawfully does grievous harm to another under Section 219 of The Penal Code Act 1950 is liable to imprisonment for seven years.⁹⁸

3.2.4. Children's Act

The Children's Act makes provisions for the safeguards of the rights and welfare for the children.⁹⁹ The Act stipulates that all activities done on behalf of children should be in the best interest of the child.¹⁰⁰ Violence meted against children therefore does not constitute best interest of the child. Section 5 guarantees children (both girls and boys) the right to protection from physical and psychological abuse, neglect and any other form of exploitation including sale, trafficking or abduction.¹⁰¹ Under section 7 children are protected from cultural rites, customs, or traditional practices which are harmful to the child's development.¹⁰² The Act also explicitly prohibits sexual exploitation of children as well as actions that expose children to torture or cruel or inhuman treatment such as circumcision or child marriages.

3.3. International legal framework

Uganda is party to international human rights treaties which expressly prohibit violence against women. These include; the African Charter on Human and Peoples' Rights, the UN International Covenant on Civil and Political Rights, the UN Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, the UN Convention on the Rights of the

⁹⁷ Ibid. Section 7.

⁹⁸ The Penal Code Act, Section 219.

⁹⁹ The Children's (Amendment) Act, Section 3.

¹⁰⁰ Ibid.

¹⁰¹ Ibid. Section 5.

¹⁰² Ibid. Section 7.

Child and the UN Convention on the Elimination of All Forms of Discrimination against Women.

Child sexual abuse facilitated in the family under the guise of culture is now prohibited under international law by the CRC and the ACRWC. Under the CRC, the child is protected from abuse whilst in the care of parents, guardians or others who care for the child.¹⁰³ The state is required to take all appropriate legal, administrative, social and educational measures to protect the child.¹⁰⁴ Sexual exploitation of children is also prohibited.¹⁰⁵

The UN Convention on the Rights of the Child, ratified by Uganda on 17 August 1990 also obliges state parties to protect persons under the age of 18 from “all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse”.¹⁰⁶

Further, Uganda ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in the year 1985. The UN CEDAW Committee, charged with overseeing the implementation of CEDAW, stated in its General Recommendation 19 that violence against women constitutes a violation of women internationally recognized human rights. According to the Committee, the denial of equal rights to women reinforces violence against them.¹⁰⁷

The internationally recognized definition of discrimination includes gender-based violence, which entails; violence that is directed at a woman because she is a woman or that affects women disproportionately. These acts include acts that inflict physical, mental or sexual harm or

¹⁰³ UN Convention on the Rights of the Child, Article 19.

¹⁰⁴ Ibid. Article 19(1).

¹⁰⁵ Ibid. Article 34 & 36.

¹⁰⁶ Ibid. Article 19.

¹⁰⁷ General Recommendation 19 of the CEDAW Committee, UN. Doc. A/47/38 at 1 (1993), Paras 6-7.

suffering, threats of such acts, coercion and other deprivations of liberty.¹⁰⁸

The committee calls upon states to make sure they take necessary measures for preventing gender-based violence. Such measures should include not only legal measures such as penal sanctions, civil remedies and avenues for compensation, but also preventive measures such as public information and education programmes, and protective measures, including support services for victims of violence.¹⁰⁹

Women have been granted the opportunity to seek redress internationally for the violation of their rights. (The Optional Protocol to CEDAW). However, this option is yet to become a reality in Uganda due to the non-ratification of the optional protocol to CEDAW. Thus, Ugandan women have no standing to approach the committee for redress.

The Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa, signed but not yet ratified, by Uganda on 18 December 2003 also states that: "Every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman and degrading punishment and treatment shall be prohibited".¹¹⁰ The Protocol also requires states to "prohibit, prevent and punish all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public."

The African Charter on the Rights and Welfare of the Child (ACRWC) ratified by Uganda on 17 August 1994 provides that state parties "shall take measures to protect the child from all forms of torture, inhuman and degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse..."¹¹¹

¹⁰⁸ Ibid. Para. 6.

¹⁰⁹ Ibid. paragraph 24 (t).

¹¹⁰ The Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa, Article 4.

¹¹¹ The African Charter on the Rights and Welfare of the Child, Article 16(1).

The ACRWC is applicable to children under the age of 18 years regardless of whether some nations have put a higher or lower age of majority.¹¹²

3.4. Conclusion

A child is one who is below the age of 18 years. The sexual abuse and exploitation of children has now become a human right issue and forms part and parcel of the international law and human rights law. Thus, international and regional regimes have developed legal frameworks which have been adopted and borrowed into national legislation. Therefore, these legal frameworks need to be implemented.

¹¹² G Van Bueren 'Child sexual abuse and exploitation: a suggested human rights approach' 2 *international journal for children's right* (1994) 51.

Although the legal age for marriage in Uganda is 18¹¹⁴, child marriage still persists on a massive scale. The rates of child marriage in Uganda are the second worst in the East African Community, with only South Sudan doing worse.¹¹⁵ High rates of poverty, lack of education and traditional social beliefs all drive child marriage in Uganda.¹¹⁶

The role of the *ssenga*, or paternal aunt, who was responsible for the sexual education of young girls prior to marriage. The *ssenga* encouraged girls to engage in sexual activity, while others said that the *ssenga*'s role had been replaced by other sources of information. Children want to practice sex education they are acquiring from schools, e.g. 'Straight Talk.' It is no longer *ssenga* to advise them now.¹¹⁷

Child marriage is common in the world's poorest countries with sub-Saharan Africa, South Asia, Latin America and the Caribbean topping the list.¹¹⁸ In Uganda 10% of girls get married prior to their 15th birthday while 40% prior to their 18th birthday.¹¹⁹

The Universal Declaration of Human Rights (1948) provides that marriage shall be entered only with the free and full consent of the intending spouses. Therefore, early and forced marriage is a violation of human rights. Child marriage denies girls their rights to health, education, to live in security and to choose when and whom they marry.¹²⁰

The consequences of early child marriage are numerous in all spheres. They include;

¹¹⁴ The high prevalence rate of sexual and gender-based violence against women in Uganda generally is confirmed by the government study, Republic of Uganda, Uganda Bureau of Services Uganda Demographic and Health Survey 2006, August 2007, Chapter 18, pp 281-305.

¹¹⁵ Noah Gottschalk, Uganda: early marriage as a form of sexual violence, *Sexual Violence*, FMR 27, 52-53.

¹¹⁶ Ibid.

¹¹⁷ Apophia Agiresaasi, Sex Education Therapists Run Afoul of Uganda's Strict Anti-Pornography Law, June 22, 2015. Available at <https://globalpressjournal.com/africa/uganda/sex-education-therapists-run-afoul-of-uganda-s-strict-anti-pornography-law/> (Accessed July, 2019).

¹¹⁸ Demographic and Health Surveys (DHS), ICRW 2006; NRC/IOM 2005.

¹¹⁹ UNICEF 2011.

¹²⁰ The Universal Declaration of Human Rights (1948), Article 16(2).

A child's health may be at risk when married too early. The child may be forced into having sexual intercourse with the husband when the child is not physically matured to do so. Where such a child gets pregnant this is a major cause of maternal mortality. Such young girls have a very high probability of death due to the pregnancy or child birth.¹²¹

Young mothers face higher risks during pregnancies including complications such as heavy bleeding, fistula, infection, anemia and eclampsia which contribute to higher mortality rates of both mother and child. At a young age a girl has not developed fully, and her body may strain under the effort of child birth, which can result in obstructed labour and obstetric fistula. Obstetric fistula can also be caused by the early sexual relations associated with child marriage, which take place sometimes even before menarche.¹²²

The social development of a child bride is also affected in terms of low levels of education, poor health and lack of agency and personal autonomy. In such circumstances gender inequities and biases are developed and give rise to lack of socialization which makes them become mothers and submissive wives, limiting their social development only to the role of reproducing.¹²³

Large numbers of the girls who drop out of school do so because of early marriage, leaving many women who married early illiterate. Early marriage plans can also discourage a girl's parents from educating their daughter because they believe that a formal education will only benefit her future family in law. This denies the girl the ability to make informed decisions about sexual

¹²¹ Baseline Survey, Sexual and Gender Based Violence in Uganda: Experiences of Sexual Violence among Women and Girls in Pallisa and Kisoro Districts, December 2009.

¹²² African Union, Campaign to End Child Marriage in Africa: Call to Action, 2013, https://au.int/sites/default/files/pages/32905-file-campaign_to_end_child_marriage_in_africa_call_for_action-english.pdf (accessed July 2019).

¹²³ Girl Summit 2014, The Girl Summit Charter on Ending FGM and Child, Early and Forced Marriage, [website], 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/459236/Public_Girl_Summit_Charter_with_Signatories.pdf (accessed July 2019).

relations, planning a family, and her health, yet another example of their lives in which they have no control.¹²⁴

4.3. Female Genital Mutilation

FGM is defined as “all procedures, which involve partial or total removal of the external genitalia and/or injury to the female genital organs whether for cultural or any non-therapeutic reasons.”¹²⁵ In Uganda, Female genital mutilation is a common practice among the Pokot in Nakapiripirit and Sabiny in Kapchorwa. However, there is still paucity of data on the number of girls and women who have undergone FGM in Uganda. The practice is rooted in culturally embedded practices and power structures.

This form of genital excision is undergone by girls between the age of 15 and 18 years as a cultural practice for the sole purpose of passage to adulthood.¹²⁶ The practice is thought to promote virginity and reduce marital infidelity due to the female’s reduced sexual desire as a result of the removal of the clitoris and in some cases other parts of the genital organ.¹²⁷ However, this practice has health implications. Complications as a result of the procedure can arise and can cause severe pain, shock, bleeding, infection and injury as well as long-term consequences such as infertility, bladder infections, cysts, childbirth complications and death.¹²⁸

While parents, family members and girls often recognize that the practice causes serious and permanent harm, they are bound to it because it is part of their cultural tradition. In doing it, they

¹²⁴ Overseas Development Institute, Adolescent girls in the balance: Changes and continuity in social norms and practices around marriage and education in Uganda. 2014.

¹²⁵ WHO, 1995.

¹²⁶ Yiga D; Kagaha, A; Enst, A.V; Akera. S. Social Justice Amidst Complex Realities: The Case of Pokot Women and Children in North Eastern in Uganda. Kampala: ANPPCAN Uganda Chapter (2008).

¹²⁷ Ibid.

¹²⁸ Obermeyer, C.M. The Consequences of Female Circumcision for health and sexuality: An update on the evidence, *culture, health and sexuality* (2005); 7(5): 443-461.

believe they are raising a girl in a proper way to prepare her for adulthood and marriage.”¹²⁹ A person who fails to adhere to this cultural practice is socially excluded and harassed. The girls are shunned by fellow women during social interactions, leading to the fear that uncircumcised daughters will not be able to find acceptable husbands.¹³⁰

Recently, the government passed the FGM Act, 2010. The Act prohibits FGM practices and provides for protection of females who refuse to undergo FGM. However, the effectiveness of legal prohibition is hampered by poor enforcement and the low levels of awareness of this legislation.

¹²⁹ Donors working group on female genital mutilation/cutting, platform for action towards abandonment of the female genital mutilation/cutting: A matter of gender equality, UNICEF Innocenti Research Centre for the Donors Working Group, Florence (2008).

¹³⁰ Yiga D; Kagaha, A; Enst, A.V; Akera, S. Social Justice Amidst Complex Realities: The Case of Pokot Women and Children in North Eastern in Uganda. Kampala: ANPPCAN Uganda Chapter (2008).

CHAPTER 5

CONCLUSION AND RECOMMENDATIONS

5.1. Conclusion

The national and international legal norms have given the obligation to the state to play a major role on the protection of girl child from sexual abuse and exploitation. Parents and family also have a role to contribute. A girl child should never be subjected to cultural practices that in any manner violates her sexuality especially in this century where there are pertinent issues of human rights violation. Where stakeholders in the field must make sure the protection is not only theoretical but even practical thus the legal frameworks must be implemented to the latter.

Child sexual abuse and exploitation is wrong. Child sexual abuse can be regarded as a moral disaster. The Ugandan government has a huge task to make sure it eradicates these cultural practices that still exist within certain ethnic groups. These practices include Female Genital Mutilation and Early Child Marriage. These practices still persist.

Poverty affects young children more and they are the most vulnerable. It affects their rights to survival, growth and development.²⁹⁷ Poverty defines every aspect of a child's existence and it

is one of the underlying causes of the abuse and exploitation of children.²⁹⁸ Poverty has to be addressed in order to minimise cases of child sexual exploitation that are inherently abusive

The government and civil society organizations and Non-government organizations are conducting awareness rising on issues of early and forced child marriages through local radio stations across the country since majority of rural communities use the radio as the main media source. This is usually done in the local dialect where everyone easily understands the disseminated information and also contributes towards the debate.

The civil society organizations, Non-government organizations and the government run programmes in schools aimed at reducing and eliminating the vice.

5.2. Recommendations

The lack of implementation of the legal and policy frameworks on sexual abuse and exploitation is one area that need to be addressed. It is a common phenomenon in Uganda that, the policies, bylaws and programmes made by local governments remains on paper. Non-governmental organizations and local governments to organize and facilitate workshops and retreats for policy dialogue however, they fail to facilitate for the implementing process. This makes such legal and policy frameworks unknown to the local communities. For instance, most local people do not know the laws in the constitution of Uganda because it was not translated in their local languages for those who can read. Thus, there is need for the stakeholders to either go on the ground and inform the local communities about the relevant laws and policies or have translations of the laws and policies to a language more understandable to the local communities.

The high poverty rate has also been a major contributor to girl child sexual abuse and exploitation. According to the United Nation's Fund for Population Activities (UNFPA), Uganda currently has 34.5 million people, about 23.1 million are prone to poverty, and about 8.4 million

of them (about 24.5%) are trapped in absolute poverty. Parents encourage the marriage of their daughters while they are still children in hope that the marriage will benefit them both financially and socially, while also relieving financial burdens on the family.

Addressing the issue of poverty will reduce the menace and families subjecting their girl child to practices such as child marriages. This can be through imparting skills to local community in agricultural means or supply of ingredients that would ease the local communities to do agriculture and reduce the burden of poverty.

In Rwebisengo Sub county Ntoroko district this is one of the areas where many cases of girls who are married off at a very young age due to traditions. Where infant mortality was very high and survival depended on a family's ability to produce its own food or goods for sale, child marriage helped to maximize the number of pregnancies and ensure enough surviving children to meet household labour needs.

Ending child marriage requires consolidated efforts of all organizations and stake holders including government, civil society organizations, Non-government organizations, Faith Based organizations and Community Based organizations. Therefore, networks, coordination and collaboration of all different stake holders and organizations from community to national level should be strengthened.

For many societies that prize virginity before marriage, a number of practices designed to 'protect' a girl from unsanctioned sexual activity are performed. In the eastern and north eastern parts of Uganda, control may also include the practice of female genital mutilation (FGM) to restrict sexual pleasure and temptation. Some parents withdraw their girls from school as soon as they begin to menstruate; fearing that exposure to male pupils or teachers puts them at risk.

These practices are all intended to shield the girl from male sexual attention, but in the eyes of concerned parents, marriage is seen to offer the ultimate protection measure.

Studies strongly show that higher levels of schooling for girls decrease their risk of sexual abuse and exploitation. Girls with eight or more years of education are less likely to marry young than girls with zero to three years of school. Over the last several decades, parents have come to value education for their children, and to be willing to postpone the marriages of their daughters so they can attain a higher education level.

As girl child sexual abuse and exploitation is common among illiterates and marginalized groups, community networks and vigilant groups comprising all concerned stake holders can be formed and mobilized to intervene in programmes to end the sexual abuse and exploitation on the girl child. Increase support for Universal Primary and Secondary Education to provide equal access to quality primary and secondary education for both girls and boys.

Youths should be empowered to manage the sexual issues through actions such as comprehensive sexuality education in schools.

There is urgent need to roll out the policies, bylaws, programmes and strengthen the linkage between the lower local governments at the village level to district level to revamp and enforce them for the protection of children from all forms of abuse and exploitation.

There is also needing to strengthen networking, operationalisation, systematic documentation, referral mechanism and follow up on the cases of abuse, improved coordination among key actors and advocates for protection of children.

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