



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 8, PARAGRAPH 1, OF THE OPTIONAL PROTOCOL  
TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE  
INVOLVEMENT OF CHILDREN IN ARMED CONFLICT**

**Initial reports of States parties due in 2004**

**UGANDA\***

[16 August 2007]

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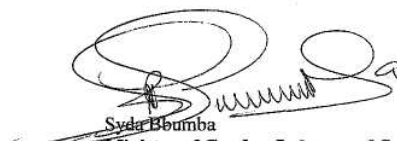
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## Preface

Uganda is committed to the full realization of children's rights as enshrined in the Convention on the Rights of the Child and its attendant Protocols. This is evident in the measures Uganda has taken to place its laws in conformity with CRC and its attendant protocols, the administrative structures and law enforcement mechanisms it has implemented. This report is an initial report on progress made by Uganda on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The preparation of this report followed the guidelines provided by the Committee on the Rights of the Child.

The report presents policy initiatives, child friendly legislation that has been enacted, programmes specifically for prevention and protection of children from involvement in armed conflict and the administrative and enabling environment for implementing the programmes and enforcement of laws. Government efforts have been enhanced by the contribution by civil society organizations, development partners and the private sector. Government on its part continues to provide an enabling environment, coordinate collaborative initiatives and monitor actions taken to fulfil the rights of children.

Uganda in the past had a specific framework for all actors to protect the rights of children in areas of survival, development, protection and participation, the Uganda National Plan of Action for Children (UNPAC). Following the embracing of Sector wide approaches, Uganda developed a Poverty Eradication Action Plan (PEAP) that is the overarching national planning framework. Children's concerns have been integrated into the PEAP and are therefore in the Sector Investment Plans through which all funding is channeled. Protection of children from involvement in armed conflict is mainly addressed under justice law and order and the social development sectors. Government will continue to pursue these and will do further analysis in order to achieve full protection of children and enable them enjoy their rights.



Syda Bumba  
Minister of Gender, Labour and Social Development

### List of acronyms

ARLPI	Acholi Religious Leaders' Peace Initiative
AIDS	Acquired immunity deficiency syndrome
ADF	Allied Democratic Forces
AVSI	Association of Voluntary Service International
ANPPAN	African Network for the Presentation and Protection against Child Abuse and Neglect
CCPR	Convention on Civil and Political Rights
CEDAW	Convention on the Elimination of all forms of Discrimination against Women
CESCR	Convention on Economic, Social and Cultural Rights
CPA	Concerned Parents' Association
CPU	Child Protection Unit
CRC	Convention on the Rights of the Child
CRS	Catholic Relief Services
CSOs	Civil Society Organizations
CS	The Children Statute
CSOPNU	Civil Society Organizations for Peace in Northern Uganda
DAC	Day of the African Child
DDM	Department of Disaster Management
DISO	District Internal Security Officer
DFID	Department of International Development (UK)
DPAC	District Plan of Action for Children
ECHO	European Commission Humanitarian Organization
FAC	Formerly Abducted Children
FCC	Family Children's Courts
FOCA	Friends of Children Association
GDP	Gross Domestic Product
GoU	Government of Uganda
GPID	Guiding Principles on Internal Displacement
GUSCO	Gulu Support the Children Organization
ICC	International Criminal Court
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person/People
IHL	International Humanitarian law
IHRL	International Human Rights Law
ILO	International Labor Organization
HP	Juvenile Justice Programme
JLOS	Justice Law and Order Sector
KICWA	Kitgum Concerned Women's Association
LC	Local Council
LDU	Local Defense Unit
LRA	Lord's Resistance Movement
MFPED	Ministry of Finance, Planning and Economic Development
MoGL&SD	Ministry of Gender, Labour and Social Development
MoES	Ministry of Education and Sports
MoH	Ministry of Health

NCC	National Council for Children
NGO	Non-governmental Organization
NPIDP	National Policy on Internal Displacement of Persons
OP	Optional Protocol
OPM	Office of the Prime Minister
PEAP	Poverty Eradication Action Plan
PPT	Presidential Peace Team
PWO	Probation and Welfare Officer
RLP	Refugee Law Project
SCiU	Save the Children in Uganda
SGBV	Sexual and Gender Based Violence
SDIP	Social Development Sector Strategic Investment Plan
UAC	Uganda AIDS Commission
UCRNN	Uganda Child Rights NGO Network
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UHCR	Uganda Human Rights Commission
UNICEF	UN Children's Fund
UNPAC	Uganda National Programme of Action for Children
UNOCHA	UN Office for the Coordination of Humanitarian Affairs
UPDF	Uganda Peoples' Defence Force
UPE	Universal Primary Education
UPF	Uganda Police Force
USD	United States Dollars
WFP	United Nations World Food Programme

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## **Introduction**

1. The government of Uganda ratified the Convention on the Rights of the Child (CRC) in November 1990. Following this in May 2002, the government also ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. This report has been prepared in fulfilment of Uganda's obligation as a State party to the Optional Protocol, to report on progress made since the ratification of the protocol. It is Uganda's initial report on the implementation of the Optional Protocol and covers the following areas:

- A review of both legislative and administrative measures taken by the Government and civil society organizations (CSOs) to harmonize its laws, policies and practices with the general principles and standards enshrined in the Optional Protocol to the CRC on the involvement of children in armed conflict
- A comprehensive assessment of the progress in the implementation of the obligations under the Optional Protocol and difficulties encountered in doing this
- Supplements and complements to the report on implementation of the Convention on the Rights of the Child submitted by Government to the Committee on the Rights of the Child

2. The report is in line with the requirements of the Committee on the Rights of the Child, which requires submission of an initial report by the State party concerned within two years following the entry into force of the Optional Protocol to the CRC on the involvement of children in armed conflict. It is based on the guidelines for reporting to the Committee on the Rights of the Child, particularly regarding the initial report to be submitted by States parties under article 8 (1) of the Optional Protocol. The report comprises a comprehensive assessment on the measures the Government of Uganda has undertaken to implement the provisions of the Optional Protocol since its ratification in May 2002.

3. The Ministry of Gender, Labour and Social Development prepared this report with support from UNICEF - Uganda. The report comprises experiences from NGOs, who collaborate with government on issues of children's rights, central and local government officials, who work on matters concerning the survival, protection, participation and development of children. The preparation of this report entailed both a review of literature and findings from field research documents from child-oriented development actors as well as government implementation, monitoring and evaluation reports.

## **I. COUNTRY PROFILE**

### **Public administration**

4. The public administration system of Uganda comprises the centralized system that focuses on central government depending on the Parliament as the national legislative body and the government ministries and departments as the administrative units. The Ministry of Defence is under central government and has not been decentralized. The Government also runs a system of local government which is based on the District Councils as the legislative bodies and departments as administrative units respectively.

5. The country has up to 63 districts and over 900 sub-counties countrywide. The City Council, City Council Divisions and Municipalities constitute the local government structure in the urban regions, while the District Councils and the sub-county councils make up the rural local government structures.<sup>1</sup>

### **The economy of Uganda**

6. Uganda has experienced a strong economic growth over the past decade. Real GDP growth at market prices to date has averaged over 6.5% per annum since the early nineteen nineties. The determinant of Uganda's economic growth has been identified as the relative improvement in security, macroeconomic stability, and improvement in terms of trade resulting from coffee price boom in the mid-nineties. Industrial production has seen the highest growth per annum averaging 10.4%, the service industry has also been averaging a growth rate of 7.5% and agriculture has been averaging 4.4% growth per annum.<sup>2</sup>

### **The CRC and the Government Plan of Action for Children (UNPAC)**

7. The government of Uganda undertook a review of its laws in 2000 under the leadership of the Uganda Law Reform Commission. As a result, the Children Statute 1996 was revised together with other laws and is now the Children Act (Cap. 59). It remains the principal legislation for the protection of children. After a decade of implementing it, there are preparations to amend it to make it more comprehensive by incorporating elements to do with social, legal, economic and cultural factors directly and indirectly affecting protection, care, development and support of children. The Children Act decentralizes matters relating to legal rights of children, care and support services for children as low as the sub-county which is the lowest administrative unit, making such services more accessible.

### **The Uganda National Plan of Action for Children (UNPAC)**

8. The first step towards the consolidation of children's issues in development planning was the preparation of the Uganda National Plan of Action for Children (UNPAC). The UNPAC guided central and local government planning until the government embraced Poverty Reduction Strategies. With Uganda embracing poverty reduction strategies, the country developed a Poverty Eradication Action Plan (PEAP), which is the overarching planning framework. It is also the Poverty Reduction Strategy Paper (PRSP) for Uganda.

9. Given that the PEAP is the all-inclusive and overarching planning and development framework, the Ministry of Gender, Labour and Social Development (MGLSD), the National Council for Children (NCC), civil society child actors and UNICEF, felt it prudent to put the development of UNPAC II on hold. Through partnership, these institutions actively engaged in the PEAP revision processes of 2000 and 2003/4 and anchored children's concerns into it. In addition, MGLSD with the involvement of the United Nations agencies, CSOs and development

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<sup>1</sup> Local Government Act 1997 amended 2000.

<sup>2</sup> Poverty Eradication Action Plan 2004/5 Report, p. 31.

partners, has developed the Social Development Sector Investment Plan (SDSIP). The MGLSD has also come up with the Orphans and other Vulnerable Children (OVC) Policy which provides comprehensive guidelines to stakeholders on services and provisions for vulnerable children.

10. The PEAP that was expected to give due attention to all the crucial sectors of the economy including those directly affecting children has not been able to do so because the priority areas have been broadly defined and therefore, not necessarily targeting children. Efforts are ongoing by the MGLSD, child-focused CSOs and development partners to integrate children's concerns whenever there is a review. The third pillar (Security, Conflict Resolution and Disaster Management) especially deals with, among others children affected by armed conflict. While the priority areas have been clearly outlined, it has not received the expected attention and funding directly from government. Most of the actions in this area are supported with funding from CSOs, UN agencies and Diplomatic Missions.

### **Preparation of this report**

11. This report is prepared under the auspices of the Ministry of Gender, Labour and Social Development and the National Council for Children (NCC). The process involved civil society organizations and development partners since they are a major player in issues of children's rights in general and protection from involvement in armed conflict in particular. Existing information relevant to the reporting requirements that were reviewed include; policy documents, reports by government and CSOs such as copies of principle legislative texts, judicial decisions, government programme implementation, monitoring and evaluation reports, administrative and other relevant instructions to the armed forces, both of a civil and military character, as well as detailed statistical information. Six districts were also visited, that is, (Gulu, Kitgum and Lira) in Northern, (Katakwi and Soroti) in Northeastern and (Bundibudyo) in Southwestern Uganda. Consultations were also done in Kampala with government Ministries and with the Ministry of Defence in Bombo Military Headquarters in Wakiso. Criteria for selection of districts were current armed conflict, post-conflict, regional representation and effects of armed conflict-related child suffering.

12. Focus group discussions were held at the grass root level, key informants' interviews with key duty bearers/policy makers, personal interviews with ordinary community members and children were also carried out, visits to government institutions and review of relevant literature from government ministries, United Nations agencies, government agencies and civil society organizations. CSOs were the key methods used to collect the data to compile this report.

## **II. IMPLEMENTATION OF THE OPTIONAL PROTOCOL ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT (art. 1)**

### **Understanding of "direct participation" as used in the laws of Uganda**

13. Direct participation of children in hostilities means children who willingly or under duress are involved in combat or other forms of hostilities in armed forces; be it in the national army, militias or rebel groups. This is the working definition that forms the basis of this report. Thus in Uganda, direct participation means taking part in active military combat which some times includes frontline confrontation with the enemy forces.



14. Efforts have been made to ensure that there are no children in any military force in Uganda; however, pockets of reports tend to indicate that some children could be engaged in armed conflict. The Uganda People's Defence Forces (UPDF), charged with most of the responsibility- for military action indicates that there are no children in the military forces. However, interviews with stakeholders including children in some of the districts visited including Lira, Gulu and Katakwi report that there are some children in the forces and they actively participate in hostilities. This also goes for militias from the districts of Soroti, Katakwi, Kaberamaido and Lira who were mobilized by politicians, recruited and trained by the UPDF to fight Lord's Resistance Army (LRA). This, however, is a result of lack of evidence of age due to poor birth registration practices. Children from conflict and non conflict areas continue to join the armed forces lying about their ages, with support from parents and local councils who provide them with recommendations. Such practices have been attributed to poverty that drives parents and children to seek for some kind of employment.

#### **Measures to ensure no deployment of children in armed conflict or areas of hostilities**

15. The Optional Protocol prohibits recruitment of persons below the age of 18 years into armed forces and direct involvement in hostilities. In order to ensure that a member of the armed forces who has not attained the age of 18 years is not deployed or maintained in an area where hostility is taking place, the government, in the revised UPDF Act in Part IV - Terms and Conditions of Service, Article 51 (1), stipulates that "*Authority to recruit persons into the Defense Forces Council*" and (3) says "*Every person who wishes to be recruited into the Defense Forces shall first get the recommendation of his or her Village Local Council.*"

16. The UPDF Act, Cap 307, further provides that any person below the age of 18 years is not eligible for military recruitment. Village Local Councils who are elected from within the community have details about all the people in their areas of operation and are supposed to verify ages of candidates for recruitment. The challenge arises when families connive with these local councils to increase the ages of children. It is also true that the determination of age in rural communities is often inconsistent; children's ages are determined by several factors including whether they are in or out of school, height, body weight and the responsibilities they shoulder.

17. The recruitment process is made transparent to avoid manipulation of the system. The UPDF routinely advertises its recruitment publicly in the media. It also explicitly writes to the district authorities specifying the conditions that only persons above 18 years and duly recommended by their respective LCs shall be recruited. There is normally a medical doctor present to verify the ages of recruits too. Further to preventing children from engagement in armed conflict and indeed other forms of hazardous labour, the government has been implementing the Universal Primary Education (UPE) policy, so that all children have an opportunity to enroll and stay in school until they are old enough to engage in gainful employment.

#### **Uganda Human Rights Commission**

18. Uganda Human Rights Commission is a constitutional body put in place by government to monitor human rights abuses. The Commission has a child rights desk. It also produces annual

reports that indicate violation of rights including the rights of children. This report recognizes the role of the Uganda Human Rights Commission in monitoring recruitment of children in armed forces. These reports, however, require verification in order to the information is correct.

### **Obstacles encountered while applying these measures**

19. In spite of the above measures, implementation of the UPDF Act has faced challenges in terms of verification of ages of candidates for recruitment. Registration of births in the country is weak resulting in many people lacking birth certificates that would prove their ages. Village local councils, who verify the ages of the recruits, may not necessarily be impartial. Some of the children who are reported to be in military service have been recruited by families conniving with local councils to inflate the ages of children. It is also true that the determination of age in rural communities is often inconsistent; children's ages are determined by several factors including whether they are in or out of school, height, body weight and the responsibilities they shoulder.

20. Uganda has had a national law governing births and deaths since the 1970s, today the law is known as the Birth and Death Registration Act (Cap 309). The Registrar General, Birth and Death Registration, has also revised the existing BDR policy document in June 2003 and it is awaiting approval by Cabinet. With support from UNICEF a comprehensive strategy for scaling up birth and death registration (BDR) in Uganda has been developed. In addition the Government enacted the Uganda Registration Service Bureau Act (URSB) Act (Cap 210) in 2004. URSB has developed independent work plan for 2006/2007 to scale up BDR in 11 districts. It should be noted that BDR had in the past not been included in the Justice, Law and Order Sector (JLOS) Investment Plan and budgets; however in June 2005 the JLOS sector review recommended that BDR be included in the budget.

21. Currently, implementation of BDR is weak, however, government, with support from partners such as UNICEF and Plan International has revitalized BDR. Through this effort, a total of 37 districts have community-based birth and death registration (BDR) initiatives. Out of these, 31 districts are supported by UNICEF while 6 are supported by Plan International. Full implementation of BDR will ensure children are protected involvement in armed conflict as well as other evils such as early marriages and sexual offence cases.

### **Data on members of the armed forces below 18 years who were made prisoners because of not directly participating in hostilities**

22. There are no such occurrences in Uganda.

### **III. MINIMUM AGE FOR VOLUNTARY RECRUITMENT INTO THE ARMED FORCES (arts. 2 and 3)**

23. In implementation of the protocol and in a bid to protect the rights of the child, the UPDF Act, revised in 2005 expressly spelt out who qualifies for recruitment into the UPDF and other military forces. The Act also puts in measures as discussed above to ensure that the law is applied during recruitment.

**Minimum age for voluntary recruitment into the armed forces**

24. The UPDF Act 2005 Article 52(2) says “no person shall be enrolled into the Defense Forces unless he or she- (b) is at least 18 years of age and has attained such level of education as may be prescribed.”

**Data on children below 18 years voluntarily recruited into the national armed forces**

25. Data on children below the age of 18 years voluntarily recruited into the national armed forces are not available in the UPDF records. The UPDF participated in the review of this report and emphasizes that there are strict measures to prevent recruitment of children and therefore, there are no children in the army. However, sample statistical information from the UHRC on children below the age of 18 years voluntarily recruited into the national armed forces (gender, age, region, rural/urban, social and ethnic origin and military ranks) provide evidence that some children could have found their way into the army. This may be attributed to the weakness in birth and registration and manipulation of the system by families and the Local Councils.

**Table 1**  
**Children in the armed forces**

District/Area	Estimated number of children in armed forces		
	Arrow Militia	LDU Militia	UPDF
Katakwi	27	0	2
Kaberamaido	20	0	0
Soroti	83	0	0
Madi Opei Camp (Kitgum)	0	200	0
Pajimo (Kitgum)	0	300	0
Kitgum Town Council	0	0	4
Pader	0	500	68
Total	130	800	74

Source: UHRC Annual Report 2004.

**Measures on special protection adopted for the under 18 years recruits**

26. Since officially there are no children in the national armed forces, there are no provisions for special protection for the under 18 recruits in the UPDF Act (Cap 307). This is because the Act prohibits recruitment of persons below the age of 18 years.

**Debate in the county prior to the adoption of the binding declaration**

27. There were informal debates after Uganda’s ratification of the UNCRC and later the Optional Protocol on involvement of children in armed conflict on the issue of use of children in the armed forces. These were however informal debates spearheaded by child focused NGOs like Save the Children, UCRNN, International Red Cross, and UN agencies, notably UNICEF. It involved both government and civil society participation.

**Initiatives or campaign aiming at strengthening the declaration if it set out a minimum age lower than 18 years**

28. This is not applicable in Uganda.

**Procedure for voluntary recruitment into the armed forces**

29. In line with the provisions of the Optional Protocol the UPDF and other security apparatuses of Uganda are legislatively, operationally and administratively conscious of the presence of children as a distinct group in any area of operation and ensuring their safety and protection. Government forces recruitment centers are well informed about National and the International legislation prohibiting the inclusion of children in armed forces recruitment processes and any inadvertent recruitment cases of children are reported to the higher military authority and other rights bodies for investigations and eventual demobilization.

30. In the process of recruitment into the armed forces, the military recruitment authorities circulate letters at the district level inviting applicants for recruitment into the armed forces. These invitation letters clearly stipulate what is required for one to qualify for military recruitment including birth certificates, letters from the area LCs. The Local Council Officials are required to confirm the credential of the potential recruits confirming their ages and identify. This process serves in verifying the ages of those offering themselves for recruitment into the armed forces.

**Medical examination before recruitment**

31. A doctor is present to carry out medical examination to further prove that the persons presenting themselves for recruitment are not below the age of 18 years.

**Reference documents to verify the age of the volunteers**

32. Persons volunteering for recruitment are required to attach their school certificates and reference letters from the Local Councils in their communities. Some Local Councils are keen at verifying ages of recruits and have stopped some children from being recruited.

**Information about duties involved in the armed forces**

33. This is not made available at the time of recruitment.

**Military service time and conditions for early discharge**

34. This is not made available at the time of recruitment.

**Use of military justice or discipline on the under 18 year recruits**

35. This is not applicable to Uganda and is therefore absent in the law.

**Detention, trial and sanctions towards deserters under the 18 years**

36. This is not applicable to Uganda and is therefore absent in the law.

### **Incentive given to by the national armed forces to encouraged volunteers to join the ranks**

37. In spite of the law (UPDF and the Children Acts) and that the national armed forces do not give any incentives for joining its ranks, many children still aspire to join the armed forces. This has been blamed on poverty and redundancy of children, especially those who cannot continue with their education. Parents have also been reported to force their children to join the army because they cannot afford to educate all their children and support them adequately. This has tended to force children to lie about their ages to the local councils and the recruitment panel in order to secure employment by the UPDF. This is still a big problem because of the lack of birth certificates.

### **Minimum age of entry into schools operated by the armed forces**

38. This is no longer applicable to Uganda since all the *kadogo* children who fought in the liberation war returned to school and have completed their studies.

### **Statistics**

39. This is not applicable to Uganda therefore there are no statistics available.

#### *Statistics on schools operated by armed forces*

40. The UPDF has a number of specialized schools it operates for various reasons however no children are accepted as students. The following schools are operated:

- *The Senior Staff College* - Kimaka, Jinja is for training senior UPDF Officers, while the *Junior Staff College* provides cadet training. The students are normally University and college graduates
- *The Junior Military Academy* provides training to junior officers. These are already service men. There are also *Specialized Schools* like the Air Defense School, Masindi. This school provides training in air defense, artillery, etc. *Training Wings* such as Kabamba, Singo, etc. provide promotional training for lower cadres
- While in the 1980's and 90's the government army (by then NRA) operated schools for child soldiers (*kadogos*), these schools were eventually closed when the children who fought the liberation war were rehabilitated and reintegrated into the mainstream education systems

#### *Type of education provided and proportion between academic education and military training in the curriculum and the length of that education*

41. See paragraph 41 above - this is not relevant to Uganda.

### **Inclusion of human rights and humanitarian principles in training of the armed forces**

42. In 2004 the government of the United States of America committed USD 200,000 in non-lethal military aid to the government of Uganda for the fight on terror and LRA. Part of this money was earmarked for the human rights training for Non-Commissioned Officers (NCOs) who would have command of units in the battlefield.

**Data on students enrolled in schools run the UPDF**

43. This information is not relevant to children and is not available to the public.

**Measures to ensure school discipline is administered with the child's human dignity**

44. This is not applicable to Uganda because the UPDF does not recruit children.

**Complaint mechanisms to ensure school discipline is administered with child's human dignity**

45. This is not applicable to Uganda because the UPDF does not recruit children.

**IV. ARMED FORCES OPERATING ON THE TERRITORY OF  
THE STATE OF UGANDA (art. 4)**

**Groups of armed forces operating on the territory of Uganda or with sanctuary in it**

46. The major armed groups operating within the territory of Uganda is the Lord's Resistance Army (LRA) led by a self proclaimed prophet Joseph Kony, who in 1987 took over from another prophetess Alice Lakwena as the spiritually instructed leader of the Northern Uganda rebellion. He is supported by a central core of top commanders some of whom were former Uganda National Liberation Army and the Uganda Peoples' Democratic Army fighters from the 1980s.

47. The remainder of the Lord's Resistance Army force is made almost exclusively of abducted children who have been coerced into fighting for the rebels, or held as slaves and slave-wives. The exact number of the Lord's Resistance Army forces is unknown; in 2004 the Refugee Law Project reported that the numbers included 200 core commanders, 150-200 other officers and approximately 3,000 abducted children.<sup>3</sup> The abduction of children services to reinforce the production of terror while at the same time helping the rebels restock their ranks with fresh fighters. These abductions also service to provide them with sex slaves that will "produce a new Acholi nation" they claim. The 2004 it was estimated that a total of over 25,000 children have been abducted by the Lord's Resistance Army.<sup>4</sup>

48. Allegations are also rife about another rebel group known as People's Redemption Army (PRA), however, evidence on their operations are under investigations and therefore, not confirmed.

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<sup>3</sup> IRIN Web Special on the war in Northern Uganda, available at [www.irinnews.org/websspecials/ugacrisis](http://www.irinnews.org/websspecials/ugacrisis).

<sup>4</sup> Refugee Law Project (2004) behind the violence: Causes, consequences and search for solutions to the war in Northern Uganda, Working Paper No. 11, p. 13.

### **Status of the negotiation of the State and with armed groups**

49. Based on the obligation on the State Party to protect children within its jurisdiction from involvement in armed conflict, several attempts have been made by the government of Uganda to reach a peaceful settlement with the LRA have arisen out of slow progression in military solutions. There have been other attempts at negotiating with the LRA. International agencies such as the Carter Center, NGOs, representing the Acholi in the Diaspora such as the *Kacoke Madit*, and local religious and traditional leaders have contributed over the years to finding a peaceful settlement.

50. District peace teams in Gulu, Kitgum, Pader, Lira and Apac have also been setup to promote the Amnesty law and dialogue in general, and to prepare the communities to receive the former fighters.

51. Most recently the role of the traditional leaders has been strengthened by the establishment of the council of chiefs and recognition of the elders by both the civilians and rebels as representatives and protectors of the Acholi cultural heritage and beliefs. As a result traditional chiefs as Rwot William Lugayi of Pader and others have played a pivotal role in directly meeting the LRA.

52. The religious leaders most notably the members of the Acholi Religious Leaders' Peace Initiative have also been closely involved in the search for peace in the country. In 2002, H.E the President of the Republic of Uganda appointed a Presidential Peace Team (PPT) comprising the members of parliament, the army and cabinet; including the then First Deputy Prime Minister and Minister of Internal Affairs. However, the attempts by the PPT to meet the LRA were thwarted by the rebels' lack of trust because of the strong army presence in the area, and PPT's fear for the safety of its members. Negotiations were later halted because of lack of coordination between the army peace negotiators and the government politicians.

#### *Resumption of peace negotiations between LRA and the Government*

53. The peace processes between the LRA and the government that had been abandoned in 1994 were resumed in 2004. This came amidst pressure upon the government to give the option of peaceful settlement a chance as opposed to the military option. A team led by former Minister Ms. Betty Bigombe supported by Hon. Ruhakana Rugunda, the Minister of Internal Affairs was formed. This team made significant contacts with the LRA. This laid a foundation for the current peace process although, at that time, talks never resulted into peace agreements in totality. A number of rebels however abandoned rebellion. The Human Rights Commission has put in effort in encouraging the political wing of government to pursue peace.

54. Currently, there is concerted effort from African Countries, the international community, donors, the civil society and development partners bring the government and the LRA on a round table to reach a peace deal. The Sudan government has made a commitment to chair the peace process and secure a lasting solution to ending hostilities. The process has been riddled with misunderstanding and disagreements, however, parties involved have indicated willingness to come to a peace agreement no matter what it takes. This would be a big step forward in protecting children from involvement in armed conflict.

*Ceasefire*

55. From November 2004 Ms. Betty Bigombe with the support of the Ministry of Internal Affairs and development partners made direct face-to-face contact with the senior members of the Lord's Resistance Army in Northern Uganda. This meeting was with the sole purpose of proposing a concrete plan for the LRA to abandon the rebellion. This meeting was facilitated by the calling of a seven day cease-fire across a 300 square mile area of Kitgum District by President Museveni on 14<sup>th</sup> Of November 2004; Its was duly extended on the 25<sup>th</sup> of November 2004 for another ten days. This afforded both sides the opportunity of securing a peaceful resolution to the crisis and the honest rebel who are committed to making peace the chance to come out of the bush peacefully.

56. With current discussions on securing a peace agreement, the government and the LRA have declared a cease fire. The discussions though riddled with misunderstandings have so far ushered in relative peace in the northern Uganda region.

**Statistics/data on the children who have been recruited and used in hostilities by the armed groups**

57. The biggest involvement of children in direct hostilities however, is with the long standing rebel activity of the LRA in northern and lately northeastern Uganda where over 30,000 children have been abducted and forcefully conscripted into armed fighters. Statistics from World Vision, Gulu Support the Children Organisation (GUSCO), Concerned Parents' Association (CPA), Rachele and Kitgum Concerned Women's Association (KICWA) show that so far over 25,000 formerly abducted children have gone through these rehabilitation centers and over 6,000 children remain unaccounted for.

*Children arrested by government for participation in hostilities*

58. There have been no arrests. Instead, children rescued from the LRA have been handled by a specialized unit within the national armed forces the UPDF, called the Child Protection Unit (CPU), before being handed over to the rehabilitation centers run by civil society organizations like GUSCO, World vision, KICWA, Concerned Parents' Association (CPA).

**Commitment made by armed groups aiming at not recruiting children below 18 years of age**

59. To prevent recruitment of children into the armed forces, the UPDF and other State security apparatus in collaboration with UNICEF, Save the Children in Uganda, GUSCO and World Vision have come up with a comprehensive way of distributing child advocacy materials to inform communities. Radio programmes and Newsletters are run to sensitize the community on the dangers of encouraging the recruitment of children in armed conflict.

60. Special brochures are distributed to UPDF forces to drop as they carry out their routine patrols or operations in rebel infested areas. This is meant to sensitize the rebels and their captives on the need to stop recruiting children in armed conflict.



**Measures to raise awareness of the need to protect the recruit of children below 18 years in the armed forces**

*The UPDF child protection units*

61. The UPDF has established a child protection unit in each of the major barracks which is operated in conjunction with Save the Children in Uganda. The UPDF officers manning these units are supposed to have received training in human rights and child protection and by all counts very few abuses of returning LRA abducted children and adults are registered as occurring in these facilities in the recent months. In August 2004 President Museveni acknowledged that increasing numbers of rebels were surrendering to the UPDF because they knew they were going to get good treatment when they claim amnesty.<sup>5</sup>

*Human rights and constitutional education*

62. The Uganda Human Rights Commission has a protocol with the UPDF and has a programme of training UPDF Officers in Human rights issues including children's rights. The Commission has organized and held sensitization workshops and media programmes and above all joined the rest of the world in commemoration of the International Human Rights Day on December 6. It has also published a number of materials. In 2004 the Commission held 29 education and training workshops for security agencies, local council leaders, teachers, youths and students. In total the people sensitized in these workshops reached 2,490.

**Table 2**

**Number of people who attended the workshops in 2004**

No.	Target groups trained in human rights	Number sensitized
1.	UPDF	440
2.	Intelligence Officers	100
3.	Special Police Constables and Police Constables	374
4.	Local Council Leaders	1 119
5.	Youth Leaders	70
6.	Secondary School Teachers	230
7.	Civil Servants, Private Sector, Youth	157
Total		2 490

*Source:* Uganda Human Rights Annual Report 2004.

63. The Commission has been carrying out sensitization workshops to counter the prevalent incidents of human rights abuses among security agencies. These workshops are focused on making the UPDF, Police Force, Special Police Constables, and Intelligence Officers aware of

<sup>5</sup> IRIN (August 17\* 2004) Museveni rules out talks with LRA as more rebels surrender <http://www.irinnews.org> report.

their responsibility in respecting human rights of the citizens especially the vulnerable groups such as children. Apart from UHRC which is a semi-autonomous government agency, most efforts are from civil society organizations.

64. Gulu Support the Children Organization (GUSCO) in collaboration with the UPDF is sensitizing the communities and the rebels together with their children captives on the provision of the Amnesty to rebel that denounce war. The government forces carry leaflets with messages encouraging the repudiation of armed rebellion and taking advantage of the Amnesty. As they go patrolling the bushes they go on dropping these leaflets for the rebels and their captives to read in they come across any.

65. Many Child focused actors like; Save the Children Uganda, World Vision, UNICEF, GUSCO, Rachele Rehabilitation Center, Uganda Red Cross Society, Kitgum Concerned Women's Association Reception Center, and other civil society organizations are actively sensitizing the communities and the government forces on the rights of the child.

66. Their sensitization efforts are aimed at raising awareness on the dangers and criminality of encouraging the recruitment and deployment of children in armed conflict. They are taught to appreciate that no one is immune to prosecution by the International Criminal Court in the Huge of crimes against humanity and especially to vulnerable groups like children and women. A number of radio programmes are being run on stations such as Radio Wa - Lira, Radio Paidha - Nebbi.

67. The children are used to stage drama and plays that help to sensitize the children and their communities on the consequences of involving children in armed conflict. Save the Children in Uganda has an understanding to provide training on children's rights to UPDF Officers in the 5 Division of the UPDF. There has been many training for middle level Officers.

68. The government has liberalized the media and allowed freedom of the press. Currently there over 100 FM radio stations and 10 television stations, all but one is privately owned. These are relatively well distributed throughout the country and offer children programs in most of the local languages.

69. There have been many programmes on Radio Mega FM in Gulu sponsored by DFID and others. Radio Wa FM in Lira sponsored by Concerned Parents' Association and other NGOs. Kyoga Veritas in Soroti, sponsored by Soroti Catholic Diocese Development Organization (SOCADIDO), and Voice of Tooro, sponsored by Kabarole Research and Resource Centre (KRC) and Rwenzori Peace and Justice forum (RPJF), among others, on the Convention on the Rights of the Child including the two Optional Protocols.

70. The media print is also growing tremendously with several of them producing papers in English as well as the local languages to reach more people. These two methods are the most effective ways government and the other stakeholders are using to sensitize the masses on the dangers of involving children in armed conflict. The enabling environment provided by government has brought in freedom of the press, thus facilitating these processes.

71. Since many of the abducted children feel they are combatants, they are very likely to be recruited in the local militia or the- government forces, if not helped psychologically. Rachelle Rehabilitation center in Lira is actively involved in the rehabilitation and reintegration of formerly abducted children in Northern Uganda into their communities. Rachelle is running the following outreach programmes:<sup>6</sup>

- Actively monitoring the formerly abducted children who passed through Rachelle Rehabilitation Center and others and counseling their families
- Providing income-generating activities for over 1000 formerly abducted children, such as bicycle, goats, silver fish, sewing machines, fishing nets, baking materials, hairdressing kit, and assorted goods for retail businesses
- Training of 200 teachers in 80 schools in the districts of Lira, Apac, and Gulu on how to handle formerly abducted children
- Advocacy through radio programmes in which formerly abducted children urge their friends and rebel commanders in the bush to come out and take advantage of the Amnesty Act. These programmes are broadcast on Radio Wa (Lira) in the programme “*Karibu*” and Radio Paidha (Nebbi) in the programme “*DwogPaco*”
- Sensitization drama such as “*KicH ame ogedo okwero*” or “The stone that was rejected by the builders” this drama has been played in 25 IDP camps in Lira District, reaching up to 200,000 people

#### **Programmes designed to prevent vulnerable children from recruitment by such armed groups**

72. There are several complex reasons given for children to want to join armed forces. The most vulnerable children to recruitment into armed forces are the returnees (formerly abducted children). They live in fear of community retaliation and some say they do not consider themselves as civilians any more since they have always held the gun. Others have lost their parents to the war and feel that they no longer have any place in the civil society, while others argue that instead of waiting to die of hunger they rather join the armed forces to earn a living. These conditions have contributed in either pushing or pulling the children into voluntarily seeking for recruitment and actively participation in armed conflict.

73. Government has come up with projects such as the Labora Farm Scheme aimed at inculcating skills into returnees of the LRA for their own survival and earning. In this initiative the ex-combatants including former child soldiers were grouped into six groups to enable easy finding. The farm is growing several food security and commercial crops and according to one presidential representative, Colonel Achoka, the farm is a model scheme for reintegrating the ex-combatants into the communities.

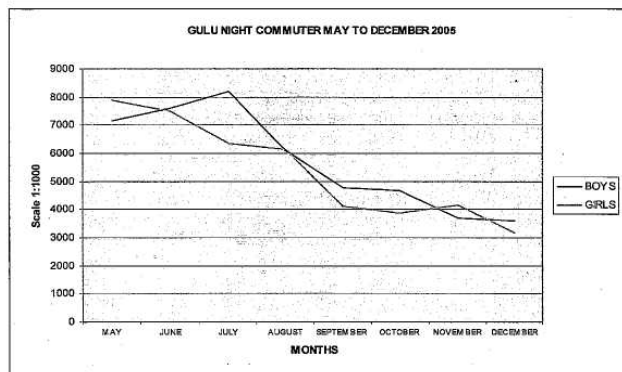
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<sup>6</sup> Activities update of Rachelle Rehabilitation Center - Lira.

74. The UPDF has consistently taken steps to stem involvement in the recruitment of children in the armed forces. The UPDF and Save the Children has been working together in ensuring that children rescued from the LRA were taken to reception centers, counseled and reintegrated into the community instead of recruitment into the armed forces. The UPDF also realizes its responsibility in protecting children from recruitment, detecting and removing such children from the military ranks unconditionally. Many children have been barred from recruitment. UNICEF staff members based in Northern Uganda are sometimes invited to participate in the screening with the UPDF. The UPDF is also willing to remove children who could have found their way into the army provided adequate evidence is provided. The idea of childhood as a protected period of healthy growth has been effectively obliterated in northern Uganda. The 20-year conflict has meant a reign of terror, where the LRA use abducted children to attack homesteads, IDP camps and town suburbs to abduct yet more children and steal food and other items. Due to fear of abduction, this introduced a new phenomenon commonly referred to as “night commuting”. Children flee their usual places of abode to safer places usually in temporary shelters, churches, bus parks/stations, missions, hospitals, shop verandahs in towns. By October 2004, tens of thousands of children in Gulu, Kitgum and Pader were fleeing their homes each night to urban centers and the larger IDP camps fearing attacks and abductions by the LRA.<sup>7</sup> These have become known as “night commuters”. While in the beginning it was thought to be a group of children only, it has grown to include adults too.

75. Night commuters - many of whom are without protection of parents or organized shelter sites - face the threat of physical abuse, sexual exploitation and gender-based violence including rape. Girls are subjected to sexual harassment and abuse along transit routes and in the sleeping spaces in town centers. The children are increasingly exposed to the risks of contracting HIV and other sexually transmitted infections, and of early pregnancy, as many are left with no choice but to become involved in “survival sex” in exchange for food or money. Since 2003, UNICEF, CARE and Save the Children in Uganda and others, through their partners like Noah’s Ark, RUFOU, AVSI, Caritas and many others have provided basic shelter, blankets and sanitation facilities to over 15,000 night commuter children in the towns of Gulu, Kitgum and Kalongo.

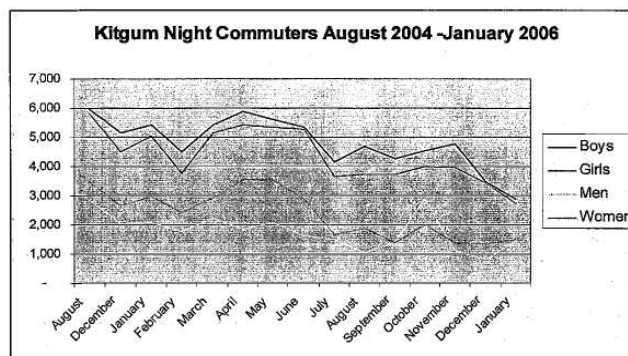
**Figure 1: Night commuters in Gulu**



Source: OCHA, Gulu.

<sup>7</sup> UNICEF 2004, State of the World’s Children 2005.

**Figure 2: Night commuters in Kitgum**



*Source:* OCHA, Kitgum.

### **Update on the status of the negotiation of the State and with armed groups**

76. Peace negotiations are on going in Sudan with support from international and regional governments. Sudan Vice President Riek Machar chairs the meetings. Efforts have been consistent and very likely to result in a peace agreement and a stop to hostilities.

## **V. NATIONAL LEGISLATION, INTERNATIONAL INSTRUMENTS AND INTERNATIONAL HUMANITARIAN LAWS APPLICABLE IN UGANDA'S CASE (art. 5)**

### **International humanitarian law**

77. Uganda also ratified the International Humanitarian Law which aims to limit the means of warfare to measures that are proportional to military objectives, and protect persons who are not, or are no longer, directly engaged in hostilities. This law requires all warring parties to refrain from targeting the civilian populations and properties. Under this law, impartial humanitarian agencies also have a right to access victims of conflict. This law in effect protects children but has not been fully adhered to by warring factions, especially the Lord's Resistance Army.

### **The Geneva Conventions**

78. The fundamental humanitarian obligations are enshrined within the four Geneva Conventions of 1949, and the additional protocol of 1977, which comprises the major source of IHL. These conventions outline the responsibilities of the combatants in the field of conflict, as well as outlining the rights of civilians who are caught up in the conflict area. In particular "common Article 3" describes the absolute core protections in internal armed conflict. Among other things, common Article 3 prohibits violence to life and person: murder of all kinds, mutilation, cruel treatment and torture, taking of hostages, outrages upon personal dignity, in particular humiliating and degrading treatment, and summary executions. All parties to conflict, including those parties to conflict of a non-international nature are bound to adhere to these conventions. The LRA act of abducting children contravenes this Convention.

79. Given that status, the additional protocol (II) to the Geneva Conventions signed on 8 June 1977, refers specifically to the protection of victims of Non-international Armed conflicts. This protocol contains a few key articles that are of particular relevance to the situation in hostility areas of Uganda, especially relating to protection of children.

80. Children are in particular given special protection, being guaranteed an education in times of conflict, and being exempt from military service. The children and civilians as a whole are protected from being objects of attack, and their wellbeing is protected by a prohibition on the attack, destruction and sequestration of objects indispensable for civilian survival. These include Hospitals, Churches and impartial humanitarian agencies.

81. Uganda is a full signatory to the Geneva Conventions and its attendant protocols, especially the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, ratified by Uganda on 6 May 2002. While no legal mechanism exists to incorporate them into Ugandan law specifically, they are broadly reflected within the Constitution of Uganda. The Children Act is due for revision as a result of some of these concerns and the issues will be considered.

### **International human rights law (IHRL)**

82. International human rights law constitutes the final set of formal standards that can be applied to the conflict from the international level. The Universal Declaration of Human Rights (10 December 1948) outlines the basic rights that apply to all people at all times. In times of conflict the core provisions that are applicable all the time to all people are:

- The right to life
- The right to be free from torture
- The right to be free from slavery
- The right to recognition before the law
- The right to freedom of thought, conscience and religion

83. As with the rest of the IHL, the state holds the final obligation for ensuring that the rights of civilians are protected within its territory, as such the state is responsible for providing and maintaining a protective environment of security and stability. In the prevailing circumstances, the government realizes its obligation to the people of northern Uganda and all the efforts made so far are in a bid to protect their rights.

### **The Rome Statute**

84. This statute entered into force on 1<sup>st</sup> July 2002. It created the International Criminal Court (ICC) and established it as the mechanism for enforcing IHL as it pertains to the most serious crimes of concern to the international community as a whole. The court has jurisdictions accordance with the statute with respect to (a) The crime of genocide; (b) crimes against humanity; (c) War crime; (d) The crime of aggression. The ICC therefore has the powers to investigate any such crimes that are reported to it, and is able to prosecute individuals for their

involvement in such crimes. Uganda is a party to the Statute and therefore can apply its provisions. In the case of Uganda and Northern Uganda in particular, the warring parties have committed multiple breaches. To domesticate the Rome Statute, an ICC Bill has been drafted.

### **The guiding principles on internal displacement**

85. These guiding principles on internal displacement bring together all the most relevant principles and articles enshrined in the IHL and IHRL as they apply to the phenomenon of internal displacement. They provide guidance and specific standards for the action of government, non-state actors and other agents.

86. The areas of focus for the guiding principles on internal displacement are the rules and caveats relating to forced displacement and the protection of life and dignity of civilians under condition of displacement. The most important are:

- (a) The IDPs enjoys the right to life and an adequate standard of living;
- (b) That civilian is protected from arbitrary displacement; and
- (c) That the national authorities have the primary duty and obligation to provide protection and humanitarian assistance to the internally displaced persons, and in this particular context, children. Adherence to this would result in fewer children desiring to be in the armed forces being conscripted into armed forces by both state and non-state actors.

### **The Sphere Project**

87. This outlines a set of minimum standards in disaster responses, which act as an adjunct to the protection provisions within international human rights law for the treatment of civilians in situations of conflict, emergencies and disaster. These standards complement the GPID in outlining the basic rights of the internally displaced people especially with regard to children in this context and the concomitant responsibilities of national authorities for the provision of assistance under conditions of forced displacement. The Sphere Project draws the principle of life with dignity from the Universal Declaration of Human Rights and subsequent human rights conventions. It is clear that children who are involved in the armed forces do not live a life of dignity. More to the above the principle has been incorporated into most of the Constitutions of the world, including that of the Republic of Uganda.

### **The Constitution of the Republic of Uganda**

88. The Constitution of the Republic of Uganda was promulgated on the 22<sup>nd</sup> of September 1995 after a constitutional review process and is gazetted under the reviewed laws of Uganda in Volume 1 page cxxvi. It is also in harmony with all the International human rights treaties that the county ratified before its revision. The Constitution outlines the rights and obligations of the state and creates mechanisms by which the state can honor its obligations. In its preamble, the Constitution provides for:

*“a peaceful, secure and stable political environment ...” Preamble III (v);*

*“respect institutions which are charged by the state with responsibility for protecting and promoting human rights ...” Preamble V (I);*

*“fulfillment of the fundamental rights of all Ugandans to social justice and economic development, and shall... ensure that (1) All Ugandans enjoy rights and opportunities to education, health services, safe water, work, decent shelter, adequate clothing, food security, pension and retirement” Preamble XIV;*

*“institution of an effective machinery for dealing with any hazard or disaster ... or any situation resulting in general displacement of people ...” Preamble XXIII*

89. The Constitution effectively outlines the fact that the state is responsible for acting through its institutions to protect Uganda citizens as both shield, and safety net. This principle is the Constitution details protection obligations through the articles concerning the rights of citizens specifically, which are as inherent, and enshrined for the protection by Uganda law, as well as through those articles which concern the establishment of the judiciary, the Human Rights Commission and the security services. Most of the provisions in the Constitution have been translated into justiciable domestic legislation.

### **The Children Act**

90. The Children Act (Cap 59) is a domestication of the UNCRC. It was enacted before the Optional Protocol on the involvement of children in armed conflict was ratified by Uganda. Some of the provisions, however, do address what is in the Optional Protocol. The planned review of the Children Act will consider inclusion of provisions of the Optional Protocol to make it justiciable in Uganda.

91. The section of the Children Act relevant to the Optional Protocol is section 9 that states:

*“No child shall be employed or engaged in any activity that may be harmful to his or her health, education, mental, physical or moral development.”*

This in effect includes involvement of children in armed conflict. The Act also provides for the basic duty of parents and guardians to supply the child’s essential needs such as education, guidance, immunization, clothing, shelter and other health needs. The primary duty of the parent is to maintain children financially and otherwise. Establishment of Secretary for Children Affairs (SCA) within Local and District Councils and utilization of supervision/care orders are meant to protect children in homes and in other situations. Through the District Probation and Social Welfare Officers (DPSWOs), there is also a system through which children may be removed from dangerous situation and placed in approved homes, foster placement, exclusion orders as well as search and production orders.

### **The Civil Registration Act**

92. The Civil and Registration Act provides for the registration of births and deaths within a stipulated period, failure of which attracts penalties. This law has never been strictly enforced thus fewer than 10% of the children, mostly those born to educated women are registered at birth. Since 1995 attempts have been made to revive the civil registration system, but so far very few successes has been realized.<sup>8</sup>

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<sup>8</sup> UNICEF, 2001-2005 Master Plan of Operations.



### **The Local Government Act**

93. The Local Government Act (Cap 243) is the enabling law for decentralization of government administrative structures to allow for representation and accessible authority in close proximity. This decentralization has enabled the reinvigoration of the District Probation and Social Welfare Office. This office bears the specific responsibility for protection issues having particular focus on protection needs of children.

94. Key focus areas for the Probation and Social Welfare Office are:

- Monitoring and lobbying for the security of children
- Ensuring that children live in environmental conditions that minimizes threats to their protection
- Facilitating the children's rights to be heard
- Providing financial and material assistance to children in need
- Providing social and welfare services for children and their families

### **The National Policy on Internal Displacement of Persons**

95. The Office of the Prime Minister has developed a National Policy on Internal Displacement of Persons (NPIDP), with support from United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA). The policy, approved in August 2004, is designed to address the challenges faced by IDPs and yet there was no policy or legislation on protracted internal displacement. The policy is in line with the principles enshrined within International Humanitarian Law (ML) and International Human Rights Law (IHRL) and within the Guiding Principles on Internal Displacement (GPID).

96. The policy seeks to provide for protection and assistance of IDPs by providing guidelines to government institutions, local and International Humanitarian Organizations and NGOs involved in upholding the rights and entitlements of the IDPs. The policy recognizes that IDPs should "enjoy, in full equality, the same rights and freedom under the Constitution and all other laws as do all other Ugandans.

### **Amnesty Act 2000 (Cap 294)**

97. In January 2000 the Amnesty Act became law after presidential assent. The main purpose of the law was to encourage a peaceful resolution of rebellion particularly by the LRA in Northern Uganda. Accordingly the Amnesty Act offered full pardon for all persons (Children & Adults) involved in insurgency on condition that they abandon acts of rebellion and seek amnesty.

98. Section 3 (1) of the current Amnesty Act declares an Amnesty in respect to any Ugandan who has, at any time since 1986, engaged in war or armed rebellion against the Government of Uganda by actual participation in combat. Collaborating with the perpetrators of the war or war rebellion, or committing any crime in the furtherance of the war or armed rebellion or assisting or aiding the conduct or prosecution of the war or armed rebellion. It also outlines that such persons shall not be prosecuted or subjected to any form of punishment for participation in the war or rebellion for any crime committed in the cause of the war or armed rebellion as long as they renounce their activities and apply for Amnesty. This is in consonance with the Article 28 (10) of the Constitution that guarantees non prosecution to those who claim the amnesty:

*“No person shall be tried for any criminal offence if the person shows that he or she has been pardoned in respect of that offence.”*

Therefore those reporters who request and receive the amnesty receive a pardon that is constitutionally guaranteed. As such all rescued children and sometimes adults from the LRA have the right to seek amnesty and should be released into the hands of the Amnesty Commission or other rehabilitation agencies unconditionally. While the law guarantees non-prosecution of all persons, it does put on record the fact that the person granted amnesty was engaged in combatant acts against government and committed crimes, and therefore unfair to children, who are forcefully conscripted and forced to commit crimes.

## **VI. ADOPTION OF THE OPTIONAL PROTOCOL WITHIN THE JURISDICTION OF UGANDA (art. 6)**

### **Reviews of domestic legislation/amendments after Uganda’s ratification of the Optional Protocol**

99. The Children Act (Cap 59) specifies that anybody below the age of 18 is a child and should be treated thus without discrimination. After Uganda’s ratification of the Optional Protocol, the UPDF Act No. 7 of 2005 specifically outlawed involvement of persons under the age of 18 in the national armed forces. The Children Act, which will soon be reviewed, will include provisions that domesticate the Optional Protocol.

### **Legal status of the Optional Protocol in national law and its applicability**

100. The Optional Protocol was ratified after most of the Ugandan legislation was passed. Most of these laws, however, have provisions that could be used to enforce the optional protocol. The Uganda Law Reform Commission is a statutory body mandated to revise laws from time to time to make them relevant to international obligations and societal needs. The Commission has lined up laws for revision including the Children Act and will soon make the Optional Protocol applicable in selected national laws.

101. Organizations like the Amnesty Commission, the Uganda Human rights Commission, Save the Children in Uganda, Uganda Child Rights NGO Network, UNICEF and International Committee of the Red Cross, among others have supported the government of Uganda to put to practice the provisions of the Optional Protocol.

## **Government bodies responsible for implementation of the Optional Protocol**

### *Amnesty Commission*

102. The Amnesty Act passed by Parliament in 1999 and became law following the presidential assent in January 2000 provided for the setting up of an Amnesty Commission. This commission's focus is on demobilization, reintegration, and resettling of rebel who had returned from the bush and renounced violence. The Commission also had the mandate to sensitize the public on the Amnesty, which law is aimed at promoting reconciliation with all rebel insurgents (including child soldiers) since the coming to power of the NRM government in 1986. The Commission has five regional offices, that is Gulu, Kitgum, Arua, Kasese, and Mbale.

### *Uganda Police Force (UPF)*

103. The Constitution of the Republic of Uganda (1995) Article 212 states that the explicit responsibility of protection of life and property of the citizen of Uganda is for the Uganda Police Force. The family protection Unit is a branch in the Police that holds family matters and particularly protection of children from any form of abuses. This however, has not helped much in the area of recruitment of children in to the armed forces.

### *Uganda People's Defense Force (UPDF)*

104. According to Article 209 of the Constitution of the Republic of Uganda the functions of the UPDF are as follows:

- To preserve and defend the sovereignty and territorial integrity of Uganda
- To cooperate with the civilians authority in emergency situations and cases of natural disaster
- To foster harmony and understanding between the Defense Forces and civilians
- To engage in productive activities for the development of Uganda

From the above roles of the UPDF there is no direct role specifically related to the protection of Ugandan civilians or their property from violence relating to armed conflict. Since it can be argued that the LRA, as a rebel movement has a determination to remove the incumbent regime, it therefore directly threatens the sovereignty of Uganda. Thus UPDF has a responsibility under paragraph (a) to protect Ugandans including children from rebel attacks, abduction and threats.

105. Being an active force in the prosecution of armed conflict, as well as an agent of the government of Uganda, the UPDF's responsibility of protection civilians is three fold:

- To protect civilians directly from LRA attack, by acting as a shield between the civilian population and those that threatens them

- To ensure that civilians are protected from any actions of its own members that may breach their obligations under the terms of International Humanitarian Law and The International Human Rights Laws
- To produce an environment in which humanitarian assistance can be delivered safely to Ugandan citizens

### **Mechanism and means used for monitoring and periodically evaluating the implementation of the Optional Protocol**

106. There are both government and non-government mechanisms for monitoring the implementation of the CRC and its Optional Protocols.

#### *Uganda Human Rights Commission (UHRC)*

107. The Uganda Human Rights Commission mandated under Article 51-58 of the Constitution as the institution responsible for the monitoring, investigation and reporting of violation of human rights in Uganda. The Commission is independent under the Ugandan law, and as such is not subject to the direction or control of any person within the government. This Commission is supposed to act as a watchdog for human rights violations committed by the institutions of the government of Ugandan well as individuals Ugandan citizens. It has powers to order legal remedy or redress for victims (Children inclusive) of such violations. The UHRC has a children's desk that monitors rights violations of children seek their redress or use the evidence for advocacy for government action.

#### *Office of the Prime Minister (OPM)*

108. The office of the Prime Minister is the principle agency responsible for the coordination of human and nature disaster management programmes in Uganda as per the National Disaster Policy. This office houses the Department of Disaster Management (DDM) which is charged with the work of serving as a forum for the coordination of sectional lead agencies as well as being the Line Ministry via which disaster and humanitarian agencies link up with government.

109. The National Disaster Management Policy clearly outlines the roles of the Office of the Prime Minister and Department of Disaster Management particularly in situations involving children as follows:

- Mobilization of resources in order to assist the victims of disaster to restore their normal live- particularly through use of disaster funds
- Providing leadership and coordination on the resettlement, rehabilitation and psyche-social care of disaster victims
- Ensuring that Sphere Standards, GPID and other standards are observed in all humanitarian interventions

- Monitoring and evaluation of standards, operations and performance of all actors in the humanitarian field

*National Council for Children (NCC)*

110. In order to make operational and ensure the effective implementation of Uganda National Programme of Action on Children (UNPAC), which is multi-sectoral by design; government of Uganda established the National Council for Children, first as an interim body in 1993 and later by statute No. 16 of 1996 (now Cap 60 of the Laws of Uganda).

111. The main mission of the Council is to provide a structure and mechanism for proper coordination, monitoring and evaluation of policies and programmes relating to the survival, development and protection of the child and for other connected matters. These are the council's objectives:

(a) Act as a body through which the needs and problems of children can be communicated to government and other decision-making institutions and agencies in Uganda;

(b) To coordinate and provide direction to all persons involved in child-based activities in Uganda;

(c) To promote the adoption and utilization of the Programme of action by government, non-governmental organizations and external support agencies through participation in their planning and resource allocation exercise;

(d) To maintain a data base on the situation of children and activities relating to children in Uganda;

(e) To support the continuing analysis of the changing needs of children and promote discussions of emerging priorities.

112. The National Council for Children (NCC) is the agency mandated to oversee the implementation of the national and local instruments on the rights and welfare of the child. While indicators were developed for monitoring implementation of the UNCRC in general, there is yet no specific framework for monitoring the implementation of the Optional Protocol on involvement of children in armed conflict.

*Civil society*

113. Uganda Child Rights NGO Network (UCRNN), a network of over 60 child focused NGOs with the mandate of monitoring implementation of local, national and international legal instruments. UCRNN works in close collaboration with its members and has been instrumental alongside government and UN agencies in providing alternative reports on the implementation of the UNCRC. UCRNN and its members also implement actions related to the UNCRC and its optional protocols, training communities, the civil society and government actors, carries out advocacy to leverage technical support and resources for children. UCRNN also monitors implementation of the provisions of local, national and international legal instruments on the Rights of the Child.

### **Efforts on dissemination of the optional protocol in all relevant languages**

114. Government has received support from Save the Children UK/Denmark and UNICEF for the facilitation of training law enforcement officials together with the government army. This support has been focused on the Conventions on the Rights of the Child and the Children Act that has also been translated into seven (7) local languages. The Optional protocol was ratified after the enactment of the Children Act. After the revision of the Children Act, there will be a dissemination programme that will simplify and translate the law into local languages. This will include provisions of all optional protocols to the UNCRC.

### **Children who have been released from the armed forces (demobilization)**

#### *Formerly abducted children*

115. Over the last 18 years the LRA has abducted over 30,000 children. Of this, about 25,000 have returned and over 8,000 remain unaccounted for. These children who returned have become known as formerly abducted children (FAC). In response to their needs for psychosocial rehabilitation and reintegration, many organizations such as World Vision, Gulu Support the Children Organisation (GUSCO), Concerned Parents' Association (CPA), Kitgum Concerned Women's Association (ICICWA) and Rachele rehabilitation Centre have provided psychosocial rehabilitation, vocational training and reintegration services to formerly abducted children.

116. Other organizations like (Associazione Volontari per il Servizio Internazionale (AVSI), Catholic Relief Services (CRS), Caritas and Canadian Physicians for Aid and Relief (CPAR), among others have also provided community psychosocial support to facilitate reintegration of the FACs.

#### *Number of children so far been demobilized*

117. All children who are discovered within the UPDF are duly and expeditiously demobilized. This also goes for children who were within the auxiliary forces or militias. When the militiamen were being considered for absorption into the police force, children were screened off and demobilized.

118. Out of an estimated 30,000 children forcefully conscripted into rebel ranks, over 25,000 have returned, escaped or been rescued by the UPDF. About 6,000 children remain unaccounted for. These have either returned directly to their communities and therefore there are no records on them, or are still in captivity or have died.

#### *Budget for demobilization programmes*

119. The government of Uganda together with the support of the World Bank's Disarmament, Demobilization and Reintegration (DDR) programme is supporting the Amnesty Commission to resettle formerly abducted children.

### **Measures adopted to ensure psychosocial recovery and social reintegration**

120. There is a provision in the Children's Act for children who face violence or are likely to face violence. They can be placed on an interim or Care Order by Court of Law for purposes of

rehabilitation and to ensure that the children are removed from hostile environment. This is strengthened by the provision of an Exclusion Order under the Children’s Act Sec. 35 and 36. The provisions were not specifically designed for children rescued from armed conflict but currently applicable because of the prevailing circumstances. The Amnesty Commission also screens children who have suffered violence as a result of armed conflict and refers them to trauma counseling centers where they under go rehabilitation before they are reintegrated into their communities.

*Psychosocial rehabilitation*

121. The government has provided an enabling environment that has allowed NGOs to operate freely. Many of the rehabilitation centers for children involved in armed conflict are run by NGOs, with the support of the District Probation and Social Welfare Officers (DPSWOs). Those children who are rescued from the battle front are kept under the care of the child protection unit in the army until they are handed over to the rehabilitation centers. On arrival to the centers, formerly abducted children are offered food, medical care and resettlement kits, consisting of clothes, bedding and washing items. In some cases, during the welcome ceremony for the children all the old clothes and military attires are burned symbolically to mark the end of bush life and the start of a new life in freedom from terror.

122. To encourage quick recovery children are encouraged to talk about their experiences in captivity and express their feelings through drawings, drama and music. Their psychological process works on their mind sets to make them realize that they are still children and they can still reclaim their childhood and lives of dignity. They are taught all over again to play, dance and have a good time like other children.

123. Catch-up classes are conducted to prepare children for going home. They are taught to read, write, and given lessons in mathematics, health education, debates and news analysis as well as vocational skills.

124. Other organizations like (Associazione Volontari per il Servizio Internazionale (AVSI), Catholic Relief Services (CRS), Caritas and Canadian Physicians for Aid and Relief (CPAR), among others have also provided community psychosocial support to facilitate reintegration of the FACs.

**Table 3**

**Number of children rehabilitated by centres in northern Uganda over time**

Organisation	District	Male	Female	Total
Rachelle Rehabilitation Centre	Lira	1 476	878	2 354
Gulu Support the Children Organisation (GUSCO)	Gulu	4 822	2 729	7 551
World Vision Children of War Centre	Gulu	8 934	2 097	11 031
Katakwi Children’s Voice (KCV)	Katakwi	186	107	293
		18 270	7 065	25 335

*Source:* Data from Rehabilitation Centers.

### **Measures are adopted to ensure confidentiality from media exposure and exploitation**

125. The Child Protection Unit (CPU) in the UPDF is responsible for receiving children rescued from LRA and other forces. It is also charged with the responsibility of ensuring that these children are not abused or further traumatized by irresponsible journalism. Where it is necessary that their photos appear in the press for the sake of evidence, children's faces are blurred to prevent identification.

### **Legal provisions are in place to criminalize recruitment of children and their inclusion in that crime as victims and as witnesses**

#### *The Constitution*

126. In Article 34 (4&5) of the 1995 Constitution of Uganda a policy framework is provided for the protection of all children under the age of sixteen years from social and economical exploitation and shall not be employed in or required to perform work that is likely to be hazardous or to interfere with their education or to be harmful to their health or physical, mental, spiritual, moral or social development.

#### *International labour laws*

127. The Government of Uganda also ratified the ILO Convention No.138 on Minimum Age for employment and ILO Convention No. 182 the worst Forms of child Labor Convention 1999. An addendum has been prepared and submitted to ILO spelling out 14 years as the minimum for admission to employment in Uganda. This is because of the state of Uganda's economy and educational infrastructure that necessitates that child at 14 years can start work for survival for certain reasons. This is yet to be reflected in Uganda's national law. A draft labor policy is in place and other mechanisms to intervene in the child labor have been established.

#### *Prosecution of the perpetrators*

128. The UPDF has brought many of its men who have violated human rights to book through their field court martial. In deed many UPDF soldiers have been brought before this court on charges on abuse of civilians especially children and women with serious punishment meted out for breach of human rights.

### **Measures to ensure that children are not liable for the crimes during their stay with the armed forces/groups**

#### *The Amnesty Act 2000*

129. The Optional Protocol stipulates that children who get involved in armed conflict are not held criminally responsible for crimes they commit during their stay with the armed groups. The Amnesty Act 2000 provides amnesty to all Ugandans who have engaged in acts of rebellion. Following that an Amnesty of Commission was setup to demobilize, reintegrate and resettle former rebels as well as sensitize the public on the law. The age of criminal responsibility is 12 years in Uganda and therefore children of 12 to 17 years are liable for offences they commit.



However, in case of forced conscription in the ranks of the LRA, these children have no criminal responsibility because they are abducted and forced into criminal activities. The children benefit from resettlement packages given by the Commission.

#### *The Penal Code Act*

130. The Penal Code Act (Cap 106) also exempts all children below 12 years from any criminal responsibility. Reporters/former rebels in this age bracket are received by the Amnesty Commission and immediately transferred to reception centers where they are given psychosocial support and reintegrated into the communities.

#### **Considerations taken towards children in the peace agreements**

131. The current peace process being pursued requires that rebels assemble in zones separate from that where women and children from the group assemble. It is not clear the extent to which the rebels have adhered to this. The peace deal will ensure that children and women currently with the rebels have special care and protection accorded to them.

### **VII. ASSISTANCE IN IMPLEMENTING THE OPTIONAL PROTOCOL IN UGANDA (art. 7)**

#### **Technical**

#### *Assistance in the implementing the Optional Protocol in Uganda*

132. Many state and non-state actors have joined hands to implement the provisions of the optional protocol. These include the following organizations.

#### *United Nations Children's Fund (UNICEF)*

133. UNICEF is now a lead agency on issues relating specifically to the humanitarian protection of children in Northern Uganda. UNICEF has a team of Child Protection Officer who are mainly responsible for monitoring human rights abuses against children in Child Protection Units (CPU) and army barracks and in the field particularly incidences relating to abducted children. UNICEF's protection programme focuses on the following key areas:

- Development of a coherent and systematic training programme on human rights for the UPDF, in collaborations with Save the Children in Uganda
- Developing clear standards of care for separated children, particularly formerly abducted children, and creation of a civilian oversight mechanisms for the rehabilitation and reintegration of the formerly abducted children

#### *The International Committee of the Red Cross (ICRC)*

134. The ICRC is mandated under the four Geneva Conventions of 1949, and their additional protocol of 1977 to act as the promoter of the International Humanitarian Law, in order to protect and assist the victims of armed conflicts and their consequences. The ICRC has delegates who have a mandate to undertake activities specifically related to humanitarian protection in Northern

Uganda. These delegates are focused mostly on monitoring reports of abuses of International Humanitarian Law and particularly the abduction of children by the LRA. Their focus is to gather reports of abuses, documentation of them and confidential follow up on both sides of the conflict on how to improve the protection situation for civilians.

*Save the Children in Uganda*

135. Save the Children Uganda and other children focused organizations have come up with an initiative to train army officers responsible for overseeing the reception centers for LRA escapees thereby reducing detention periods and improving treatment of those eligible for Amnesty.<sup>9</sup>

*World Vision*

136. World Vision offers among others; three basic programmes: Area management in psychosocial activities (based in the rehabilitation centers like the Gulu-based War Children Center), relief management, and integration of formerly abducted children. World Vision also gives school children scholastic materials and school uniforms and training of community volunteers to follow up and support vulnerable children.

*Office for the Coordination of Humanitarian Affairs and the World Food Programme*

137. The United Nations Office for Coordination of Humanitarian Affairs (OCHA) and the World Food Programme (WFP) are coordinating humanitarian assistance to formerly abducted and other vulnerable children, identifying of problems and recommending solutions giving priority to children in conflict situations, to all actors.

*Uganda Child Rights NGO Network*

138. Founded in 1996, Uganda Child Rights NGO-Network (UCRNN) is a network of over 60 children focused organizations as its members. These organizations comprise of community based, national and international civil society organizations, working with and for children. UCRNN is a proactive network that spearheads coordinated approaches in the popularization of legal instruments for child welfare, monitoring the implementation of the UN Convention on the Rights of the Child (CRC) and other instruments and promoting childcare and protection in Uganda.

**Financial**

139. United Nations agencies and civil society organizations have done a good job in supplementing government of Uganda efforts in providing much needed services to children affected by armed conflict. However the resources cannot be easily summed up.

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<sup>9</sup> CSOPNU 2004, Nowhere to Hide: Humanitarian Protection Threats in Northern Uganda, p. 83.

## VIII. CONCLUSIONS

140. The government of Uganda has made adequate efforts to eliminate involvement of children in armed conflict. This is evidenced in the policies and actions that have been put in place. The biggest challenge has been the Lord's Resistance Army, however, government is consistently following up the peace process to ensure internal displacement in northern Uganda comes to an end and children are safe from abduction and fear.

141. There is some evidence from the UHRC, an institution created by the government through the Constitution. This will require further investigations to prove that children are still within the ranks of national armies and local militias. Efforts to remove children who fell through the cracks have been successful and these few who are reported, if found will be reintegrated with their families and provided with options for livelihood.

142. The Optional Protocol was ratified after the enactment of the Children Act. Government could not have a separate law specifically for the optional protocol. In that vein, government sees it prudent to integrate all provisions of optional protocols to the CRC in the up-coming revision of the Children Act. Other mechanisms for implementation and monitoring, which are already in place may only require issuing additional guidelines and strengthening.

143. Overall, Uganda is committed and is on track with the implementation of the Optional Protocol on the Involvement of Children in Armed Conflict.

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## Annex

### INTERVIEW SCHEDULE FOR STAKEHOLDERS IN CHILD PROTECTION

#### **Article 1: Understanding of “direct participation” in Ugandan legislation**

1. What do understand by “direct participation” as used in the law/legislation and practice of the state (Uganda)?
2. What measures has been taken by government and other stakeholders to ensure that a member of the armed forces who has not attained the age of 18 years is not deployed or maintained in an area where hostility is taking place?
3. What obstacle where encountered while applying these measures?
4. Do you have data on the members of the armed forces below 18 years who were made prisoners because of not directly participating in hostilities?

#### **Article 3: Minimum age for voluntary recruitment into the armed forces**

1. What is the minimum age for voluntary recruitment into the armed forces?
2. Do you have data on children below the age of 18 years voluntarily recruited into the national armed forces (gender, age, region, rural/urban, social and ethnic origin and military ranks)?
3. Please provide information on the measures on special protection adopted for the under 18 years recruits.
4. Do you recall any debate in the county prior to the adoption of the binding declaration and what people where involve in this debate?
5. Was it a national, regional, or local debate, initiatives or. campaign aiming at strengthening the declaration if it set out a minimum age lower than 18 years?
6. Give a detailed description of the procedure used for voluntary recruitment, from the (expression of the intention to volunteers to the physical integration into the armed forces).
7. Do you consider medical examination before recruitment?
8. What documents do you refer to, to verify the age of the volunteers (birth certificates, Affidavits, etc.)?
9. Do you supply the volunteers and the parents, or legal guardians with information allowing them make their own opinion and make them aware of the duties involved in the armed forces (Do you have such a document)?
10. What is the effective military service time and conditions for early discharged? What about the use of military justice or discipline on the under 18 years recruits?

11. How many recruits below 18 are under detention, or trial and what is the minimum or maximum sanctions towards deserters under the 18 years bracket?
12. Any incentive given to by the national armed forces to encouraged volunteers to join the ranks (Scholarships, Advertising).
13. What is the minimum age of entry into schools operation by the armed forces?
14. Give statistics on:
  - (i) Schools operated by armed forces;
  - (ii) Type of education provided;
  - (iii) Proportion between academic education and military training in the curriculum and the length of that education.
15. Do you include in this training human rights and humanitarian principles especially when it comes to the realization of rights of the child?
16. Do you have data on students enrolled in these schools (gender, age, region, rural/urban, social or ethnic)?
17. What measures have you taken to ensure that school discipline is administered with the child's human dignity?
18. What complaint mechanism is in place to ensure school discipline is administered with child human dignity?

**Article 4: Armed forces operating on the territory of the state of Uganda**

1. Do you have information on the groups of armed forces operating on the territory of the state of Uganda or with sanctuary here?
2. What update is there on the status of the negotiation of the state and with armed groups?
3. Any statistics/data on the children who have been recruited and used in hostilities by the armed groups? Are there those arrested by government for participation in hostilities?
4. Do you have or know of any written/oral commitment made by armed groups aiming at not recruiting children below 18 years of age?
5. What measures has the government and other stakeholders adopt to raise awareness amongst armed groups and within the communities of the need to protect the recruit of children below 18 years in the armed forces and their legal duties in accordance with the optional protocol on children rights?



6. Are there programs designed to prevent vulnerable children from recruitment by such armed groups (e.g. Refugees, Street Children, IDPs)?

**Article 5: national legislation, international instruments and international humanitarian laws**

Are you aware of any provision of the national legislation and international instruments and international humanitarian laws applicable in Ugandan case, which are conclusive to the realization of the rights of the child?

**Article 6: Adoption of the Optional Protocol with in the jurisdiction of Uganda**

1. Any reviews of domestic legislation and amendments introduction after Uganda's ratification of the Optional Protocol.
2. Legal status of the Optional Protocol in national law and its applicability before domestic jurisdictions?
3. What are the competent government departments or bodies responsible for the implementation of the Optional Protocol?
4. What are the mechanism and means used for monitoring and periodically evaluating the implementation of the Optional Protocol?
5. Are there any efforts on dissemination in all relevant languages, of the optional protocol, to all children and adults notably those responsible for military recruitment?
6. Do you know of children how have been released from the armed forces (demobilization)?
7. If so how many have so far been demobilized?
8. What is the budget for such programs?
9. What measures have been adopted to ensure psychosocial recovery and social reintegration of the children according to their age and age?
10. What measures are adopted to ensure confidentiality of the children involved from media exposure and exploitation?
11. What legal provisions are in place to criminalize recruitment of children and their inclusion in that crime as victims and as witnesses?
12. What measures are there to ensure that children are not criminally liable for the crimes they committed during their stay with the armed forces/groups?
13. What considerations are taken towards children in the peace agreements?

**Article 7: Assistance in implementing the Optional Protocol in Uganda**

1. TYPE

8 Technical

9 Financial

10 Others (Specify)

3. SOURCES

(i) Bilateral

(ii) Multilateral

(iii) Others (Specify)

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