



**SOS CHILDREN'S
VILLAGES
UGANDA**

Postal Address: Plot 53 Ntinda II Road, Naguru
P.O. Box 27510 Kampala, Uganda
Tel: +256 755 302114
Email: nationaloffice@sosuganda.org
Twitter: @UgandaSOS
Facebook: <https://www.facebook.com/UgandaSOS/>
YouTube: <https://youtube.com/channel/UC6b0J4tKbc-mSrt3P4cLPj>
Website: www.sos-childrensvillagesuganda.org

UNIVERSAL PERIODIC REVIEW OF UGANDA

Individual Submission by SOS Children's Villages Uganda

40th Session of the UPR Working Group

July 2021

1.0 INTRODUCTION

1. This report is prepared and submitted by SOS Children's Villages Uganda. SOS CV Uganda was established in 1989 after a 5-year people's protracted guerilla war of the National Resistance Army (NRA) and at the peak of the HIV/AIDS pandemic in the country that left many children and young people without adequate parental care. It has been active in the field of care for the vulnerable and most at-risk children including children affected by civil wars in the Rwenzori region, Northern Uganda and the Luwero Triangle. Such care and protection of children without parental care is family-like care in nature aimed at ensuring that children grow up with love, care and security. Other programs include family strengthening, as a gatekeeping mechanism, with a view to prevent child-family separation, as well as improve socio-economic livelihoods of vulnerable families at community level. This report highlights key achievements in the field of alternative care for children that have lost parental care and, those at risk of losing parental care, after care arrangements for care leavers, inclusion of children with disabilities, children in street situations, the role of the social service work force, and advocacy issues for policy consideration by the Government of the Republic of Uganda. The report has been developed through a consultative approach and captures the views of the young people that have left residential care in Uganda.
2. This report is informed by the African Charter on the Rights and Welfare of the Child (ACRWC) (1990), the UN Convention on the Rights of the Child (UNCRC) (1989), the UN Guidelines for the Alternative Care of Children (2009), the Convention on the Rights of Persons with Disabilities (2006), and the 2019 UNGA Resolution on the Rights of the

Child¹.

1.1 Overview of social welfare policy development in the country

3. The Constitution of the Republic of Uganda (1995)² is the overriding national legal framework for ensuring that the rights of children and the general population are protected. The Children's Act, Cap 59 (amended, 2016) provides the overarching legal framework, articulating constitutional provisions on children and emphasising the rights, protection, duties and responsibilities as contained in the UNCRC and the ACRWC.
4. Uganda is a signatory to several key international and regional conventions and protocols that provide the framework for global care reform and has ratified some (Appendix A). In so doing, the Government of Uganda is under the obligation to promote family care and family-based alternative care. Although Uganda is not a party to the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption, measures to address gaps regarding the same in an effort to safeguard children against elicited practices like trafficking have been put in place. For example, before granting an inter-country adoption order, the Court has to put into consideration the report of the Alternative Care Panel as established under the National framework for Alternative Care for Children in Uganda³.
5. Uganda has a strong national legal and policy framework related to childcare and protection (Appendix B). The principal legislation governing the care and protection of children is the Children's Act⁴. Several policies, strategies and action plans have been developed over the last decade. However, the existing laws and policies are inadequately disseminated, implemented, and enforced. This gap is largely attributed to a lack of adequate human, financial resources and effective coordination mechanisms between different actors. Secondly, there is no guidance on preparation and support for children and young people leaving care.
6. On 22nd June 2020, the Cabinet approved a National Child Policy (NCP) with emphasis on childcare and protection as one of the four national priorities and underscores the need to strengthen and support families to care for children and ensure access to quality and disability-inclusive alternative family-based care options for children without parental care. The Draft National Framework for Alternative Care (NFAC), initially developed in 2012, is currently under review to address specific gaps identified during the participatory care reform assessment conducted in 2018 and to reflect changes in the legislation.

¹ The UN Resolution on the Rights of the Child adopted by the General Assembly on 18/12/1959 focuses on children without parental care and emphasizes the importance of children growing up in a family environment, the rights of children with disabilities with respect to family life, prohibits unnecessary separation of children from their families and the unlawful or arbitrary deprivation of liberty of children, thereby encouraging efforts to reunify families where it is in the best interest of the child. Children should not be separated from their families solely due to poverty or lack of access to resources.

² Article 2 (1) provides "This Constitution is the supreme law of Uganda and shall have binding force on all other authorities and persons throughout Uganda." (2) If any other law or any custom is inconsistent with any of the provisions of this Constitution, the Constitution shall prevail, and that other law or custom shall, to the extent of the inconsistency, be void.

³ <https://judiciary.go.ug/files/downloads/PJ%20Circular%20on%20Handling%20of%20Adoption%20Application.pdf>

⁴ Cap. 59 Laws of Uganda (as amended in 2016).

7. It should be noted that, several guidelines and practice standards have been developed or are currently under development to support and enhance the provision of care for children without parental care (Appendix C). Most of these standards and guidelines are specific to different forms of alternative care, such as residential care. However, the implementation of existing guidelines and standards is inconsistent and enforcement mechanisms are generally weak.

1.2 Structural and functional capacity

8. The Ministry of Gender, Labour and Social Development (MGLSD) is mandated to coordinate and oversee care reform and alternative care for children in the country with the Department of Youth and Children's Affairs (DYCA) under the Directorate of Social Protection taking lead. Due to the decentralized system, the ministry has an oversight function though relatively limited, with its main responsibility being policy formulation, establishing minimum standards of service, technical backstopping, coordination and monitoring of childcare and protection services at sub national level.
9. Although the National Alternative Care Implementation Unit (ACIU) was established in 2014-15 within the Directorate of Youth and Children's Affairs to lead and coordinate the childcare reform process, the capacity of the Unit to fulfil its mandate continues to be hampered by limited human, material and financial resources. For example, the Unit currently has two staff and no fixed budget to undertake its activities. It mainly relies on external alternative care implementing partners, such as SOS Children's Villages, Child Fund, Child's i Foundation, UNICEF and other NGOs to implement different alternative care programs in the country.
10. The National Children Authority (NCA) was established by the Children (Amendment) Act 2016 No.9 "to provide a structure and mechanism, to guarantee proper oversight coordination, monitoring and evaluation of all policies and child rights based programs relating to the survival, development, protection and participation of the child and for other connected matters. However, the National Children's Authority (NCA) is underfunded and thus rendered nonfunctional and therefore unable to provide multi-sectoral oversight to ensure effective delivery of childcare and protection services. Additionally, human resources and logistical challenges continue to constrain the ability of key institutions, both at the national and district level, to execute their statutory responsibilities.

1.3 Children outside of protective family care or at-risk of losing parental care

11. Over 56 per cent of the country's population is below the age of 18 and approximately half (48.7 per cent) is younger than 15 years⁵. Many children in Uganda live outside of protective family care or in situations in which the ability of the family to remain together is at risk.
12. **Child poverty.** Poverty is widely recognized as a major driver of family and child vulnerability to a variety of risks and threats, including family-child separation. Based on the country's national monetary poverty line, slightly less than a quarter (23%) of Ugandan children are identified as 'poor' or living in households that are below the

⁵ Uganda Bureau of Statistics and ICF International Inc. (2017), the Uganda Demographic and Health Survey 2017, Kampala Uganda.

poverty line⁶. More than half (56%) of Uganda's children experience multiple deprivations of essential needs and services⁷.

13. **Orphan-hood.** According to Ministry of Health⁸, nine per cent of the children have lost one or both parents. The rate of orphan-hood is more than eight times higher among children aged 15-17 compared to those aged 0-4 years, and significantly comparably higher in the Acholi-sub-region (13 per cent) than in the rest of the country. Although Ugandan communities have had strong extended family relations where upon the death of parents relatives take on the responsibility to care for the children, there has been a dramatic shift in social behavior brought about by rural-urban lifestyle and economic hardships.
- **Children in residential care.** Estimates also indicate that between 40,000 to 50,000 children in Uganda live in residential care (also known as children's homes). More than 64.4 per cent of children living in children's homes have one or both parents living, and most children have a family network that could care for them, given the right support⁹. The most prevalent reasons that induce the placement of children in residential care, include but not limited to material poverty, abandonment, violence, abuse and neglect in the household, parental illness or death, and other social factors that affect family functioning (e.g. domestic violence/family conflict, marriage breakdown, remarriage).
 - **Children living and, or working on the streets.** It is estimated that 10,000 children are living and working on the streets in Uganda; although this figure is widely contested¹⁰.
 - **Children with disabilities (CWDs).** Seven per cent of children aged 5 to 17 years and four per cent of children aged 2 to 4 years have at least one form of disability¹¹. CWDs are at risk of being placed in institutional care either because of culturally determined stigma and shame related to disabilities or because it is too difficult or expensive to take proper care of the child without adequate support.
 - **Unaccompanied and separated children (UASC).** Family separations in the context of forced displacement during humanitarian emergencies also remains an issue in Uganda. Based on data from the UNHCR¹², at least 41,000 children were registered as unaccompanied and separated from their families as of June 2020.

1.4 Continuum of care, prevention and response

- **Family care and family-based alternative care.** Although the Government and partners have implemented some programs related to the delivery of services for children and families, targeted interventions to strengthen families and promote family care are weak and under-resourced. For example, investment in programs and services that prevent children from being separated from families as well as effective reintegration programs for children who are separated from families remain low. In addition, childcare and protection concerns are rarely considered as a distinct component for the design, implementation and evaluation of national social protection mechanisms, such as the Social Assistance Grants for Empowerment (SAGE). Further, investment in high-quality

⁶ Ministry of Gender, Labour and Social Development (2019). Situation Analysis of Children in Uganda, 2019 (MGLSD & UNICEF); retrieved from <https://www.inicef.org/uganda/reports/situation-analysis-uganda-2019>

⁷ Ministry of Gender, Labour and Social Development and UNICEF (2019).

⁸ National Child Policy (2020)

⁹ Walakira E.J, Ddumba Nyanzi I., Bukenya B. (2015). Childcare Institutions in Uganda and the Situation of Children in Care: A Baseline Survey Report for the Strong Beginnings Project, Kampala, Uganda: Terre des Hommes Netherlands.

¹⁰ Retrak (2018). Enumeration of Children on the Streets in Four Locations in Uganda.

¹¹ Uganda Bureau of Statistics (UBOS) and UNICEF (2018). Uganda Functional Difficulties Survey: Indicators Report, Kampala: Retrieved from:

https://www.ubos.org/wpcontent/uploads/publications/07_2019Ugand_Difficulties_Survey_2017.pdf

¹² (2020)

family-based alternative care options for children without parental care tends to be sporadic rather than systemic. Less attention has also been given to how the best interests of children in informal care might be safeguarded.

- Regulation, inspection and oversight of alternative care provision is seriously deficient. One of the core components of an effective care system is strong gatekeeping. However, apart from a few promising practices, the development and implementation of gatekeeping mechanisms remain a challenge. In Uganda, gatekeeping mechanisms are non-existent / minimal– an issue the care reform needs to address if it is to achieve long-term success. The government needs to prioritize family reintegration and gatekeeping reforms. For example, inspections of children’s homes are not regularly conducted as required and stipulated¹³.
- In 2016, the Children Act was amended to address specific legal loopholes in the adoption legislation and institute stricter procedures for Inter-Country Adoption¹⁴. However, unethical practices, such as coercion or manipulation of birth parents, falsification of documents and bribery still persist. Most recently, the United States of America (USA) imposed financial sanctions and visa restrictions on two Ugandan judges and two lawyers over their part in fraudulent international adoptions involving more than 30 children.¹⁵ It is for this reason that, the Judiciary came up with measures to address the flaws through Administrative Circular No. 2 of 2020¹⁶.

1.5 Evidence and Data in relation to alternative care

The Government of the Republic of Uganda does not have an integrated child protection management information system with information on alternative care. The information available is flimsy and originates from multiple sources. To this end, therefore, there is no reliable and consolidated information on the number and profile of children in informal care, especially traditional kinship.

1.8 Deinstitutionalization and re-integration

Deinstitutionalization alone is not an adequate goal, especially when it is ‘number- driven’, and runs the risk of putting children at further risk and perpetuating the cycle of returns to residential care. Hence, effective reintegration of children remains a challenge across the country. In this respect it is important to distinguish between reunification and reintegration – the latter being a process that requires an extended period of both preparation and follow-up for each child and family members. In a survey conducted in 2020¹⁷, the youth emphasized that they were too isolated growing up in the child care institutions. As a consequence they often lack basic skills, affiliation and network which makes it challenging to integrate in to the local community. The youth often experience discrimination and prejudices concerning their background.

While there is some progress made in better preparing and supporting care leavers, this group of children and young people still remains underserved. Programming should address the needs of older children aging out of the residential care. These include: life- and educational opportunities; establishing family or community ties.

¹³ The approved (Homes) Rules, 2013

¹⁴ The amendment provides for a mandatory year in-country period of fostering to make it hard for foreigners to rapidly adopt Ugandan children. It makes intercountry adoption as the last resort, restricts guardianship to Ugandan citizens and mandates courts of judicature to cancel adoption orders obtained through fraud or misrepresentation. (sections 44,45,and 46 of the Children Act, Cap.59)

¹⁵<https://www.theguardian.com/global-development/2020/aug/18/uganda-to-us-adoption-scam-judges-and-lawyers-sanctioned>

¹⁶

<https://judiciary.go.ug/files/downloads/PJ%20Circular%20on%20Handling%20of%20Adoption%20Application.pdf>

¹⁷ SOS Eastern & Southern Africa Federation (ESAF), Preparing for Leaving Care: Scoping findings (2020)

One of the core components of an effective care system is strong gatekeeping. However, apart from a few promising practices, the development and implementation of gatekeeping mechanisms remain a challenge. In Uganda, gatekeeping mechanisms are non-existent/ minimal– an issue the care reform needs to address if it is to achieve long-term success. The government (SOS) needs to prioritize family reintegration and gatekeeping reforms.

1.9 Children and COVID-19

Since the outbreak of the pandemic, the Government of Uganda has imposed certain restrictions including a ban on transport thereby forcing market vendors to spend days and nights in markets leaving the care of children to maids thereby exposing children to violence and abuse. Due to increased prices of essential commodities, many are having one meal a day which sometimes lack the necessary nutrients for children to grow well. These coupled with anxiety, stigma and discrimination increase children’s vulnerability to abuse, exploitation and psychological distress.

1.10 RECOMMENDATIONS

We recommend the Government of Uganda to:

- 1) Ratify the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption (1993).
- 2) Undertake a situational analysis on alternative care to establish the number of children in alternative care, the reasons for their placement, and profile them to guide policy decisions and programming..
- 3) Conduct regular monitoring, inspection and follow up of children in alternative care and those leaving care.
- 4) Put in place national Gatekeeping Guidelines.
- 5) Build resilience to guarantee successful and positive transition for care leavers by providing quality psychosocial services that can improve their mental health, and providing tools for managing psychological vulnerability.
- 6) Recognize family like care in the National Framework for Alternative Care as provided for in the National Child Policy 2020.
- 7) Support emergency response and management of COVID-19 through risk communication and community engagement, mental health and psychosocial support to children and young people.