

Disrupting Harm

Evidence from 13 countries on the context, threats, and children's perspectives of online child sexual exploitation and abuse.

Legal Analysis of OCSEA related Provisions in Uganda

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This report is a summary of preliminary data collected for this research project. The perspectives contained herein represent the individuals interviewed and surveyed. Support from the Fund to End Violence Against Children does not constitute endorsement.

International, Regional and National Commitments and Legislation on Sexual Exploitation of Children

Status of ratification of relevant international and regional instruments, reporting to human rights bodies and engagement with the special procedures of the Human Rights Council		
International Instruments	Date of ratification/accession	
Convention on the Rights of the Child - 1989	17 August 1990	
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography - 2000	30 November 2001	
Optional Protocol on a Communication Procedure - 2011	-	
ILO Convention on the Worst Forms of Child Labour - 1999 (No. 182)	21 June 2001	
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children – 2000 (supplementing the UN Convention against Transnational Organised Crime)	Signed on 12 December 2000 but not yet ratified	
Regional Instruments	Date of ratification/accession	
Convention on Cyber Security (African Union, 2014)	-	
Charter on the Rights and Welfare of the Child (African Union, 1990)	17 August 1994	
International Conference of the Great Lakes Region (ICGLR) Protocol on the Prevention and Suppression of Sexual Violence against Women and Children (2008)	The Protocol is included in the Pact on Security, Stability and Development in the Great Lakes region, adopted on December 2006 and entered into force in June 2008.	
Human Rights Bodies	Date of latest submitted report	Comments
Committee on the Rights of the Child (OPSC review)	16 August 2007	

General Issues Related to Children’s Rights

The Constitution of the Republic of Uganda defines a ‘child’ as “a person under the age of eighteen years”.¹ Notwithstanding, it guarantees the right to protection from social or economic exploitation only to children below the age of sixteen years.² This may hamper protection accorded to child victims of online sexual exploitation and abuse (OCSEA) offences under various national laws in Uganda.

Besides, the Children Act,³ the Anti-Pornography Act,⁴ the Computer Misuse Act,⁵ the Prevention of Trafficking in Persons Act (PTPA),⁶ and the Employment Act⁷ also define a child as a person under the age of 18 years. Therefore, the definition of a child is **consistent across major national legislations** and is in line with that provided by the United Nations Convention on the Rights of the Child.

The **age of sexual consent** is 18 years.⁸ According to the Ugandan Penal Code, “any person who performs a sexual act with another person who is below the age of eighteen years, commits a felony known as defilement and is on conviction liable to life imprisonment”.⁹ The Penal Code does not provide for a **close-in-age exception** and establishes the offence of “child-to-child sex”, expressly criminalising sexual acts between children.¹⁰ However, child offenders are not dealt with under the general criminal procedure law but under the Children Act.¹¹ It is noteworthy that the **minimum age of criminal responsibility** in Uganda is 12 years.¹² Therefore, a child below 12 years old found guilty of the offence of “child-to-child sex” would not be criminally liable. Instead, he or she would be considered a “child in need of care and protection” and be treated accordingly.¹³ On the other hand, a child aged 12-18 years would be treated according to the provisions relating to the criminal prosecution of child offenders under the Children Act.¹⁴

¹ Republic of Uganda. (1995). [The Constitution of the Republic of Uganda](#), Article 257(1)(c).

² Republic of Uganda. (1995). [The Constitution of the Republic of Uganda](#), Article 34(4)-(5).

³ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 2.

⁴ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 2.

⁵ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 2.

⁶ Republic of Uganda. (2009). [The Prevention of Trafficking in Persons Act No. 7 of 2009](#), Section 2(a).

⁷ Republic of Uganda. (2006). [The Employment Act No. 6 of 2006](#), Section 2.

⁸ Republic of Uganda. (1950). [The Penal Code Act 1950 \[as amended by the Penal Code \(Amendment\) Act No. 8 of 2007\]](#), Section 129(1).

⁹ Republic of Uganda. (1950). [The Penal Code Act 1950 \[as amended by the Penal Code \(Amendment\) Act No. 8 of 2007\]](#), Section 129(1).

¹⁰ Republic of Uganda. (1950). [The Penal Code Act 1950 \[as amended by the Penal Code \(Amendment\) Act No. 8 of 2007\]](#), Section 129A.

¹¹ Republic of Uganda. (1950). [The Penal Code Act 1950 \[as amended by the Penal Code \(Amendment\) Act No. 8 of 2007\]](#), Section 129A.

¹² Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 88(1).

¹³ Republic of Uganda. (1950). [The Penal Code Act 1950 \[as amended by the Penal Code \(Amendment\) Act No. 8 of 2007\]](#), Section 129A.

¹⁴ Republic of Uganda. (1950). [The Penal Code Act 1950 \[as amended by the Penal Code \(Amendment\) Act No. 8 of 2007\]](#), Section 129A.

The **legal working age** in Uganda is 12 years.¹⁵ Children above 12 but below 14 years are allowed to carry out light work¹⁶ under the supervision of an adult and where the work does not exceed fourteen hours per week.¹⁷ The legal working age is the same for **boys and girls**. Further, the law provides that a child may not be employed to do work which is injurious, dangerous, **hazardous** or amounts to “worst forms of child labour”.¹⁸ Worst forms of child labour include “the use, procurement or offering of a child for prostitution, production of pornography or pornographic performances and the use of the Internet to spread child pornography”.¹⁹ The Children Act also prohibits employment of children sexually in exploitative trade or work.²⁰

The **legal age of marriage** is 18 years with parental consent.²¹ Parental or guardian consent is also needed for all persons below 21 years.²² The legal age is the same for boys and girls. It is noteworthy that the Children Act considers “child marriage” as a form of violence against children and guarantees them protection against the same.²³ The Children Act defines “child marriage” as “any union whether formal or informal involving any person below the age of 18 years for the purpose of living as husband and wife”.²⁴ The Sexual Offences Bill, which is yet to be implemented, criminalises child marriage and punishes persons conducting, directing, participating or abetting a child marriage with imprisonment for 10 years.²⁵

¹⁵ Republic of Uganda. (2006). [The Employment Act No. 6 of 2006](#), Section 32(2).

¹⁶ Republic of Uganda. (2006). [The Employment Act No. 6 of 2006](#), Section 2: “Light work means work that is not physically, mentally, and socially injurious to the child.”

¹⁷ Republic of Uganda. (2006). [The Employment Act No. 6 of 2006](#), Section 32(2); Republic of Uganda. (2012). [The Employment \(Employment of Children\) Regulations 2012](#), Regulation 3.

¹⁸ Republic of Uganda. (2006). [The Employment Act No. 6 of 2006](#), Section 32(4); Republic of Uganda. (2012). [The Employment \(Employment of Children\) Regulations 2012](#), Regulation 5.

¹⁹ Republic of Uganda. (2012). [The Employment \(Employment of Children\) Regulations 2012](#), Regulation 2.

²⁰ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 8A(1).

²¹ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 1(k); [The Customary Marriage \(Registration\) Act 1973](#), Section 11.

²² Republic of Uganda. (1904). [The Marriage Act 1904 \(Cap. 251\)](#), Section 17; Republic of Uganda. (1973). [The Customary Marriage \(Registration\) Act 1973 \(Cap. 248\)](#), Section 32.

²³ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 42A(1).

²⁴ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 1(k).

²⁵ Republic of Uganda. (2019). [The Sexual Offences Bill No. 32 of 2019](#), Section 22.

Online Child Sexual Exploitation and Abuse

Uganda has addressed online child sexual exploitation and abuse (OCSEA) through the enactment of two important pieces of legislation: The Computer Misuse Act and the Anti-Pornography Act.

The Computer Misuse Act **defines child sexual abuse material²⁶ in line with international standards.** Accordingly, “child pornography includes pornographic material that depicts— (a) a child engaged in sexually suggestive or explicit conduct; (b) a person appearing to be a child engaged in sexually suggestive or explicit conduct; or (c) realistic images representing children engaged in sexually suggestive or explicit conduct”.²⁷ This definition covers material that depicts **a person appearing to be a child** engaged in sexually explicit conduct. It also covers **virtual child sexual abuse material**. The definition uses the term “material” and does not provide any definition for the same. Since the term is general, it could include all types of material- including **visual** and **audio**.

The Computer Misuse Act criminalises acts associated with child sexual abuse material. **Producing, offering** or making available, **distributing** or transmitting and procuring child sexual abuse material through the use of a computer²⁸ are criminalised.²⁹ **Mere possession** of child sexual abuse material on a computer is also an offence under the Act.³⁰ In addition, making pornographic material available to a child is also criminalised under the Computer Misuse Act.³¹

Similarly, the Anti-Pornography Act criminalises certain acts associated with child sexual abuse material.³² Pursuant to the provisions of this Act, a person is liable if they produce, assist in the production, broadcast, publish, procure, **export, import**, traffic in, or abet in any way, “pornography depicting images of children”.³³ The term “procure” includes, *inter alia*, viewing child sexual abuse material.³⁴ The term “broadcast” is defined as making information available “through any electronic medium”, which could cover visual material as well as audio material.³⁵ Similarly, the term “publish” means to make written

²⁶ ECPAT prefers the term ‘child sexual exploitation material’ or ‘child sexual abuse material’ over the often in legal context still used ‘child pornography’ in line with the recently widely adopted Terminology Guidelines. Interagency Working Group . (2016). [Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, adopted by the Interagency Working Group in Luxembourg, 28 January 2016](#). P. 39. Bangkok: ECPAT.

²⁷ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 23(3).

²⁸ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 2: “computer” means an electronic, magnetic, optical, processing device or a group of such interconnected or related devices, performing logical, arithmetic or storage functions; and includes any data storage facility or communications facility directly related to or operating in conjunction with such a device or group of such interconnected or related devices.

²⁹ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 23(1)(a)-(d).

³⁰ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 23(1)(e).

³¹ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#) Section 23(2).

³² Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 14(1).

³³ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 14(1).

³⁴ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 2.

³⁵ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 2.

information available through any print medium.³⁶ Hence, child sexual abuse material in **written** form has also been covered. The Anti-Pornography Act does not criminalise **knowingly obtaining access to child sexual abuse material**.

Although the Anti-Pornography Act does not define child sexual abuse material, it defines “pornography” in general, and states that the same definition could be used for child sexual abuse material-related offences.³⁷ Accordingly, “pornography means any representation, publication, exhibition, cinematography, indecent show, information technology or by whatever means, of a person engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a person for primarily sexual excitement”.³⁸ The inclusion of “information technology” makes it clear that the offence relating to child sexual abuse material under the Anti-Pornography Act covers acts carried out in the **online environment**. A similar definition is enshrined in the Children Act.³⁹

The Children Act entitles every child the right to be protected from sexual abuse and exploitation, including “child pornography”.⁴⁰ Accordingly, the Children Act prohibits **employment** of children below the age of 16 years for use in pornography.⁴¹ The Act criminalises engaging a child in sexually exploitative work or trade, whether paid for or not.⁴² This includes using a child in pornographic performances or material.⁴³ In addition, the Prevention of Trafficking in Persons Act criminalises recruiting a person through force or **coercion** for the purpose of engaging that person in pornography.⁴⁴

Notwithstanding, the laws neither criminalise **knowingly attending pornographic performances** involving children nor cases when these performances are **live streamed online**.

The impending Sexual Offences Bill criminalises “sexual exploitation” which includes the use of persons to produce pornographic materials.⁴⁵ It is noteworthy that the Bill exempts the victim from being penalised for engaging in acts constituting sexual exploitation.⁴⁶ This is an important provision and would

³⁶ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 2.

³⁷ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 14(2).

³⁸ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 2.

³⁹ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 1(m): “child pornography” means any representation through publication exhibition, cinematography, indecent show, through information technology by or whatever means, of a child engaged in real or simulated explicit sexual activity, or any representation of sexual parts of a child for primarily sexual purposes.

⁴⁰ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 42A(1).

⁴¹ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 8.

⁴² Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 8A.

⁴³ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 8A(2)(c).

⁴⁴ Republic of Uganda. (2009). [The Prevention of Trafficking in Persons Act No. 7 of 2009](#), Section 3.

⁴⁵ Republic of Uganda. (2019). [The Sexual Offences Bill No. 32 of 2019](#), Section 1 read with Section 10.

⁴⁶ Republic of Uganda. (2019). [The Sexual Offences Bill No. 32 of 2019](#), Section 1 read with Section 10.

help protect the interests of children who unwittingly become accessories in child sexual abuse material-related offences.

In terms of other OCSEA offences, the Computer Misuse Act criminalises **cyber harassment**, which is the use of a computer for “making any request, suggestion or proposal which is obscene, lewd, lascivious or indecent; or threatening to inflict injury or physical harm to the person or property of any person”.⁴⁷ Knowingly permitting any electronic communications device to be used for any of the aforementioned purposes is also an offence.⁴⁸

Furthermore, the Computer Misuse Act criminalises **attempt** to commit any of the offences under the Act.⁴⁹ It defines “attempt” as, “when a person, intending to commit an offence, begins to put his or her intention into execution by means adapted to its fulfilment, and manifests his or her intention by some overt act, but does not fulfil his or her intention to such an extent as to commit the offence, he or she is deemed to attempt to commit the offence”.⁵⁰ It is immaterial “whether the offender does all that is necessary on his or her part for completing the commission of the offence, or whether the complete fulfilment of his or her intention is prevented by circumstances independent of his or her will, or whether the offender desists of his or her own motion from the further prosecution of his or her intention; or that by reason of circumstances not known to the offender it is impossible in fact to commit the offence”.⁵¹

The abovementioned provisions cover **all children below the age of 18 years** and apply to **boys and girls** with no distinction.

Currently, besides child sexual abuse material-related offences, other OCSEA offences such as **online grooming, unwanted sexting** and **sexual extortion** are not covered by the Ugandan legal framework. Nevertheless, unwanted sexting can run afoul of laws criminalising child sexual abuse material or cyber harassment. Additionally, the Sexual Offences Bill contains a provision relating to “indecent communication” which could be used to cover unwanted sexting.⁵² Since there is no explicit provision relating to unwanted sexting at the moment, it would be the decision of the prosecution to charge an offender for the offence of unwanted sexting under the relevant laws. However, the problem with the current laws is that they do not explicitly **exclude a child’s liability for sexting**, especially when compelled to do so when in an abusive or exploitative situation. Therefore, there is a need for specific provisions dealing with sexting which, *inter alia*, exempt children from liability. In addition, there is a need to consolidate and mainstream provisions relating to OCSEA in a single piece of legislation.⁵³

⁴⁷ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 24(2)(a)-(b).

⁴⁸ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 24(2)(c).

⁴⁹ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 21(1).

⁵⁰ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 22(1).

⁵¹ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 22(2).

⁵² Republic of Uganda. (2019). [The Sexual Offences Bill No. 32 of 2019](#), Section 6.

⁵³ ECPAT International. (2019). [ECPAT Country Overview: A report on the scale, scope and context of the sexual exploitation of children in Uganda](#), P. 22.

With special reference to the offence of grooming, in 2016, the Law Reform Commission of Uganda had observed that the present laws do not sufficiently address the problem of grooming. In the opinion of the Ugandan Law Reform Commission, *“This is because the sanctions prescribed in the laws are available upon proof of the occurrence of certain overt acts like rape, defilement or possession of pornographic materials of children. The unique nature of grooming that involves the element of subtle, progressive enticement and desensitisation of a child into sexual activity that may not involve overt acts or crimes in some cases is not provided for. In this regard, the offence of grooming may be miscategorised by law enforcers as an act preliminary to the commission of a sexual offence and thereby disregarded”*.⁵⁴ Therefore, the Law Reform Commission had recommended that the legislature should explore the possibility of developing a specific legislation criminalising the offences of sexual grooming to cater for issues of reporting, investigation, prosecution of child groomers and regulation of Internet use by children and specific penal provisions for the offender.⁵⁵

The Anti-Pornography Act imposes a legal duty on the **Internet Service Providers (ISPs)** to deploy means or procedures recommended by the Pornography Control Committee, a body created under the Anti-Pornography Act,⁵⁶ to control pornography and not to permit any pornographic content to be uploaded or downloaded through their services.⁵⁷ Failure to comply with this duty attracts an imprisonment term not exceeding five years or a fine not exceeding five hundred currency points⁵⁸ (approx. US\$2,731 as of March 2021) or both.⁵⁹ The Act further provides that for a subsequent offence, the court can order suspension of the business of the ISP.⁶⁰ Pursuant to the provisions of the Anti-Pornography Act, an ISP “means a person with primary access to the Internet, who extends Internet access to other secondary users”.⁶¹

The law does not specifically refer to **cyber cafés**. Nevertheless, the Anti-Pornography Act allows the Pornography Control Committee, the court, or a police officer not below the rank of superintendent, to make a written order directing a proprietor of any business or place dealing in computers, telephones or other medium for transmitting electronic information or a proprietor of any business or place dealing in leisure or entertainment to desist from dealing in pornography.⁶² Failure to comply with such a directive is an offence, punishable by a fine up to two hundred and fifty currency points (approx. US\$1,365 as of March 2021) or imprisonment up to five years or both.⁶³ In case of a second or subsequent offence by the proprietor of a leisure or entertainment place or business, their business may

⁵⁴ Uganda Law Reform Commission. (2016). [Draft Issue Paper on Grooming for Sexual Conduct](#), P. 8.

⁵⁵ Uganda Law Reform Commission. (2016)., [“Draft Issue Paper on Grooming for Sexual Conduct](#), P. 34.

⁵⁶ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 3.

⁵⁷ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 17(1).

⁵⁸ A currency point is equivalent to twenty thousand shillings. See Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Schedule 1; also Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Schedule 1.

⁵⁹ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 17(1).

⁶⁰ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 17(2).

⁶¹ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 2.

⁶² Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 16(1).

⁶³ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 16(2).

be suspended by the court, or they may be prohibited from dealing in leisure or entertainment.⁶⁴ If the proprietor fails to comply with the order of suspension or prohibition, they commit an offence liable to be punished with either imprisonment up to five years or a fine up to two hundred and fifty currency points (approx. US\$1,365 as of March 2021) or both.⁶⁵

⁶⁴ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 18(1).

⁶⁵ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 18(2).

Extraterritoriality and Extradition

In terms of **extraterritoriality**, the Computer Misuse Act provides that an accused would be prosecuted for an offence under the Computer Misuse Act committed outside Uganda as if the offence had been committed within Uganda provided that “for the offence in question, the accused was in Uganda at the material time or the computer, program or data was in Uganda at the material time”.⁶⁶ This provision applies to “any person, whatever his or her nationality or citizenship and whether he or she is within or outside Uganda”.⁶⁷

The Prevention of Trafficking in Persons Act provides jurisdiction to Ugandan courts in relation to offences under the Act, which include certain offences relating to “pornography” (as discussed in the preceding section).⁶⁸ Accordingly, these provisions could be used to prosecute OCSEA offences committed outside Uganda. Under the Prevention of Trafficking in Persons Act, any citizen or permanent resident of Uganda may be prosecuted in Uganda for an offence committed outside Uganda. The same rule applies when the victim is a citizen of Uganda at the time of commission of the offence. Therefore, the Act provides **active** as well as **passive extraterritorial jurisdiction** to the courts in Uganda.

Surprisingly, the Anti-Pornography Act is silent on the extraterritorial applicability of its provisions. The absence of such provisions could impede international cooperation and mutual legal assistance as far as OCSEA offences are concerned.

Currently, the domestic laws do not establish any **universal extraterritorial jurisdiction** in respect of OCSEA offences.

Pursuant to the provisions of the Prevention of Trafficking in Persons Act, offences related to OCSEA under the Act are liable for **extradition** in accordance with the existing extradition laws.⁶⁹ The Extradition Act contains general provisions relating to extradition in Uganda. According to the Extradition Act, “extradition crime means a crime which, if committed within the jurisdiction of Uganda, would be an indictable offence described in the Schedule to this Act”.⁷⁰ Currently, OCSEA offences are not listed in the Schedule. However, the list mentions the offence of defilement, which in the absence of any express provisions, may be relied upon to extradite prosecutors of OCSEA offences, especially when the offence in question includes acts constituting defilement. Indeed, this would not be applicable to all cases involving OCSEA offences.

⁶⁶ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 30(2)-(3).

⁶⁷ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 30(1).

⁶⁸ Republic of Uganda. (2009). [The Prevention of Trafficking in Persons Act No. 7 of 2009](#), Section 19.

⁶⁹ Republic of Uganda. (2009). [The Prevention of Trafficking in Persons Act No. 7 of 2009](#), Section 20.

⁷⁰ Republic of Uganda. (1964). [The Extradition Act of 1964](#), Section 28.

Other OCSEA-Related Provisions

The OCSEA-offences currently criminalised by the Ugandan laws carry **penalties** reflecting their grave nature. The offences relating to child sexual abuse material have been dealt with strictly. Accordingly, a person who commits the offences related to child sexual abuse material under the Computer Misuse Act is liable to be punished either with a fine not exceeding three hundred and sixty currency points (approx. US\$1,966 as of March 2021) or imprisonment not exceeding fifteen years or both.⁷¹ Similarly, for committing the offences related to child sexual abuse material under the Anti-Pornography Act, a person is liable to be punished with a fine up to seven hundred and fifty currency points (approx. US\$4,097 as of March 2021) or imprisonment up to fifteen years or both. A person who contravenes the provisions of the Children Act relating to engagement of children in worst forms of labour, including child sexual abuse material, is liable to a fine up to one hundred currency points (approx. US\$546 as of March 2021) or imprisonment not exceeding five years.⁷² Besides, the Prevention of Trafficking in Persons Act punishes a person who is guilty of recruiting a person through force or **coercion** for the purpose of pornography with a term of imprisonment up to fifteen years.⁷³

For committing the offence of cyber harassment, a person is liable to be punished either with a fine not exceeding seventy-two currency points (approx. US\$393 as of March 2021) or an imprisonment term up to three years or both.⁷⁴

The Anti-Pornography Act allows any court that convicts a person accused of an offence under the Act to make an order for the **forfeiture** and destruction of all materials and objects used in the commission of the offence of pornography.⁷⁵

The Prevention of Trafficking in Persons Act prohibits **advertising**, publishing, printing, broadcasting or distributing through the use of any means, including ICT, of any pornographic or other material, intended or likely to facilitate trafficking in persons.⁷⁶

In terms of the liability of the **legal entities** like a body corporate, the Anti-Pornography Act provides that where an offence under the Act is committed by a body corporate, it shall be liable to a fine up to double the fine prescribed for that offence in relation to an individual.⁷⁷ A director or secretary of the body corporate, who has contributed towards the commission of the offence, would also be liable.⁷⁸ Similarly, a “person” under the Computer Misuse Act includes “any company or association or body of persons, corporate or incorporate”.⁷⁹ Therefore, these legal entities are liable for the offence of child sexual abuse material and cyber harassment under the Computer Misuse Act.

⁷¹ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 23(4).

⁷² Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 8A

⁷³ Republic of Uganda. (2009). [The Prevention of Trafficking in Persons Act No. 7 of 2009](#), Section 3(b).

⁷⁴ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 24(1).

⁷⁵ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 20.

⁷⁶ Republic of Uganda. (2009). [The Prevention of Trafficking in Persons Act No. 7 of 2009](#), Section 7(f).

⁷⁷ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 19(a).

⁷⁸ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 19(b).

⁷⁹ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 2.

Currently, Ugandan laws do not provide for the establishment of a **national sex offenders registry**. Nevertheless, the Anti-Pornography Act provides for the establishment of a register of pornography offenders.⁸⁰ Such a register shall be maintained by the Pornography Control Committee.⁸¹ It shall include the name of every person convicted under the Act⁸² and shall include all records and documents that were used to secure the prosecution of the offender.⁸³ There are no provisions in the Act which mention **confidentiality and privacy** in relation to the register.

In addition, the Sexual Offences Bill provides for the establishment of a sexual offenders' registry.⁸⁴ Such a registry shall be maintained in electronic or other form by the authority responsible for National Identification and Registration.⁸⁵ Only an authorised person can access such a register.⁸⁶

The national legislation does not impose more severe sentences for **recidivists** who commit OCSEA-related offences.

At present, there is no provision in the Ugandan laws that bars convicted sex offenders from holding **positions involving or facilitating contact with children**. However, under the Sexual Offences Bill, non-disclosure of a sexual conviction record constitutes an offence. A person must disclose this information while applying for a role or position which puts him or her in a position of authority or care of children.⁸⁷

Notwithstanding, in the case a proprietor of a leisure or entertainment place or business found guilty of a child sexual abuse material-related offence under the Anti-Pornography Act commits a second or subsequent offence, their business may be suspended by the court, or they may be prohibited from dealing in leisure or entertainment.⁸⁸

In terms of **retention and preservation** of digital evidence for the purpose of an investigation, the Computer Misuse Act states that an investigative officer may apply to a court for preservation of data.⁸⁹ This provision does not mention the need to adhere to the principle of the best interest of the child. Nevertheless, the Data Protection Act of 2019 safeguards personal data relating to children.⁹⁰ Personal data of children can only be processed with the prior consent of their parents or guardians or, if necessary, for legal or research purposes.⁹¹

⁸⁰ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 24.

⁸¹ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 24(1).

⁸² Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 24(1).

⁸³ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 24(2).

⁸⁴ Republic of Uganda. (2019). [The Sexual Offences Bill No. 32 of 2019](#), Section 28.

⁸⁵ Republic of Uganda. (2019). [The Sexual Offences Bill No. 32 of 2019](#), Section 28.

⁸⁶ Republic of Uganda. (2019). [The Sexual Offences Bill No. 32 of 2019](#), Section 31.

⁸⁷ Republic of Uganda. (2019). [The Sexual Offences Bill No. 32 of 2019](#), Section 33(1).

⁸⁸ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 18(1).

⁸⁹ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 9(1).

⁹⁰ Republic of Uganda. (2019). [Data Protection Act No. 9 of 2019](#), Section 8.

⁹¹ Republic of Uganda. (2019). [Data Protection Act No. 9 of 2019](#), Section 8

Access to Justice and Remedies

National complaint mechanisms and reporting

In Uganda, there are no specific reporting obligations regarding OCSEA cases. Notwithstanding, it is **mandatory for certain professionals** to report matters affecting the well-being of children under their charge. These persons include medical practitioners, social workers, teachers, and local councillors.⁹²

In addition, the Prevention of Trafficking in Persons Act impose mandatory duties on all **private citizens** to report information about human trafficking to the police or other concerned authority. In case a person fails to comply, he or she is liable to imprisonment for six months or a fine of five thousand currency points (approx. US\$27,315 as of March 2021).⁹³

Pursuant to the provisions of the Children Act, any person who knows about a child at risk of sexual abuse or in need of care and protection has the duty to report to a designated child protection organisation or authority.⁹⁴ However, this is not a mandatory duty.

Apart from the abovementioned reporting duties, there are some general reporting duties of all persons concerning children's rights. If any person witnesses any abuse against the rights of a child, it shall be their duty to report the matter to the police or any concerned authority.⁹⁵ Similarly, all persons are under a duty to report cases concerning the infringement of a child's rights to the local government council of the area.⁹⁶

Additionally, in September 2015, the National Information Technology Authority (NITA-U) launched a reporting portal on online child sexual abuse.⁹⁷ It is an online **mechanism** where online child sexual abuse material can be reported and allows persons to make a complaint **anonymously**.

Under the Uganda Communication Commission Act, the Uganda Communication Commission has been mandated to supervise and control all communication services in Uganda. According to the Uganda Communication Commission Act, licensed service providers are required to comply with the laws of Uganda. The Act also empowers the Commission to instruct licensed service providers to ensure that unlawful content or services are not accessible.⁹⁸ The laws on OCSEA offences do not mention the role of public prosecution. Hence, it is not clear whether the **public prosecutors** have the duty to initiate investigations of OCSEA offences *ex-officio* on the basis of information received from any source. Notwithstanding, the Child Online Protection Handbook of NITA-U briefly outlines the investigation

⁹² Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 42A(3).

⁹³ Republic of Uganda. (2009). [The Prevention of Trafficking in Persons Act No. 7 of 2009](#), Section 10.

⁹⁴ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 42A(1).

⁹⁵ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 4(5).

⁹⁶ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 11.

⁹⁷ Internet Watch Foundation. (2015). [Uganda launches portal with IWF](#).

⁹⁸ Republic of Uganda. (2013). [The Uganda Communication Commission Act No. 1 of 2013](#), Section 51(1)(b).

procedure for OCSEA offences. Accordingly, the main agency for investigation is the Ugandan Police supported by the Directorate of Public Prosecutions (DPP).⁹⁹ Further, the handbook states that the DPP/Resident State Attorney “should develop deliberate collaborative relationships to promote prosecution led investigations”.¹⁰⁰

The laws do not seem to prescribe any **limitation** periods for the prosecution of OCSEA offences.

The abovementioned provisions and guidelines apply to **boys and girls** equally. It seems that they also apply to **non-national victims** of OCSEA. Non-national victims of OCSEA who are also victims of trafficking are protected under the Prevention of Trafficking in Persons Act which states that “measures for the protection, assistance and support to victims of trafficking in persons shall be interpreted and applied in a way that is not discriminatory to persons on the basis of race, religion, belief, age, family status, culture, language, **nationality** or gender”.¹⁰¹

Child-sensitive justice

The Children Act has various enabling provisions that promote child-sensitive justice which could be applicable in the case of victims of OCSEA offences. This Act provides for the establishment of family and children courts in every district¹⁰² with jurisdiction over matters relating to child care and protection.¹⁰³ Such a court shall sit in a separate building from the one normally used by other courts.¹⁰⁴ In terms of **child-friendly interview methods**, the Children Act provides that proceedings of a family and children court shall be held in camera and shall be as informal as possible and by inquiry instead of exposing the child to adversarial procedures and parents or guardians of the child shall be present whenever possible.¹⁰⁵

The Ugandan laws do not make any specific provision for **psychological support** to children during investigation and legal proceedings. Nevertheless, the Children Act entitles every child the right to protective services which include support and protection of children during proceedings in a family and children court.¹⁰⁶

In addition, the Children Act guarantees every child the right to **legal aid** stating that every child has the right to “effective legal aid including representation in all civil, criminal and administrative proceedings”.¹⁰⁷

⁹⁹ National Information Technology Authority Uganda. (n.d.). [Child Online Protection Handbook](#), page 10.

¹⁰⁰ National Information Technology Authority Uganda. (n.d.). [Child Online Protection Handbook](#), page 10

¹⁰¹ Republic of Uganda. (2009). [The Prevention of Trafficking in Persons Act No. 7 of 2009, Section 11.](#)

¹⁰² Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 13(1).

¹⁰³ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 14(1)(b).

¹⁰⁴ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 15.

¹⁰⁵ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 16(1).

¹⁰⁶ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#) Section 42C(3)(a)(i) also Section 42(3)(b)(xi).

¹⁰⁷ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 4(1)(k); also Section 16(1).

Currently, the national legislation does not ensure that **non-governmental organisations** can assist/support victims, at their request, during the investigation and judicial proceeding.

Moreover, the national legislation does not impose any duty on the authorities to provide information to a child victim in a **child-friendly manner**.

With regard to the **privacy** of child victims, the Children Act guarantees every child the right to privacy.¹⁰⁸ There are no statutory obligations. The Children Act guarantees children accused of offences the right to privacy but in relation to child victims and witness, the Act is silent. Notwithstanding, the Child Online Protection Handbook prescribes that the **identity** and particulars of the victims should never be revealed in the media.¹⁰⁹ It further provides that the information about the victim and the person reporting the offence should be kept confidential so as to avoid causing harm to them by the offenders and also to help the victim recover fast enough from the trauma of the abuse.¹¹⁰

Pursuant to the **Prosecution Performance Standards and Guidelines of 2014**, prosecutors are advised to develop child friendly skills while handling child witnesses and should ensure that the child witnesses do not face any kind of intimidation by the accused.¹¹¹ A prosecutor should always request the presiding judicial officer for the trial involving a juvenile to be heard in chambers.¹¹²

In terms of protecting child victims from **intimidation or retaliation**, the Victims' Rights and Empowerment Guidelines provide certain rights for child victims.¹¹³ They impose certain duties on prosecutors which include, *inter alia*, committing a child to a place of safety, requesting in camera hearings for a child and ensuring that a child is accompanied by a support person, wherever possible. Furthermore, the Guidelines provide to every victim the **right to protection**. It is the duty of the prosecutor to inform the victim that they have "a right to: (a) freedom from intimidation, harassment, fear, tampering, bribery, corruption and abuse and (b) notify the prosecutor or the police if any kind of intimidation, harassment, fear, tampering, bribery, corruption and abuse occurs against him or her".¹¹⁴

The abovementioned provisions and guidelines are applicable to **boys** and **girls** equally. They also seem to apply to **non-national victims**. The Victims' Rights and Empowerment Guidelines apply to non-national victims of OCSEA offences as the definition of victim under the Guidelines include "any natural, unnatural or other person who suffers injury, loss or damage...".¹¹⁵

¹⁰⁸ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 4(1)(g).

¹⁰⁹ The National Information Technology Authority Uganda. (n.d.). [Child Online Protection Handbook](#), page 10.

¹¹⁰ The National Information Technology Authority Uganda. (n.d.). [Child Online Protection Handbook](#), page

¹¹¹ Office of the Director of Public Prosecution Uganda. (2014). [Prosecution Performance Standards and Guidelines \(2014\)](#), Section 2.2.

¹¹² Office of the Director of Public Prosecution Uganda. (2014). [Prosecution Performance Standards and Guidelines \(2014\)](#), Section 2.2.

¹¹³ Office of the Director of Public Prosecution Uganda. (2019). [Victims' Rights and Empowerment Guidelines \(2019\)](#), Guideline 6.

¹¹⁴ Office of the Director of Public Prosecution Uganda. (2019). [Victims' Rights and Empowerment Guidelines \(2019\)](#), Guideline 5.2, para 3.

¹¹⁵ Office of the Director of Public Prosecution Uganda. (2019). [Victims' Rights and Empowerment Guidelines \(2019\)](#), Guideline 2.2, para 1.

Access to recovery and reintegration

The national laws do not provide for any **specific programmes for support and reintegration** for child victims of OCSEA.

The Anti-Pornography Act contains general provisions in relation to **recovery** and reintegration of victims of pornography. According to the Anti-Pornography Act, one of the functions of the Pornography Control Committee is “to promote the **rehabilitation** of individuals, groups, families or communities affected by pornography”.¹¹⁶ Further, the Act enables the Minister responsible for ethics to make regulations for providing rehabilitation to persons affected by pornography.¹¹⁷ This provision is non-mandatory and leaves it to the discretion of the Minister to make the regulations.

Additionally, the Children Act affords all children protection from all forms of violence including sexual abuse and exploitation.¹¹⁸ The Children Act imposes certain duties on designated child protection organisations.^{119,120} Once a designated child protection organisation receives a report about a child abuse case, it has the duty to ensure that the safety and well-being of the child and conduct an inquiry about the report.

Once the investigation is complete, it is the duty of the designated child protection organisation to take measures to assist the child, or refer the child to protective services including mediation, counselling, prevention and early intervention, etc.¹²¹ Further, the designated child protection organisation has the duty to report the matter further to the probation and social welfare officer.¹²²

Furthermore, the Children Act enables the Minister responsible for children’s welfare, to make a comprehensive national strategy for prevention and early intervention programmes.¹²³ These programmes must focus on, among other things, “providing psycho-social, rehabilitation and therapeutic programmes for children”.¹²⁴

Moreover, the Victims’ Rights and Empowerment Guidelines entitles every victim the right to health and social support services, stating that a victim should be provided information about health and social

¹¹⁶ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 7(1)(e).

¹¹⁷ Republic of Uganda. (2014). [The Anti-Pornography Act No. 20 of 2014](#), Section 27(1)(b).

¹¹⁸ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 42A.

¹¹⁹ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 42A(9): For the purpose of this section, the designated child protection organisation includes Local Council, medical practitioner, probation and social worker.

¹²⁰ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 42A(4).

¹²¹ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 42A(7)(a).

¹²² Republic of Uganda. (2016). Republic of Uganda. (2014). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 42A(5).

¹²³ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 42B(1).

¹²⁴ Republic of Uganda. (2016). [The Children Act \[as amended by the Children \(Amendment\) Act No. 17 of 2016\]](#), Section 42B(2)(e).

support services which may be available to alleviate the consequences of injury suffered as a result of an offence.¹²⁵ As explained in the preceding section, these guidelines apply also to **non-national victims** of OCSEA offences.

The abovementioned provisions are applicable to **boys and girls**.

Access to compensation

The Constitution of Uganda guarantees “any person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a competent court for redress which may include **compensation**”.¹²⁶ In addition, the Constitution states that compensation should be awarded to victims of wrongs in criminal cases.¹²⁷

The child victims of OCSEA offences can seek compensation from convicted offenders under the Computer Misuse Act in the judgment of **criminal proceedings**. According to this Act, in addition to punishment, a court can order an offender to pay **compensation** to the victim.¹²⁸ The amount of compensation would be fixed by the court, taking into consideration the loss suffered by the victim.¹²⁹ Such order shall be a decree under the provisions of the Civil Procedure Act.¹³⁰ Therefore, child victims do not have to **pursue an independent civil suit** to seek compensation and can be awarded compensation in the judgment of criminal proceedings. The handbook advises public prosecutors “to take note of the various sections of the relevant laws related to possibility of compensations for the victim and guide the court accordingly”.¹³¹

Additionally, the Trial on Indictments Act empowers the High Court to order an offender to pay a fair and reasonable compensation to the victim to whom he or she has caused any material loss or personal injury as a result of the offence committed.¹³²

Besides, the Victims’ Rights and Empowerment Guidelines prescribes that a victim should be provided with information on how to obtain compensation or restitution.¹³³ The compensation can be sought for medical costs, any economic loss, personal injury, etc.¹³⁴ Under these guidelines, a victim can be any person, natural, unnatural or otherwise who suffers any damage, loss or injury resulting from an offence.¹³⁵ It is unclear if the use of the expression “any person” means that the guidelines would apply

¹²⁵ Office of the Director of Public Prosecution Uganda. (2019). [Victims’ Rights and Empowerment Guidelines \(2019\)](#), Guideline 5.1, para 4.

¹²⁶ Republic of Uganda. (1995). [The Constitution of the Republic of Uganda](#), Article 50.

¹²⁷ Republic of Uganda. (1995). [The Constitution of the Republic of Uganda](#), Article 126 (2)(c).

¹²⁸ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 27.

¹²⁹ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 27.

¹³⁰ Republic of Uganda. (2011). [The Computer Misuse Act No. 2 of 2011](#), Section 27.

¹³¹ The National Information Technology Authority Uganda. (n.d.). [Child Online Protection Handbook](#), P. 11.

¹³² Republic of Uganda. (1971). [The Trial on Indictments Act](#), Section 126.

¹³³ Office of the Director of Public Prosecution Uganda. (2019). [Victims’ Rights and Empowerment Guidelines \(2019\)](#), Guideline 5.2.2, para 4.

¹³⁴ Office of the Director of Public Prosecution Uganda. (2019). [Victims’ Rights and Empowerment Guidelines \(2019\)](#), Guideline 5.2.2, para 4.

¹³⁵ Office of the Director of Public Prosecution Uganda. (2019). [Victims’ Rights and Empowerment Guidelines \(2019\)](#), Guideline 2.2.

to both national and **non-national victims** of OCSEA offences.

Finally, the Penal Code, as amended in 2007, entitles victims of sexual defilement to receive compensation from the offender.¹³⁶ Although this does not cover OCSEA explicitly, some cases of OCSEA end up in court as sexual violence cases.¹³⁷ Hence, the child victims in such cases might be able to seek compensation under this provision. Currently, there are no provisions in any law in Uganda that provide for **country-managed funds** through which child victims of OCSEA can seek compensation.

¹³⁶ Republic of Uganda. (1950). [The Penal Code Act 1950 \[as amended by the Penal Code \(Amendment\) Act No. 8 of 2007\]](#), Section 129B.

¹³⁷ Information received via personal communication.