



AfriChild
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**TYING LOOSE ENDS AND PROMOTING EXCHANGE OF
INFORMATION BETWEEN THE NATIONAL STRATEGIC
PROGRAM PLAN OF INTERVENTIONS FOR ORPHANS AND
OTHER VULNERABLE CHILDREN;
AND THE CHILD JUSTICE SYSTEM IN UGANDA**

A DESK-BASED ANALYSIS

FINAL REPORT

APRIL, 2015

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Abbreviations

MoGLSD	Ministry of Gender, Labour and Social Development
JLOS	Justice, Law and Order Sector
OVC	Orphans and Vulnerable Children
PSWO	Probation and Social Welfare Officers
CoR	Continuum of Response
CSO	Civil Society Organisation
MIS	Management Information System
HES	Household Economic Strengthening
CDO	Community Development Officer
CORE	Community Responses to HIV/AIDS
CPAs	Core Program Areas
CIS	Community Information System
EMIS	Education Management Information System
DOVCC	District OVC Committee
FBO	Faith Based Organisation
HMIS	Health Management Information System
LQAS	Lot Quality Assurance Sampling
MGLSD	Ministry of Gender, Labour and Social Development
MOVCC	Municipal OVC Committee
M&E	Monitoring and Evaluation
NGO	Non-Government Organisation
NOP	National OVC Policy
NOSC	National OVC Steering Committee
NSPPI	National Strategic Program Plan of Intervention for OVC
OVC	Orphans and Vulnerable Children
OVCNIS	OVC Management Information System
PEPFAR	Presidential Emergency Plan for AIDS Relief
PSWO	Probation and Social Welfare Officer
SDS	Strengthening Decentralised Systems
SOVCC	Sub County OVC Committee
SUNRISE	Strengthening Uganda's Response for Implementation of Service for OVC
TSO	Technical Service Organisation
UBOS	Uganda Bureau of Statistics
UDHS	Uganda Demographic and Health Survey
UNHS	Uganda National Household Survey

Executive Summary

“We have realized that the users of the justice system are served less at a higher cost when the system is fragmented than when we put our heads together and work towards the same goal. Thanks to the government of the day that seeks to bring services nearer to the people, today the users of our judicial system are walking shorter distances in search of that rare commodity called justice. A lot remains to be done to perfect this model. However, drawing from our experience in Acholi land, Kyenjojo and Fort Portal where we have been so far, I can say that the foundation is firm and the future of our children bright.” The Honorable Principle Judge Y.Bamwine at the launch of the National Justice for Children Program in Mbale in 2012

Background

A legal system utilizing a vulnerable child lens in its programming **prevents** occurrence of abuse; **empowers** children, caregivers, households and communities to better protect children; and also **provides child-friendly responses upon evidence of violence, abuse and neglect of children**¹. When this is done, the law becomes a critical tool and lever in the promotion of child wellbeing² - in a complementary fashion with other child care needs.

Legal protections for children constitute a crucial fraction of basic services vital to child wellbeing³. Legal protections legislate for equitable access to essential services⁴ necessary for full child well-being, survival and development; eliminate barriers to access; provide a protective environment and enforce measures to restore full access to services for children who face limitations in access. In the prism of child wellbeing therefore legal protection is neither a stand- alone nor an end in itself; but an integral part of essential services for child well- being.

Providing the full complement of services to a child has its root in the unassailable rights of children to grow up in a safe and nurturing environment⁵. Within this premise, it is of vital importance that the design and responses of the legal protection systems are rooted in a full and holistic understanding of child wellbeing, the rights of the child, the roles of the community and related essential service providers; and the contribution of the legal system to the whole spectrum of child development.

The National OVC Policy and the subsequent Program of Interventions demonstrate a holistic and integrated approach to OVC programming. Translating policy intentions into practice is proving to be a challenge⁶. At the level of implementation, there exist implicit assumptions that the jig-saw puzzles will

¹ Your Lordship Y.Bamwine, Principle Judge High Court of Uganda 2014 in his speech to the Annual Justice for Children Review Conference in Kampala-Uganda June 2014.

² Jack Donnelly, 'Cultural Relativism and Universal Human Rights' (1984) 6 Human Rights Quarterly 400; See also Thomas Buergenthal, 'The Normative and Institutional Evolution of International Human Rights' (1997) 19 Human Rights Quarterly 703

³ US President's Emergency Relief for Aids Relief (July 2012) Guidelines for Orphans and Vulnerable Children Programming

⁴ Basic healthcare, Nutrition, Formal and non-formal education and training, Child Protection, Psychosocial services and Socioeconomic services

⁵ United Nations Convention on the Rights of the Child (UNCRC)

⁶ Ministry of Gender, Labour and Social Development (2010), Protecting Hope: Situational Analysis of Vulnerable Children in Uganda

finally and somehow end up fitting- which as we continue to see never do⁷. Implementation in silos goes against available evidence in OVC child programming of what works⁸; and misses the opportunity to deliver services to children in an integrated manner to ensure full realization of their right to development⁹.

The case for working towards more coordinated, more integrated policy, programming, capacity building and research for OVCs is not new. Early OVC Programmers have emphasized the importance of respecting children's holistic development for at least two centuries; and flagship programmes have been built up around service integration principles since the 1960s. There are many lessons to be learned. Introducing effective inter-sectoral integration can be a very positive step forward, but has also been noted to be very challenging to deliver in practice, especially in contexts with low resources and weak governance.

This desk review is a beginning in a series of work to fill gaps and improve connectivity in programming, implementation and accountability in legal protections and child well-being. As a springboard, this review utilizes the National Orphans and Vulnerable Response Program (OVC), a 5-year program targeted to holistically improve the national response towards Orphans and Other Vulnerable Children in Uganda.

The Review explores linkages with legal protections for children in the 5-year Justice, Law and Order Strategy 2012/13- 2016/17 as rolled out in the National Justice for Children Program¹⁰. Of particular emphasis is child-vulnerability profiling and assessment frameworks including potential for utilization in the justice system. In addition the Review examines the quality of operational data generated and the extent of interoperability and utilization between the two programmes. Follow up series of these reviews will move beyond programming and administrative interoperability to review of technical implementation particularly within the justice system.

The overall goal is to improve outcomes for children through improved evidence based programming.

The target audience for the recommendations of this review are technical programmers, policy makers, development partners, financiers, civil society, local governments and communities involved in the design, implementation and/or monitoring of programs targeting the vulnerable child. The timing for the study operations is opportune since a number of ongoing programs are slated for review¹¹; redesigns¹² or better still are in the preliminary stages¹³ of implementation.

⁷ ibid

⁸ Woodhead, Martin(2014) Early Childhood Development-Delivering inter-sectoral policies, programmes and services in low-resource settings. Topic Guide

⁹ Binagwaho A, Noguchi J., et al. (2008). *Community-Centered Integrated Services for Orphans and Vulnerable Children in Rwanda*, Joint Learning Initiative on Children and HIV/AIDS.

¹⁰ A program of the Justice, Law and Order Sector to enhance access to services, offer better protections to all children in contact with the law and prevent abuse and exploitation of children funded by UNICEF and implemented by the Centre for Justice Studies and Innovations (CJSI) from July 2011- November 2014.

¹¹ Government of Uganda Justice, Law and Order Sector (JLOS) 2012/13-2016/17 Strategic Investment Plan III.

¹² Ministry of Gender, Labour and Social Development National Strategic Programme Plan of Interventions for Orphans and Other Vulnerable Children 2011/12-2015/16

¹³ USAID Uganda Better Outcomes for Children and Youth in Eastern and Northern Uganda (2014) Request for Applications

Methodology

The Review made use of multiple sector policy and operational documents - a comprehensive list of literature reviews is attached as Annex 1. National laws and regulations related to children, off-country literature particularly regarding Orphans and Vulnerable Persons' Programming developed by UN agencies, multi-lateral agencies, and civil society among others were very useful to this Review. In addition, the Review made use of technical level data from both the National Strategic Programme Plan of Interventions for Orphans and Vulnerable Children and the National Justice for Children Program of the Justice, Law and Order Sector. Key Informant Interviews conducted with the technical implementers of both programs at the national level were useful to provide further clarity to the Review findings- a list of Key informants consulted is attached as Annex 2. In addition the workshop findings were presented to a group of child protection experts for validation on the 8th day of April 2015 at Grand Imperial Hotel Kampala- Uganda. The experts included representatives of Government of Uganda; Ministry of Gender Labor and Social Development; Probation, Police, Prosecution, civil society and academicians. The full list of experts is attached as Annex 3.

Findings

Results indicate a **convergence of intention to support vulnerable children** at the policy level within the National Strategic Programme Plan of Interventions for Orphans and Other Vulnerable Children 2011/12 and the overall response by the Justice, Law and Order Sector. The National OVC policy provides an integrated vision of OVC priorities. Evidence of this convergence is also available in policy and strategy documents reviewed including the Social Development Sector Strategy; the National Strategic Programme Plan of Interventions for Orphans and Other Vulnerable Children 2011/12-2015/16; the 3rd Justice, Law and Order Strategic Investment Plan 2012/13- 2016/17; the Judiciary Strategic Investment Plan; the Directorate of Public Prosecutions Strategic Plan 2012/13- 2016/17; the Ministry of Justice and Constitutional Affairs Strategic Plan 2012/13-2016/17; and the draft Uganda Policing Strategy 2012/13-2016/17.

A commitment to improve access to **services and protection to ALL children** and particularly the vulnerable groups informs the strategy documents in the Justice, Law and Order Sector. On the other hand the Social Development strategy too clearly defines its intentions towards Orphans and Vulnerable Children (OVCs) - its goal is to improve the wellbeing of OVCs.

Similarly in both Sectors and Programs there **exists a convergence in the overarching intention to work in an integrated, collaborative and cooperative manner to improve outcomes for children**. Increasingly policy and strategy documents recognize that the sector domains are interconnected and synergistic in terms of their impact on the different categories of people served.

The OVC Strategy Plan bears "an integral management and implementation framework under the leadership of the MoGLSD¹⁴." Its package of services is multi-sectoral and comprehensive (including the legal protections- a contribution of the Justice, Law and Order Sector); focused on decentralized level implementation; district level capacity development and driven by bottom-up data collection to inform national level OVC policy and Programming¹⁵.

¹⁴ Pg. xiii National OVC Strategy ibid.

¹⁵ See Ministry of Gender, Labour and Social Development, National Strategic Programme Plan of Interventions for Orphans and Other Vulnerable Children 2011/12-2015/16

The Justice, Law and Order Sector Strategy defined its five year thrust as “to enhance performance of its institutions to deliver three results: a) a strong policy, legal and regulatory framework for its operations, national economic growth, employment and prosperity; b) improved access to JLOS services for all particularly the vulnerable; and, c) enhanced human rights observance and institutional accountability in service delivery¹⁶.”) The stated intention is to deliver the above through among other strategies cross-sectoral partnerships focused on knowledge sharing and practice enhancement¹⁷. Among its stated shifts in SIP III, JLOS commits to focus resources at the points of service delivery – the sub-national implementation level and also to work with both demand¹⁸ and supply sides of justice¹⁹.

Findings also indicate a number of elements of divergence at operational level that stand to benefit from improved synergy.

i. Who is a vulnerable child in the legal system and what are his/her needs?

A child is expressly defined by law²⁰. A vulnerable child is not even though the law provides protections in instances of lack of provision of essential services²¹. The legal system also provides for due process rights for minors, child victims, witnesses, children in need of care and protection using a sliding scale that recognizes the evolving capacity of children. The absence of a standard measureable and easy to use definition of vulnerable children translates into inadequate targeting of Orphans and Vulnerable Children in the legal system. Consequently this complicates monitoring outcomes for this category as well. Lacking this information also makes it difficult for the legal system to identify, at the earliest possible stage, those most vulnerable children, who may be in need of protection and how the different institutions can best work together to ensure a consistent approach to service provision.

The National OVC policy defines vulnerability and the National OVC Programme of Interventions provides a systematic framework²² for identification, delivery of services and assessment of outcomes spanning health, education, social protection, economic strengthening among others.

In its development of the National Justice for Children Strategy, the legal system will benefit from an advanced process of definition of the markers of child vulnerability in the NSPP-2. Similarly the ongoing efforts by JLOS institutions to develop service standards and Client Compacts are entry points for a discussion of child vulnerability and service needs²³.

ii. Inadequacy of Information related to children and their care givers:

Legal provisions require legal practitioners to obtain information related to children to inform their decisions. The aim is to promote greater sensitivity to the needs and circumstances of the child, the caregivers and the community from which the child springs. This information is provided on an

¹⁶ Pg. 2 JLOS SIP III ibid.

¹⁷ Pg. 42 JLOS SIP III ibid.

¹⁸ This includes private sector, NGOs, FBOs, users and local communities

¹⁹ Pg. xi JLOS SIP III ibid.

²⁰ Article of the Constitution 1995

²¹ Cap 59 children Act

²² UNICEF and the MGLSD conducted a multivariate analysis of Uganda 2002²² census data to identify the number of OVC represented by each of the vulnerability factors identified in the NSPPI-2 and developed easy to use evidence based criteria of three indicators/factors. These factors are orphans, out of school children and children with disabilities. Based on the statistical analysis, this set of three categories of OVC represents 92.9% of OVC which is a wider coverage.

²³ JLOS Annual Performance Report 2013/14

individual child case by case basis. There is no recognized repository of community information for utilization by the legal system. The ability of the legal system to arrive at appropriate outcomes is limited by the inadequacy of information about the child and caregivers available.

Under the NSPP-2 Districts routinely generate registers of OVCs aggregated from individual children, households, sub-counties and district level data. In selected districts like Gomba and Butambala²⁴ the NSPP-2 has developed and tested community based management information systems that allow OVC data to be aggregated up to the national level as well as flow back down to the community. In the rest of the country, the OVC registers categorize OVCs according to sub counties and districts. The identification of OVCs involves community members, Local Councils, Village Health Team members, Child Protection committees among others. Each registered OVC is allocated an identification number and this number enables tracking of how many children are served and the nature of services. OVC registers are routinely updated and are as such a credible source of information for the legal system for preventive care as well as response services.

It is possible for the legal system to use this data for planning and to measure improvements in service delivery. The efforts undertaken under OVC and the data available in the OVC MIS would be a useful start as well as to the discussion towards prevention, risk minimization strategies and responses—all areas in which legal programming for OVCs is presently inadequate. Similarly the frameworks in use in the Sector including the Justice, Law and Order Sector Strategic Investment Plan, the Monitoring and Evaluation framework that would be served with a more deliberate and nuanced focus to the needs of OVCs²⁵.

iii. **Referrals to essential services appropriate to the wellbeing of the child**

Whereas the law provides for the formal justice system as a last resort for management of disputes involving children, lack of information related to available essential services for children by the legal system is one of the contributing factors curtailing its use in practice. Making available this information too expands the **range of referral, treatment and sentencing options**. The NSPP-2 maps and maintains a register of services and service providers at sub-county and district levels. The Service Provider register is also available in the OVC MIS. The Gomba service provider data reveals a total of 97 primary schools; 89 government and 8 private; 10 secondary schools- 6 Government and 4 private; 1 Government vocational institution and 1 Government Tertiary Institution; 6 Health Centre IIIs and 12 Health Centre IIs.

When made available to the legal system, the above data provides a sound basis for legal sector programming in the location of legal information services; primary legal aid, location of family and children services, diversion of children from the legal system; access to essential services and as an aide to decision making.

iv. **Follow up of children post -Justice System**

²⁴ A vulnerability mapping and profiling exercise in Gomba of 25 out of 37 parishes and 155 out of 277 villages identified 4,775 OVC, males and 2,329 (48.8%) households. This represented an average of 2.6 OVC per household and represented 7% of the total number of children. Orphans were 4,016 (84.1%), Children with disabilities were 185 (3.9%) and 333 (8.1%) of children between 6-17 were out of school. The biggest number of OVC belonged to the category of 6-14 years.

²⁵ Particularly advanced under the UNICEF funded, JLOS owned and CJSI implemented National Justice for Children Program 2011-2014 see www.jlos.go.ug

Children spring from communities to go to the justice system. Communities are also where children return after support by the legal system. Post-system follow up receives least to/no funding in the legal system²⁶. The NSPP-2 Program makes provision for a Service Delivery Register. All OVCs who access a service are recorded into a service delivery register. This categorizes those children or households that have received services within the package, the support received the outcomes and impact to the child and the caregivers. *This provides a mechanism for follow up of children drawing together all resources available in the community to track the impact of the services on the child and its family.*

v. Access to/ Integration of data bases:

Sharing information across the seven components in the NSPP-2 and particularly between the NSPP-2 and the legal system is an important step in integrated interventions. Creation of data bases across the seven service components that generate easily sharable information with common indicators and assessment methodologies is envisaged under NSPP-2. In practice the NSPP-2 OVC MIS and the JLOS MIS have limited connections.... individual and aggregated child related information regarding services to children for instance care orders, adoption, referrals to essential services are not linked to the OVC MIS and vice versa. *Pursuing a change in practice culture is required here for the JLOS MIS practitioners to see child wellbeing in the widest sense and to seize every opportunity to establish partnerships that will indicate progress in child wellbeing in the widest sense.* On the flipside, providing integrated information allows for debate regarding the management, strategic planning and delivery of proactive, needs – driven, targeted and preventive child protection services in the legal system by recognizing the variety of opportunities to maximize well-being opportunities for children by the legal system and in partnership with other essential service providers. *Lastly dissemination and utilization of integrated information on child wellbeing means being well informed on the contribution and impact of a legal care order on a child, understanding better the potential for success of various legal protections for children and increasingly making more evidence-based choices to improve opportunities for vulnerable children.*

vi. Programming for OVCs- from a child lens and promoting child participation:

Deliberate programming efforts to place the child at the centre of programming and service delivery in the legal sector are possible; and are urgently required. Presently responses to children’s needs are designed more from a system/institutional perspective than from a child prism. The adopted approach seems to ask this question: “...what needs to be **done** in Police, Prosecution and Judiciary etc. to deliver services to children?”- Yet the flipside question would be more relevant. That is: “...What is it that all children, and particularly the vulnerable, require from the legal system in order to attain full legal protection and subsequent realization of their right to full development?”

Mapping of needs from this perspective will open opportunities for one stop service-provision for children at the lowest level of service delivery for instance where birth and death registration, civil identity registration, legal information, legal aid, preventive orders etc. are availed as a basic package of legal protection for all children- and particularly for vulnerable children.

This discussion should be as participatory as possible stretching beyond the legal sector *to include children voices*, communities as well as related essential service providers for economic strengthening; education, nutrition, health among others. Once children vulnerability is profiled in the legal system,

²⁶ data generated by the National Justice for Children Program 2011-2014

immediate efforts should focus on developing a basic package of legal protections. At the district level, OVC needs are reflected in two parallel documents- the DCC and Institutional work-plans for the legal system and on the other hand the OVC district plans. A key limitation registered in J4C lower level planning is unavailability and inadequacy of information²⁷. Providing community information regarding vulnerability, service providers and essential services available to all children including OVCs will provide a sound basis for legal system planning.

vii. **Linkages within and Across:**

Programming for and delivery of legal services in the OVC strategy requires to take into account the linkages and connectivity between and across the justice chain; the key stakeholders and operational sub-national levels of service delivery. For services to flow between the legal system, local government and communities, deliberate and strategic action is necessary to develop the linkages. The design of all related programs should recognize that effective linkages cannot come automatically or through statement of intentions but through a combination of strategic actions.

Whereas both strategic intentions point to strengthening capacities of the front-line service providers; for the OVC this refers to decentralized local government actors- while the Justice System refers to the lower courts (both formal and informal) from a Local Council Court 1-3 to the entire JLOS services at district²⁸ and/or region²⁹ levels. There is a case for identifying the critical areas for linkage, as well as, strengthen the capacity intersection actors and structures³⁰ – the bridges between the three sectors to ensure a seamless flow of services for children between communities; local government and the justice system.

Recommendation and Conclusions:

All the above challenges call for a shift in the way the two programmes work – to put children at the Centre requires more coordination and exchange of information. There is need for deliberate efforts to have the JLOS sector more involved in OVC Programming is key. NSPP 2 – a proactive approach to increase understanding of roles, responsibilities and opportunities available for the legal system will be important. Joint work to improve communication and information sharing practices; further clarity and continuous debates regarding the entire philosophy of child well-being and the contribution of the legal system; focus and role boundaries; definitions of vulnerability and risk assessment methods etc.

For the policy community this Review advances a number of possibilities:

1. The National OVC Policy and the strategy embedded in NSPP-2 with its foundation in integrated services to individual OVCs, caregivers and communities are a positive development in the direction and development of child care policy and practice in Uganda. The underpinning philosophy that OVC's welfare and well-being can be safeguarded through needs-led early

²⁷ CJSI-J4C District Level Planning Review Report 2012

²⁸ These are headed by a Chief Magistrate who supervises a number of Magistrates Grade 1 and II along with administrative staff.

²⁹ The JLOS Region draws together all legal and law enforcement institutions delivering services within a Region-commensurate to the High Court Circuit. The JLOS region is headed by the most senior Resident Judge in the region.

³⁰ At the District level legal services are coordinated through and by the District Chain Linked Committee; OVC services are coordinated by a District OVC Coordination Committees; while Local Government activities are coordinated through the District Planning and Budgeting Conferences, District Technical Committees.

intervention, collaborative practice and integrated service provision to children, families and communities is in line with current best practice³¹.

This vision to provide a comprehensive multi sectoral package of critical services to meet the needs of children ought to be aggressively ***pursued at the political, policy and technical levels and increasingly moved from an intention into action.*** Describing the success of a similar initiative in Rwanda, a reviewer noted that “Rwandan policy makers were able to set the agenda with development partners, such as PEPFAR, Global Fund, World Bank, etc., given the fact that they had engaged local communities as well as orphans and vulnerable children to offer feedback on how OVC could be assisted. Policy makers developed the “minimum package” program in part based on this feedback and negotiated with development partners to fund this program, rather than allowing outside funders to set the agenda. sustained political will and leadership at the national level made all the difference.”³²

There is an urgent need for more involvement to ***unify and strengthen the political and policy voice from all relevant sectors to address the barrier of resources (including personnel and financial) to OVC Programs.*** With the multiplicity of national level, local governments, state and non-State actors involved, a collective targeted voice has potential to increase resources available for delivery of integrated services. This will enable progress from the Intention into action; and increase the scope of coverage as well.

2. Secondly it is important for policy leaders to *promote awareness and dissemination of the OVC policy and track their commitment to the NSPP-2 in the delivery of their respective Sector results.* Clear and well disseminated policy and practice guidelines have an important role to play in the promotion of effective practice.
3. Lastly there is need for policy leaders to *establish a practice of accounting for early access, accessible, enabling, needs-driven and integrated service to children and particularly OVCs.* This will drive a focus on the OVCs in programming, implementation and accountability at the lowest levels. Sectors without adequate awareness and capacity in OVC programming ought, in order to deliver on this policy commitment, to be assisted to draw from available evidence and to develop the requisite capacity for OVC programming.

For programmers:

- i. **Information relating to OVCs:** The practice of a social inquiry leading to the provision of the Social Inquiry Report relating to a child’s needs and circumstances must be strengthened and linked to a deliberate exchange of information between the community and the legal system.
- ii. **Vulnerability Assessment in OVC legal programming:** The legal system needs to assess and provide for the information needs of children particularly for the Orphans and Vulnerable Children- the particular information needs of OVC families and children ought to be identified and met. Identification and formation of local partnerships involving OVC care givers in the identification of fit persons; development of IEC materials and design of local justice programs so that they can respond effectively to the needs of OVCs and their families.

³¹ Ministry of Gender, Labour and Development National OVC Policy ibid

³² Binagwaho A, Noguchi J., et al. (2008). *Community-Centered Integrated Services for Orphans and Vulnerable Children in Rwanda*, Joint Learning Initiative on Children and HIV/AIDS

Profiling of OVCs and their families through the NSPP-2 is an opportunity to prevent and protect children from abuse and maximize their utilization of the legal system. It offers an opportunity for early identification and targeting of vulnerable families and children. A special comprehensive service package including extensive information, in-person visits; needs assessment services, legal services and referrals to other services, including to other essential services be developed and implemented. The legal system provision for fit persons needs to be met to offer in person visits to OVCs and their families in a complementary nature to the social welfare services. Use of ICT should be explored wherever possible where in person visiting services are not possible to make personal contact with OVCs and their families.

Recognizing that for OVCs and their families in contact with the law, legal solutions alone are often not enough; the legal system is well served by information available in NSPP-2 relating to the full range of services, eligibility requirements, nature of services and service providers available in the community. The legal system will strengthen this linkage to ensure that OVCs in contact with the law are referred appropriately. The legal system too ought to ensure integrated service delivery where related legal and non-legal services work together to minimize gaps and overlaps to provide coordinated services for OVCs and their families

- iii. **Accountability for Services to OVCs:** Lastly with an ultimate interest in utilizing the law to improve outcomes for children and their families, the legal system ought to avail and report on its services to children to the OVC MIS at all levels. This will allow for information sharing and feedback on outcomes across sectors, promote evidence based planning and decision making as well as offer an opportunity to gauge the impact of legal protections on child well-being.

For MIS Administrators;

- i. The unique legal needs of OVCs and their families in each district and at national level be a particular focus of attention for institutional and sector wide legal sector planning; for Regional and District Chain Linked Committee and for accountability to the local governments at sub-national level; and at the national level. Making use of the best available evidence and practices in OVC programming, and information available in the OVC MIS will improve legal system programming more so as it develops the National Justice for Children Strategy. At the operational level, ***the translation of national policies and strategies into Regional and District Plans needs to be a bottom up iterative process.*** Utilizing the child vulnerability information originating from the community, the register of available essential services and service providers – all latter products to a great extent available under the OVC program; and equipped with a basic legal services package, district-based legal service providers will plan to ensure access as well as fill the gaps in service delivery to children.

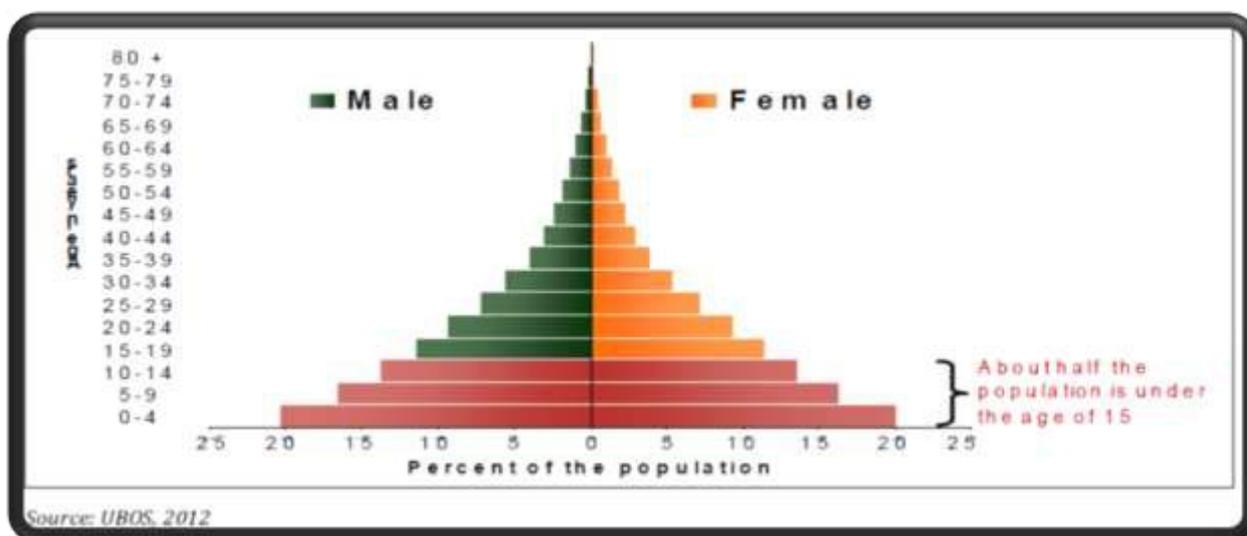
In the next phase of programming, ***linkages*** between NSPP-3 and the Legal sector to profile assess and respond to child and community vulnerability should ***be strengthened, documented and availed*** for application and replication at District level by district level actors. ***Integrating OVC programmatic advancements in the area of vulnerability profiling and ensuring easy access to vulnerability information to the legal system*** will ease this process for the legal system.

- ii. That the Sector and its institutions invest in accessible information in various formats and in ways that respond to the OVC needs and encourage OVC participation.
- iii. Strengthen the quality of information and information flow across all actors. Recognizing that vulnerable categories are not static and children routinely move from one category into another, efforts should be put into providing full information- a national/regional and district register for all children available in the community-the case of Gomba and Butambala districts being good case studies as a springboard for all interventions related to children. Efforts in this area will provide a common denominator for assessing the numbers of children accessing services more from a demand than a supply side.
- iv. Capacity development will thus be organized in response to gaps identified across the basic package delivery system and should be harmonized across government and non-government service providers. To reap this benefit the capacity development of actors and structures situated at the intersection of OVC, Local Governments and legal service provision will benefit from jointly programmed and implemented capability development.

1 Introduction

1.1 Introduction, Overview and Justification for the Study

Children constitute about 57.4 percent of Uganda’s total population of 30.7 million people³³.



96% of the child population belongs to one or more categories of vulnerability as defined by the National Orphans and Vulnerable Children policy³⁴.

³³ Uganda Bureau of Statistics 2009/10 Uganda National Household Survey.

³⁴ Ministry of Gender, Labour and Social Development 2010 OVC Situational Analysis Report.



1.2 Definition and Drivers of Child Vulnerability

Vulnerability is the condition of being at risk of suffering abuse or deprivation and is therefore in need of care and protection³⁵. A vulnerable child is therefore one who is suffering or is likely to suffer abuse or deprivation and is therefore in need of care and protection. Children are vulnerable to violence, sexual abuse, and early marriages. Vulnerabilities of children can also be viewed as the risks children face when they lack adequate protection mechanisms in the home, at school or community and how these can affect their physical and emotional development and wellbeing.³⁶ Vulnerable children therefore are children who are at significant risk of harm to their wellbeing now and into the future as a consequence of the environment in which they are being raised and, in some cases, due to their own complex needs. Environmental factors that influence child vulnerability include not having their basic emotional, physical, social, developmental and/or cultural needs met at home or in their wider community.³⁷

According to the National OVC Programme of Interventions, approximately 51 percent (8.1 million children) are either critically or moderately vulnerable, while 63 percent live with caregivers other than their biological parents. There are 10 categories of critically vulnerable children and these categories include inter alia street children, children in contact with the law, children with disabilities, children in armed conflict, children victims of violence, children infected and affected by HIV and AIDS. The category of moderately vulnerable children includes children out of school, child mothers, and children in hard to reach areas, and children living in impoverished households. Currently, at least one in every four households has an orphan and 3 million children live below the poverty line³⁸.

Multiple data sets point to poverty, conflict, HIV and AIDS and other diseases as well as culture, gender relations and negative social norms as the key drivers of child vulnerability³⁹. This is notwithstanding that the macro-data on poverty consistently shows a significant reduction in poverty (from 44 per cent

35 National Action Plan on the Elimination of the Worst Forms of Child Labor in Uganda, 2012/13 – 2016/17, http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf, accessed on 3rd October, 2014

36 Paola Perezniето & David Walker, Child Poverty and Deprivation in Uganda: Voices of Children, www.unicef.org/uganda, accessed on 3rd October 2014

37 Whitepaper on Vulnerable Children source: [http://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/policy-development/...](http://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/policy-development/)

³⁸ Ibid.

³⁹ Children on the Brink, UNICEF, 2004

in 1997 and 38 per cent in 2002 to 31 per cent in 2005, 24.5 in 2009/10 to 19.7 in 2012/13) including rural poverty⁴⁰.

1.3 Philosophical and normative foundations of vulnerability and Vulnerability Programming

Vulnerability programming has evolved over time from single issue approaches – or emergency response packages to more system oriented multi-disciplinary approaches where the needs of vulnerable children in education, health, nutrition, legal and social protection are met in an integrated package⁴¹. Vulnerability Programming has thus become a broad and complex field, covering multiple policy sectors, and diverse research traditions, but with the aspirations of constructing more inter-sectoral, and more integrated models of services delivery.

For this Review the team adopts and adapts the bio-ecological conceptual model as a starting point for a case towards integrated vulnerability programming. This is a systemic model that identifies multiple potential entry points and delivery platforms across sectors at two levels- the proximal entry points – in which children participate and the distal entry points- at the level of law and regulations; social protection programmes – especially those that alter parents/caregiver’s capacity to support their children’s development.

Most recent research⁴² espouses that the growth of the young child (including the resources and risks for his or her development) are shaped by (as well as shaping) micro-systems within the household and immediate environment (notably with the mother, father, siblings, other caregivers), which gradually extend into wider community contexts of health clinic, preschool, church, etc. The interconnections amongst these micro-systems comprise the meso-system which more indirectly shapes each girl or boy’s development, notably links between parents and health workers, teachers, or church leaders. More distal “exo-system” influences include mothers and/or father’s employment as this constrains their resources of time and money for housing, nutrition, learning resources and childcare. Public health infrastructure, transport networks, media and communications are also part of the exo-system. Each of these sub-systems is in turn embedded in a macro-system of laws, policies, and institutions, across multiple sectors, as well as the cultural norms and values that moderate their impact on children’s lives⁴³.

Many health sector interventions target the mother-baby micro-system, notably support for immunizations, health care at delivery etc. The education sector in Uganda also targets the meso-system with a focus on universal primary and secondary education. Increasingly the private sector is targeting the micro –systems with the focus on pre-school learning, day care etc. The legal system is increasing its reach of birth registration services; present at the meso system through the local council court systems and aims at improving the child’s exo-system, including creating more healthy environments, in terms of ensuring basic safety and child protection as well as enabling children’s primary caregivers with the resources, time and capacities to support development, including via employment laws, parental leave

⁴⁰ Ministry of Finance, Planning and Economic Development, 2014, Poverty Status Report.

⁴¹ USAID, Request for Proposals, 2014 Better Outcomes for Children and Youth in Northern and Eastern Uganda.

⁴² Tudge, J. R. H., Mokra, I., Hatfield, B. E., and Karnik, R. B. (2009). Uses and Misuses of Bronfenbrenner’s Bioecological Theory of Human Development. *Journal of Family Theory & Review*, 1: 198-210.

⁴³ Bronfenbrenner, U. (1979). *The Ecology of Human Development: Experiments in Nature and Design*. Cambridge: Harvard University Press.

programmes and social protection. Each of these system interventions is associated with specific goals and personnel at various skill levels.

At a conceptual level it is also important to note that OVC interventions vary according to the sector focus, system focus and delivery platform. Bronfenbrenner above includes an age and stage dimension to reinforce the notion that, not only are growth processes and systems dynamic, some interventions are age critical whereas others are more continuous. Within the legal system, birth registration is deemed to be age-critical; legal education and access to legal protection orders viewed as more continuous through childhood and beyond while others focus on adolescence- for instance child to child sex.

Available evidence⁴⁴ in OVC programming demonstrates that development outcomes for Orphans and Vulnerable Children are hampered by the lack of integration of individual OVCs, care givers and households into the critical service chain. This shift in Programming recognizes the integrated nature as well as the continuum of response recognizing that none of the critical services need be delivered independent of the other. The USAID PEPFAR OVC programming guidelines, in recognition and expansion of this shift call for programming that places OVCs within the continuum of services at the country level. Weak integration of services reduces OVCs and their households' ability to overcome the drivers of vulnerability and to pursue and adopt better practices.

1.4 The National OVC Policy and Plan of Interventions

The National Orphans and Vulnerable Persons (OVC) Policy and the subsequent National Strategic Programme Plan of Interventions for Orphans and Other Vulnerable Children 2011/12-2015/16 is designed to target children considered critically⁴⁵ or moderately vulnerable⁴⁶ who constitute 51% of children's population in Uganda. This is to be done through provision of a supportive package inclusive of economic strengthening, food and nutrition security, health, education, psycho-social support and basic care as well as legal and child protection services⁴⁷.

The goal of the OVC Program of Interventions is to improve child well-being. The OVC program concept was first introduced in 2008 under the CORE project and has since undergone many changes and revisions.

OVC is based on a conceptual framework that links the NEEDS and characteristics of OVC and their households, with the SUPPLY or PROVISION OF SERVICES by national and local government institutions as well as donors, non-government and civil society organizations (CSOs), and the UTILIZATION of these services. The assumption is that if the NEEDS of OVC and vulnerable households are identified; there is

⁴⁴ Ibid.

⁴⁵ Critically vulnerable children include orphans whose rights are not fulfilled, children infected and affected by HIV and AIDS, children with disabilities, children in worst forms of child labour (commercial sexual exploitation, illicit activities, paid domestic work, work that interferes with school attendance); children experiencing various forms of abuse and violence e.g. survivors of sexual violence, children in abusive homes or institutions, street children/abandoned children and/or neglected children, children in contact with the law, children in child headed households, children in armed conflict(captives or child soldiers, internally displaced, ex- combatants, child mothers and any other category of children who are assessed to be in need of immediate care and protection.

⁴⁶ Moderately vulnerable children include children out of school, child mothers, children in poverty stricken(impoverished) households, children involved in hazardous work (domestic service, informal sector, commercial agriculture, trafficked); children living with the elderly, and/or parents/guardians with severe disabilities; children in hard to reach areas(fishing communities, mountain areas, nomadic communities) etc.

⁴⁷ Ministry of Gender, Labour and Social Development National Strategic Programme Plan of Interventions for Orphans and Other Vulnerable Children 2011/12-2015/16

adequate SERVICE PROVISION meeting National Quality Standards and such services are being UTILIZED by OVC and vulnerable households, this should lead to healthy practices in the short to medium term, and in the long term to improved quality of life for OVC and vulnerable households.

The National Strategic Programme Plan of Interventions for Orphans and Other Vulnerable Children 2011/12-2015/16 prioritized and focused a package of interventions to address the OVC’s most critical care needs⁴⁸. These include interventions in economic strengthening; food and nutritional security; health, water, sanitation and shelter, education; psycho-social support and basic care; and child protection and legal support.

The Programme primary strategy is to strengthen parents and caregivers so they can provide for their children’s basic needs. The Programme target is to reach 51% of the critically or moderately vulnerable OVCs⁴⁹. By close of FY 2012/2013, registered programme performance reached out to 24.7%. A total of 69,295 OVCs and their caregivers/households benefitted from economic strengthening; 107,441 from food and nutritional security; 129,254 from health, water, sanitation and shelter; 135,599 from education interventions; 162,586 from psycho-social support and basic care; 34,823 from child protection and legal support. 66,448 individual OVCs were served with 3 or more interventions.⁵⁰

Profiling for Vulnerability – the Process

NSPP-2 has a wider range of vulnerability markers and more precision in the categories of vulnerable children served.

Steps	Tools	Data Sources	Who is Involved	Connecting the dots with the legal sector
<u>Step 1: Multivariate Analysis of National Census Data</u> - identify number of OVCs represented by each of the identified vulnerability factors -develop criteria and indicators of vulnerability and standardize OVC definition	Statistical Analysis	UBOS		consider working with JLOS to include vulnerability factor on legal protection Benefits: Avail JLOS with a profile of vulnerability amongst children served by age and locality thus mainstreaming vulnerability into strategy implementation
Step 2: Use criteria to guide community identification of OVCs - community mapping	OVC Vulnerability Index (OVI)	Community	Community members & Community Workers	Include Fit persons as a specialised category of persons connecting children to the informal and formal

⁴⁸ SIAPAC, 2008

⁴⁹ Translating into ~1,844,183 children

⁵⁰ Implementation Progress of the National Orphans and Other Vulnerable Children Management Information System, Ministry of Gender, Labor and Social Development, February 2014

<p>through community meetings /discussions; - develop sub-county registers of OVCs</p>	Form		including members of Village Health Teams; Child Protection Committees and Local Councils	justice system Benefits: Legal system stands to benefit from community based information systems and involvement in child protection
<p>Step 3: Make available to all implementers OVC register to respond to OVC needs - List all OVC in a sub-county and show their respective level of vulnerability</p>	OVC Register		Community Development Assistants, sub county Chiefs	Avail data base to Local Councils and local judicial system particularly Grade 2 Magistrates at the Sub-county level Benefits: quick identification of children that require legal services and targeted service delivery
<p>Step 4: Continuous update of OVC Register by community, CSO and State Implementers - </p>	OVC Register		Community, CSO and State Implementers	Benefits: legal system stands in a good position to make relevant decisions
<p>Step 5: Districts compile District level database on OVCs – aggregation of sub-county data bases kept according to sub-county. -Indicate level of vulnerability based on standard criteria; -allocate each OVC an identification number – linked to the Mobile Vital Records System⁵¹</p>	District OVC Register and data base		Probation Officers and District Community Development Officers	

⁵¹ Used for birth registration and household registration under the Social Assistance Grants for Empowerment (SAGE) cash transfer system.

Step 6: Registration of Service Providers - register all organisations providing services for OVC irrespective of their source of funding - Upon registration, the implementing partner is issued an identity number	OVC service provider registration form		ACDO /CDO Service Providers	Benefit: enhance inclusion of services provided by those in the service provision using indicators for OVC
Step 7: Instruction of Service Provider on reporting	Reporting guidelines		Community Based Services Department	
Step 8: Regular update of Service Providers Register and Quality assurance to ensure completeness and accuracy - Monitor services of CSOs and the coverage of their programmes in the district. -Provide narrative information about the organisations activities. - update and upload service provider register in OVC MIS	OVC CSO Report Form OVC Service Provider Updated Register			
Step 9: Enrol eligible children into Program	OVC Enrolment Form			
Step 10: OVC Service Delivery Register -Documentation of records regarding services accessed by each child/household at sub county level -Document children that have exited the program and -update register	Service delivery registers OVC Referral Form OVC Exit Register	Sub-county records, Service Provider records (both GoU and NSAs) Court and police records; the Education and Health Managem	Community workers, Service Providers and SC Chiefs and Assistant Community Development Officers	

		ent Informatio n Systems ⁵²		
Step 11: Compilation of District Service Delivery Report and upload into OVC MIS - Summarize the number of OVC /OVC households that receive services; - Categorise services according to Core Programme Areas of the NSPPI-2; - Submit data to the district summarizing statistics on the number of children/ households provided services in line with Core Programme Areas	OVC Service Register OVC-MIS Data Collection Form District service delivery data base		Community Development Officers	
Step 12: District level OVC Program Capacity Development – conduct capacity assessments to identify gaps with regard to competencies to manage OVC Programme	Local Government OVC capacity assessment tool			

1.6 Legal Framework

Law and legal reforms have a key role in protecting and ensuring the fulfillment of the rights of orphans and other vulnerable children. At national level, Legal reformers and justice systems must see their role as fulfilling clear legal obligations to each and every child and young person for which they can be held to account. In Uganda legal protections available and legislated for the overall child population have

⁵² Currently the education sector collects data on orphans, children with disabilities, and children who have dropped out of school due to pregnancy and sexual abuse in the Education Sector Management Information System

expanded over the years with enactment of new legislation⁵³ though implementation and enforcement still fall below the targeted levels.

At the micro level Uganda under the Uganda Births and Death Registration Act Cap 309 provides for birth and death registration for all children. At meso-level the laws designate Vice Chairpersons of all village Local Councils to be in charge of children affairs including OVCs. These are the first point of contact between the family and the legal system. Local Councils are further given limited judicial powers to ensure children’s well-being is guaranteed. Children who come into conflict with the law too have recourse to the Local Council courts for community based, timely and child centred responses. See judicial responsibilities of Local Councils outlined below:

LCCs

1. Step: Determine Age		
-Child under 12: Send home	<input type="checkbox"/>	
-Child over 12: Proceed	<input type="checkbox"/>	
2. Step: Determine if case falls under jurisdiction		
Offences within jurisdiction:		
- Affray	<input type="checkbox"/>	
-Common Assault	<input type="checkbox"/>	
-Actual Bodily Harm	<input type="checkbox"/>	
-Simple Theft	<input type="checkbox"/>	
-Being idle and disorderly	<input type="checkbox"/>	
-Simple theft	<input type="checkbox"/>	
-Criminal trespass	<input type="checkbox"/>	
-Malicious damage to property	<input type="checkbox"/>	
-Violation of bylaws and ordinances under the Local Governments Act	<input type="checkbox"/>	
If offence is not within jurisdiction (not ticked) you MUST refer to the police		
3. Step: Getting Child to Court		
Summon child on appointed date and time through the parents/guardian verbally	<input type="checkbox"/>	
or in writing	<input type="checkbox"/>	
4. Step: Record Keeping		
- Names of the parties and serial number of the case	<input type="checkbox"/>	
- Complaint as recorded (what the case is about)	<input type="checkbox"/>	
-Charge sheet indicating particulars of the child, date, place and nature of alleged offence	<input type="checkbox"/>	
-Date of the hearing of the case	<input type="checkbox"/>	
-Names and addresses of the witnesses	<input type="checkbox"/>	
-Evidence of the parties and their witnesses	<input type="checkbox"/>	
-Decision and orders of the court	<input type="checkbox"/>	
-The exhibits if any.	<input type="checkbox"/>	
5. Step: Constituting Court or Quorum		
-Village LC1 or Parish court LC2 must have at least 5 members out of which 2 are women	<input type="checkbox"/>	
-Town, division or sub county LC must have three members including the one chairing with at least 1 woman.	<input type="checkbox"/>	
6. Step: Conducting the Trial		
-The court can sit as often as necessary to hear the case in a private place.	<input type="checkbox"/>	
-The child’s privacy must be protected.	<input type="checkbox"/>	
-The case must be conducted in a language everyone understands and written in a language chosen by the Court.	<input type="checkbox"/>	
-The case must be handled as fast as possible; it should never take more than 3 months.	<input type="checkbox"/>	
-The case should be heard in an informal and child friendly environment.	<input type="checkbox"/>	
-There should be no arrangements and the child should be treated as one who has gone astray and needs to be corrected.	<input type="checkbox"/>	
-Rules of evidence and procedure from formal courts must not be used. The LC Court Act must be formulated by the Court.	<input type="checkbox"/>	
-Parents or guardians of the child must attend all proceedings. If there are none child can invite any person for support. Alternatively Court may invite any person or the PWSO.	<input type="checkbox"/>	
-The victim in the case should be encouraged to attend the proceedings.	<input type="checkbox"/>	
-The child should be given an opportunity to be heard and the child’s needs, views and opinions must be taken into account.	<input type="checkbox"/>	
-Each side should be allowed to bring witnesses for evidence.	<input type="checkbox"/>	
-The Court must be impartial.	<input type="checkbox"/>	
-The right to appeal in 14 days must be explained to the child.	<input type="checkbox"/>	

Figure 1: Local Council Roles towards Children Source: National Justice for Children Program 2011-2014

The Chief Magistrates’ have supervisory powers over the Local Council Courts.

Within the formal legal system; both primary and subsidiary legislation exist to offer protection to all children including OVCs. These are found in various legal codes or different types of legislation that are generally covered under separate codes or acts, in special provisions/chapter in a co standard substantive and procedural law , or in a separate section within a broader child protection act that also covers child rights. This table does not, however, address the quality of national legislation vis-à-vis child

⁵³ Including amendments to the Penal Code to increase penalty for child sexual abuse, the enactment of the Domestic Violence Act; Sexual Offences bill etc.

protection issues, including the extent of legislative compliance with international instruments and standards.

CATEGORY	LEGAL RESPONSES	INFORMATION REQUIRED
Children in need of care and protection	Interim care or supervision orders including review of interim into a full care or supervision order	information on oath by a probation and social welfare officer, or an authorized person, that a child is suffering or is likely to suffer significant harm, make an interim supervision order or an interim care order in respect of the child
	A care order or interim care order placing a child in the care of the warden of an approved home or with an approved foster parent in accordance with the Foster Care Placement Rules; Review and extension of care orders	A written welfare report in respect of a child before making a supervision order or a care order based on a home visit And an interview with the parents of the child concerned or an interview with the child where he/she is of sufficient age and understanding. The Welfare report should outline the welfare of The child and provide recommendations as to any action to be taken by the family and children court.
	A supervision or interim supervision order placing a child under the supervision of a probation and social welfare officer while Leaving the child in the custody of his or her parents or relatives.	1. A written welfare report in respect of a child before making a supervision order or a care order based on a home visit And an interview with the parents of the child concerned or an interview with the child where he/she is of sufficient age and understanding. The Welfare report should outline the welfare of The child and provide recommendations as to any action to be taken by the family and children court. 2. Evidence that the local government councils from village to sub county level where the child resides have dealt with the matter without Success; and there is need for continuous supervision enforced by a court order.
	Extension of a supervision order beyond one year	A written report by the probation and social welfare officer
	Exclusion order (prohibiting a named person from having contact with the child or with the child and persons looking after the child)	
	Search and production order Emergency protection in a place of	PSWO inquiry report to decide whether to act to safeguard or promote the child's welfare.

CATEGORY	LEGAL RESPONSES	INFORMATION REQUIRED
	<p>safety for a maximum period of forty-eight hours</p> <p>Medical examination of a child</p> <p>Child Recovery Orders (section 62)</p>	<p>medical examination report from a medical officer</p>
	<p>Foster Care placements into approved homes or alternative care</p>	<p>PSWO interview report of prospective foster parent assessing suitability of person to foster a child; physical home visit; 2 recommendations vouching for integrity of character of prospective foster parents; medical and mental suitability vouched by local council or local government representative; absence of criminal record and ascertained wishes of the child in as far as they can be ascertained. Community information on status of fostered child to support PSWO supervision.</p> <p>PSWO supervision report detailing the child's Welfare, progress and conduct and any changes which have occurred in the circumstances of the foster family. Also to include the child's Views and feelings concerning placement; and where there are any problems, they shall be discussed and resolved openly within the foster family.</p> <p>A register of Foster Parents to be maintained by PSWOs at the District containing a statement of the name, sex, age, religion and address of each Parent of the foster child, if known; and the date of placement, the date of termination and the reason for termination.</p> <p>Foster Children case records to be maintained by PSWO</p>
	<p>Domestic Adoption Orders</p>	<p>PSWO proof of fostering a child for not less than thirty-six months under the Supervision of a probation and social welfare officer.</p>

CATEGORY	LEGAL RESPONSES	INFORMATION REQUIRED
		PSWO report to assist the court in considering the application; and the court may, in addition, require some other person or the local authority to Make a report in respect of the adoption application.
	Inter-Country Adoption	PSWO report to assist Court in considering the application; and the court may, in addition, require some other person or authority to make a report in respect of the application.
	Declaration of Parentage	corroboration information to the satisfaction of the Court to adjudge the person summoned to be the mother or father of the child, as the Case may be.
	Maintenance Orders (including feeding, clothing, education and the general welfare of the child) Variation of maintenance orders Cessation of order (Section 82)	inquiry into circumstances surrounding the child a) the ascertainable wishes and feelings of the child concerned considered in the light of his or her age and understanding; (b) the child's physical, emotional and educational needs; (c) the likely effects of any changes in the child's circumstances; (d) the child's age, sex, background and any other circumstances relevant in the matter; (e) any harm that the child has suffered or is at the risk of suffering; (f) where relevant, the capacity of the child's parents, guardians or others involved in the care of the child in meeting his or her Needs.
	Appointment of a custodian for a child	Information that the father/mother is not a fit and proper person to have custody of the child; or is dead, or has become of unsound mind or is in prison, the court may appoint a person who is willing to have custody of the child to be the Custodian of the child. application of a probation and social welfare officer or of the person having custody of

CATEGORY	LEGAL RESPONSES	INFORMATION REQUIRED
		the child or of the person against whom the maintenance order is made
Children in conflict with the Law	<p>Caution and Release upon arrest on bond on his or her own recognizance or on a recognizance entered into by the parent of the child or other responsible person in appropriate cases.</p> <ul style="list-style-type: none"> – Isolate cases that can be handle by the LC Court – Isolate cases that must be handled by the Criminal Investigation Unit (CIID) for capital offences – Isolate cases where a child is jointly charged with an adult 	<p>Inform child’s parents or guardians and the secretary for children’s affairs of the local government council for the area in which the child resides of the arrest by the police as soon as possible and ensure attendance at police interview</p> <p>Information to PSWO to attend interview with child</p>
	<p>A care order or interim care order placing a child in the care of the warden of an approved home or with an approved foster parent in accordance with the Foster Care Placement Rules;</p> <p>Review and extension of care orders</p>	<p>A written welfare report in respect of a child before making a supervision order or a care order based on a home visit</p> <p>And an interview with the parents of the child concerned or an interview with the child where he/she is of sufficient age and understanding. The Welfare report should outline the welfare of</p> <p>The child and provide recommendations as to any action to be taken by the family and children court.</p>
	-Detention in police custody for a period less than 24hours	
	<p>Detention Pending Trial</p> <p>-Bail (on a court bond on the child’s own recognizance; or with sureties, preferably the child’s parents or guardians who shall be bound on a court bond, not cash)</p> <p>- Remand in safe custody or in a remand home</p>	<p>Court inquiry into the Case</p> <p>Written social background report including among other things, the social and family background, the circumstances in which the child is living and the conditions under which the offence was committed</p> <p>Community Service Provider Register</p>
	Court Orders in Criminal Proceedings	<p>PSWO Social Inquiry Report</p> <p>Community Service Provider Register</p>
	Detention, rehabilitation and	Information for Minister to appoint fit and

CATEGORY	LEGAL RESPONSES	INFORMATION REQUIRED
	retraining of children	proper persons to periodically visit the detained children and inspect the detention centre referred to as the “committee of visitors”
	Aftercare	PSWO discussion of the period of Aftercare with the child, but in all circumstances it shall not exceed twelve months after the child’s release from detention.
	Inquiry as to age of person appearing to the court to be below eighteen years of age.	any evidence, including medical evidence, which Court may require.
	Declaration of Parentage	corroboration information to the satisfaction of the Court to adjudge the person summoned to be the mother or father of the child, as the case may be.
	Maintenance Orders (including feeding, clothing, education and the general welfare of the child) Variation of maintenance orders Cessation of order (Section 82)	inquiry into circumstances surrounding the child
	Appointment of a custodian for a child	Information that the father/mother is not a fit and proper person to have custody of the child; or is dead, or has become of unsound mind or is in prison, the court may appoint a person who is willing to have custody of the child to be the custodian of the child. application of a probation and social welfare officer or of the person having custody of the child or of the person against whom the maintenance order is made

At the International Level, Uganda has ratified the following regional and international conventions:

International Conventions Ratified	Convention on the Rights of the Child Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflicts Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour
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Abolition of Forced Labour Convention
 Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
 Convention relating to the Status of Refugees
 Protocol Relating to the Status of Refugees
 Convention relating to the Status of Stateless Persons
 Convention on the Prevention and Punishment of the Crime of Genocide
 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field
 Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea
 Geneva Convention relative to the Treatment of Prisoners of War
 Geneva Convention relative to the Protection of Civilian Persons in Time of War
 Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)
 Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims on Non-International Armed Conflicts (Protocol II)
 International Covenant on Economic, Social and Cultural Rights
 International Covenant on Civil and Political Rights
 Optional Protocol to the International Covenant on Civil and Political Rights
 International Convention on the Elimination of All Forms of Racial Discrimination
 Convention on the Elimination of All Forms of Discrimination against Women
 United Nations Convention against Transnational Organized Crime
 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery
 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Regional Conventions	African [Banjul] Charter on Human and Peoples' Rights Convention Governing the Specific Aspects of Refugee Problems in Africa Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights African Charter on the Rights and Welfare of the Child
Constitutional, Legislative & Regulatory Frameworks	Constitution of the Republic of Uganda, 1995 Business, Technical and Vocational Training and Education Act, 2008 Children Act, 2000 Domestic Violence Act 3, 2010 Prevention of Trafficking in Persons Act, 2009 Education Act, 2008 Employment Act, 2006 Local Government Act, 1997 National Council Youth Statute, 1993 The Prohibition of Female Genital Mutilation Act, 2010 The Penal Code Act Cap 120 The Births and Deaths Registration Act- Chapter 309 The National Council for Children Act- Chapter 60 The Prisons Act, 2006 The Uganda People's Defense Forces Act, 2005

	Local Governments Act, Chapter 243 The Succession Act Cap 162
National Policy Frameworks	Decentralization Policy Education Policy National Child Labour Policy National Education Policy National Employment Policy National Gender Policy National Health Policy National Orphans and Other Vulnerable Children Policy National Policy for Internally Displaced Persons 2004 National Population Policy, 2008 National Youth Policy National Youth Policy 2011 Uganda National Land Policy 104 Uganda Gender Policy 2007 Universal Primary Education Policy
National Plans	Justice Law and Order Sector Third Sector Strategic Investment Plan (SIPIII) 2012/13-2016/17 National Action Plan on Elimination of the Worst Forms of Child Labour in Uganda 2012/13 - 2016/17 National Development Plan 2010/11-2014/15 National Population Policy Action Plan National Strategic Plan on HIV/AIDS 2007/8 – 2011/12 National Strategic Programme Plan of Interventions for Orphans and other Vulnerable Children 2011/12—2015/16 Social Development Sector Plan Uganda National Plan of Action on Child Sexual Abuse and Exploitation (2008-2012)

1.7. Interdependence of child protection concerns and the need for integrated solutions

The following are the minimum legal protections envisaged for OVCs under the National Programme of Interventions for OVCs”

Objective 3 of the NSPPI-2 seeks to increase access to protection and legal support services for orphans and other vulnerable children, their caregivers and families/households⁵⁴.

Outcome: Increased access to child protection and legal support services for OVC and their households.

Indicators of Performance and Outcome and Output levels:

- Increased public awareness of child rights violations and action to protect children

⁵⁴ National Strategic Programme Plan of Interventions for Orphans and Other Vulnerable Children 2011/12 – 2015/16, Ministry of Gender, Labour and Social Development, May 2011

- OVC households provided with direct legal protection services (in property dispossession, child abuse and neglect cases, number of children withdrawn from child labor)
- % of children whose births are registered
- OVC without adequate family care are provided with appropriate alternative care (temporary care, foster care, guardianship, adoption and institutional care)
- Increased protection of children who are in contact with the law through ensuring their access to justice and appropriate care, child friendly facilities (police and prisons)
- Child protection committees (at district and sub–county) established and operationalized at sub – county and parish levels across the country
- Child participation and empowerment in child rights advocacy through district forums that facilitate participation of children in decision making

2 Legal

Protections for OVCs- Areas of Convergence

2.1 Focus on Orphans and Vulnerable Children- common intent evidenced through policy convergence

In 2011 and responding to the demands of the National Justice, Law and Order Sector Forum⁵⁵, the Justice, Law and Order built up also upon years of efforts to serve children within a largely adult oriented

Numbers of children served are required to be disaggregated by age, gender and location

% of JLOS DCCs that apply child friendly and gender responsive procedures or standards of practice for children who come into contact with JLOS institutions

of children served by the justice law and order system, disaggregated by age, sex, location, rights violation/offence, JLOS institution, service and outcome by quarter

% of reported cases involving sexual violence against children fast tracked through the formal justice system

% reduction in the backlog of cases involving children
% of children in conflict with the law diverted from formal judicial proceedings

% of children in conflict with the law receiving a non-custodial sentence

time spent in detention by children before or after sentencing

% of children in police detention not wholly separated from adults

⁵⁵ Justice, Law and Order Sector, 2011, National Users Forum see www.jlos.go.ug

system and initiated 6 major strategic shifts in its service delivery towards children. Through broadening the scope of children served, the legal system brought into its ambit a heightened focus on child victims of crime, child witnesses, children in need of care and custody; protection and preventive services.

By shifting strategic focus to all arenas of justice, the legal system accorded priority to civil, administrative and informal mechanisms of serving and meeting children legal protection needs. The goal was to deliver a better service in all areas of need without skewing services in favor of criminal matters.

Acknowledging the need to depart from the trend on focus on activities and embracing results driven programming, the legal sector sought to cease being “a conveyor belt” issuing orders whose outcomes are not consistently followed through to ensure positive outcomes for children. A whole system approach including the informal justice system complemented results driven programming as joint accountability for delivery of services in

accordance with set standards emerged, institutionalized at system and institutional levels. The legal system too acknowledged that services to children should be just and timely- delivered at the lowest level possible – by actors with a full understanding of the circumstances surrounding the child. The intention was to develop capacity, improve coordination and joint problem solving; and also minimize operational logistical constraints of frontline service providers for children. These include Child and Family Protection Officers and Criminal Investigators, police constables, community liaison officers, prosecutors, probation and social welfare officers, administrators of deceased persons’ estates, registrars of births and deaths and related documents, immigration officials, human rights monitors, local council court officials, prisons officials, traditional leaders, elders, community based fit persons and lawyers.

The goal of the reform was to improve access, ensure better services and to have more children served and protected by the legal system. By so doing the legal system will discharge its obligations towards children and, working jointly with the social development services, ensure full child development and productivity to contribute to the National Development goals.

Shift 1: *The legal system will pursue and deliver Justice for all children, not only children who are in conflict with the law;*

Shift 2: *The legal system will broaden from exclusive focus on criminal justice to all arenas of justice;*

Shift 3: *The legal system will shift focus from activities to results-driven programming;*

Shift 4: *The Legal System will lessen its focus from bilateral engagement with a single legal institution to a “whole system” approach including the informal justice system;*

Shift 5: *From emphasis on policy at national level to practice change innovations at district levels; and*

Shift 6: *From child and youth exclusion/marginalization to inclusion, participation and empowerment.*

The Vision of the Justice, Law and Order Sector is to “ensure that people in Uganda live in a Safe and Just Society”. The Sector mission is to improve the safety of the person, security of property, observance of human rights and access to justice for accelerating growth, employment and prosperity. Amongst its value system is the continued pursuit of growth and equity in service provision to eliminate the gender, age, social and geographical disparities in the delivery of services. The third [JLOS Strategic Investment Plan \(SIP III\)](#) (2012/2013-2016/2017)⁵⁶ provides a unified policy and programmatic sectoral response to administration of justice and law enforcement in Uganda. SIP III provides a platform and spring board upon which the Government of Uganda, all sector institutions, development partners and Non State Actors shall harness their five year programs, strategies and activities. This is the basis for the unity of purpose that has so far characterized JLOS Sector performance. The strategy also provides a sector wide budgeting and financing framework for JLOS based on the MTEF and bilateral development partner contributions for the purpose of securing sustainable funding for the five year strategy. Under its current strategic document the Sector aspire to ensure that 70% of population of the people in Uganda is satisfied with JLOS services and that public confidence in the justice system is increased from 34% in 2008 to 50% in 2017.

At the national level, the legal system undertook to expand its focus to pursue reform and amendments of child related legislation and at the same time seek understanding of the impact of existing legislation on access to services and protection of children⁵⁷. The legal system also undertook to develop and fund special programs to target gender, age, poverty and other forms of vulnerability⁵⁸; as well as proactively engage social development, health and education sectors to ensure a comprehensive and holistic package of services to children⁵⁹.

Within the above framework the legal system⁶⁰ embraced its dual mandate viz protection on one hand and response and rehabilitative services to children. Protective services ensure that children are registered, and, in the event of absent or deceased caregivers, that their assets are protected and they have appropriate guardians. Ensuring children access basic legal rights, such as birth certificates⁶¹ and inheritance rights, enables them to access other essential services and opportunities, including health, education, legal services, and legal employment when they grow older⁶². On the other hand preventive, response and rehabilitative services hold perpetrators of violence against children and reinforce the protective factors through timely and age appropriate services for the child and the community. Preventive services cover children at risk – categorized as children in unstable families and homes and children in need of care and protection. There is broad consensus across stakeholders in the justice system that legal services should respond to children in conflict with the law, including reducing child recidivism, child witnesses, and children in contact with the law. The Justice, Law and Order Sector under the National Justice for Children Program has conducted outreach and community dialogue – for the first time veering into preventive work.

⁵⁶ See www.jlos.go.ug

⁵⁷ Justice, Law and Order Sector, 2012, Strategic Investment Plan

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ under the administrative framework of the Justice, Law and Order sector

⁶¹ According with DHS 2011, only 30% of children under the age of five were registered at birth and only 17.7% of them had their birth certificate in 2011

⁶² OVC PEPFAR programming guidelines

2.2 Legal System Response- and its Information Needs

Information for Assessment logically comes first—The Ugandan legal system sets out the law and procedures to be followed regarding protection of children at risk- vulnerable children. The procedures take into consideration the unique characteristics and dynamics of child protection. The special procedures are premised on good information and assessment services.

2.2.1 Age verification Information

According to the National Justice for Children Programme of the Justice, Law and Order Sector in FY 2013/14, a total of 329 persons claimed they were under 18 in the adult detention centers of Gulu Central Prison, Fort Portal Prison, Kitgum prison, Luzira, Moroto Prison and the UPDF detention facilities in Acholi pii 4th Division Headquarters. District Chain Linked committees led age verification exercises and confirmed 106 were juveniles -23 found in Gulu Central prison; 12 in Kitgum Prison; 13 in Fort Portal; 10 in Moroto, 6 in Soroti and 5 in Pader. 223 were declared to be adults. Conversely 29 were confirmed to be adults in the Juvenile Remand Homes, 24 in Naguru Remand Home, 4 in Gulu and 01 in Fort Portal and were promptly transferred.⁶³

Age verification of persons in contact with the legal system is a big challenge notwithstanding the existing legal provisions. A community register of children constituting a national data bank of vital statistics is the ideal. Presently the legal system utilizes birth certificates, baptism cards, immunization cards, among others to reconstruct the age of persons before it. An OVC register when available at district level may yet again offer an alternative source of information for use by the legal system.

2.2.2 Information about options for referral/diversion

“A total of 1,640 children cases out of a total of 11,617 cased in the legal system were *diverted* to the informal systems while 1,512 processed through the system because of the capital nature of their charges. Diversion practice was more entrenched in the central and Acholi region compared to sites in the East and North eastern region” so reported the Justice, Law and Order Sector annual performance report FY 2013/14. Anecdotal evidence regarding legal system reticence to refer/divert children is the lack of information relating to available services essential to the child in the community, nature of services and the eligibility criteria. Information that gives options to the legal system to act in accordance with the law, safeguard the child as well as improve outcomes is a significant step in serving children in contact with the law.

The NSPP-2 register of service providers, nature of services and eligibility criteria- see format in Annex 3 potentially solves this challenge.

2.2.3 Information to inform Case Management within the justice system

⁶³ Centre for Justice Studies and Innovations(CJSI), 2014, National Justice For Children Annual Report

A total of 11,617 child related cases of both criminal and civil nature were registered in the 18 sites of J4C operations in FY 2013/14- 36% higher than the total number of child related cases registered in FY 2012/2013(4,242). Save for the 1,640 cases diverted there is need for information to manage the over 10,000 cases that remain in the justice system⁶⁴. The law requires of the Probation and Social Welfare Officer (PSWO) to provide a Social inquiry report on a case by case basis to inform the decisions of Court.

On a case by case basis the PSWO conducts the assessments through home and community visits and interviews to provide the report. In matters of adoption the information required of a PSWO aids the Court to determine the following:

- Suitability of the applicants as legal guardians entitled to take a child out of Uganda to ensure continuity with an international education curriculum – In re Namusoke Aida (an infant), Miscellaneous Cause No. 37 of 2012
- Suitability of petitioners to becoming adoptive parents – In re Ethan Acaleri (an infant), Adoption Cause No. 0130 of 2012
- Inability of biological parents to provide for the welfare of their children’s needs (emotionally, psychologically, financially and physically) – In re Tamale Oruko & Nakiliya Oliver (infants), Family Cause 231 of 2013
- Demonstrate the incapability of parents to look after their children and hence put them up for adoption or legal guardianship – In re Alyozious Agaba (an infant), Family Cause 259 of 2013

In a matter of an application to adopt an infant the PSWO provided the following report;

“The father lives in a wooden house where a lot of air actually enters the house. This caused pneumonia to Debora and if only it was not of Mercy Child Care Ministry, the child had no chance to survive. Mboka a type of pauper and alcoholic has 17 children from different mothers and apparently he knows his number of children as he can’t remember where the grown-ups live. At home I found him with four other children all below 10 years old. It is hard for this family to afford any meal a day in addition to adequate beddings and clothing. (sic) “

A perusal through court judgments in matters of adoption in the High Court of Uganda for the year 2014 points to a similarly casual approach to social inquiry reports by PSWOs.

As a coping strategy Courts often do not solely base judgments on the report of the PSWO. In cases where the parents or relatives of the child are alive and can be traced, they are called upon to give evidence either consenting or objecting to the applications for adoption or legal guardianship. In cases where the infant is capable of giving evidence s/he is asked about where they want to live or to describe their life with the potential adoptive parents or legal guardians.⁶⁵ Further Affidavit evidence of other

⁶⁴ Ibid.

⁶⁵ Refer to In re Namusoke Aida (an infant) and in re Ethan Acaleri (an infant).

stakeholders such as LC I Chairman, Police Officer of the Family and Child Protection Unit can also be taken into consideration particularly where a child has been abandoned and efforts to trace the parents have yielded no results.⁶⁶

Use of the OVC Registers and household assessments date provides a standardized independent source of data that may reduce the time taken to collect relevant information on a case by case basis as outlined above. It is recommended that both NSPP2 and the legal system explore expansion of options available for follow up and enforcement in both systems.

2.2.4 Settlement of Children in their communities, Enforcement of Court Orders on maintenance, Custody and Follow up

According to the Annual JLOS Performance Report, a total of 602 (342 females and 260 males) children were *resettled in their communities* in the FY 2013/14 in the National Justice for Children Program pilot sites. The legal system capacity to follow up resettled children is low/non-existent at present.

In addition the legal system requires updated information to vary court orders for instance on maintenance, custody etc. This approach ensures legal protections are up to date with the OVCs and families’ reality. Such effective and adequate follow-up work, a coordinated and consistent inter-agency approach is needed. For effective case-by-case follow-up, decisions made on cases of OVCs have to be made available in a useable form to the OVC Service register by PSWOs. Whereas the investment needed to do this would be substantial, it is worth serious consideration. Such follow up will also require creative exploration of exchange of information – real time between decision making points in the legal system and the OVC MIS at sub-county and district levels.

2.2.5 Work Processes for management of OVCs in the legal system

	Process	Required Information
Children in Conflict with the Law	1) Interview, investigate, arrest and release	Individual child and family case investigation leading to a case report
	2) Interview, investigate, arrest and detain	
	3) Interview, investigate, arrest, detain and release (divert)	leading to Case Plan 1
	4) Interview, investigate, arrest, detain and release	
	5) Detain, Charge, Caution and Release	
	6) Detain, Charge and Remand	
	7) Try and release to family /community members	

⁶⁶ In re Hodkins Andrew (an infant), Family Cause No. 222 of 2013

	<ul style="list-style-type: none"> 8) Try and release to specialized institutions for treatment, rehabilitation, special services etc. 9) Resettle and allow for transition into community 	
Children in need of care and protection	<ul style="list-style-type: none"> 1) Identify occurrence of abuse and issue a preventive care order 2) Emergency foster care 3) Maintenance orders 4) Legal guardianship 5) Adoption 6) Removal into interim foster care 7) Temporary custody arrangements 8) Emergency response for children in immediate danger of abuse 	
Children in contact with the law as victims or witnesses of crime	<ul style="list-style-type: none"> 1) Interview and treat 2) Victims/witness protection and services (information, linkage to essential services (including counseling, education, medical, economic strengthening etc.) 3) Victim and witness participation in trial 4) Victim participation in sentencing 5) Victim notification of release of perpetrator. 	
Other legal protections for children addressing root causes of vulnerability	<ul style="list-style-type: none"> 1) Issuance of birth registration certificates and 2) Access to property registration 3) Safeguards to institutional abuse: Redress to complaints of discrimination, corruption and other rights violations 4) Succession planning and swift administration of estates 5) Access to legal information. 	

Other System Strengthening activities	<ol style="list-style-type: none"> 1) Collaboration system between formal and informal protection systems 2) Supporting communities to prevent and respond to child abuse 3) Institutional capacity development to carry out and improve child protection responses 4) Integration of child protection in mainstream system responses 5) Supporting the implementation of institutional child safeguarding responses 	
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2.3 The Information Communities and Related OVC Service Providers May Require from the Legal system towards better protection of OVCs

There is no available research on the information needs of OVCs from the legal system. Parallels are thus drawn from surveys involving the poor in the legal system⁶⁷. Poor people using the legal system need many different kinds of information and they need it at different stages⁶⁸. The poor were said to have failed to use the law to secure the protection for which they were entitled owing to general lack of awareness of basic legal rights and the “workings” of the laws. The paucity of information is said to act against communities’ ability to enjoy protection of the law. “Communities consulted were unaware of both procedural and substantive arrangements of formal courts. They hardly understood the circumstances why courts rejected certain evidence, called for witnesses who can shed light on the matter before court, the sentencing procedures, why certain offences are termed as grievous etc.”⁶⁹

As a corollary therefore for OVCs it is necessary that the legal/justice system makes special provisions to avail information relevant to the needs of OVCs and care givers. The information may vary and may take any or a combination of the following forms:

- i. General Orientation-information that assists to identify issues needing resolution, to understand what the justice systems(informal and formal) can and cannot do for them, to know their rights and obligations, services available to assist them through the process and the available options for their consideration.

⁶⁷ Justice, law and Order Sector (JLOS) 2012 Follow up Survey

⁶⁸ Justice, Law and Order Sector (JLOS) 2005 Poverty Participatory Assessment on Access to Justice, Safety of Person and Security of Property.

⁶⁹ Ibid.

- ii. Information about improving legal outcomes for children, care givers and communities- anecdotal evidence points to a lack of awareness of the impact of care orders on children and lack of supports for both caregivers and children through the effects of court orders. For instance care givers need information about how children are affected by adoption, separations, divorce, incarceration of a parent/care giver, restraining orders so that they can anticipate and also prepare to assist the children through these times. Targeted educational programs by the legal system will be helpful here.
- iii. Information for OVCs: OVCs too have a special need for information that answers questions to which their caregivers may not be best positioned to answer.
- iv. Information about options in dispute resolution. Information that makes familiar the options in dispute resolution- traditional leaders, elders, local councils, religious leaders, formal courts etc. how the different systems work, ways of access
- v. Legal advice and information: Information regarding what the law says about the rights and obligations that arise in certain situations, advice about laws and procedures as well as referrals.

2.4 *Conclusions*

With this convergence of intention between the two sectors attested to there are areas of potential opportunity where the OVC strategy could be of use to the legal sector The following are identified as follows

1. *Infusing the discussion on child vulnerability into the emerging National Justice for Children Policy and Strategy*

The intention to enhance access to justice for all particularly for poor and vulnerable groups can be traced back to the first strategic plan of the Justice, Law And order in 2000. Scoping with precise definition of vulnerability in consultation with the OVC strategy is a good step in converging the operations of the justice and OVC policy. A context specific definition of vulnerability will be useful in defining and targeting legal service. Similarly as the Justice, Law and Order Sector embarks on the development of the National Justice for Children Policy and Strategy it will be imperative that the framework is contextualised within a broader and holistic vulnerability programming to address both prevention and response including a fuller exploration of the intersections between legal protections and addressing the underlying factors of child vulnerability. Similarly this will mean that the emerging policy and strategy are developed utilizing not only the legal/justice perspective; but a holistic social welfare perspective will be important to unravel this mystery. There is need for more extensive advocacy, capacity development in the legal sector and engagement of civil society over the coming years to build up support for this broader understanding and support of this policy.

3 The Management Information System- Tying the Loose Ends

3.1 *Introduction and Overview of MIS in OVC and JLOS*

This chapter is divided into 2 sections - Section One makes a comparison between the NSPP-2 and JLOS Information Management Systems while Section Two shows compares and contrast the Key Performance Indicators in each of them.

The OVC-MIS is a web based Management Information System to monitor OVC implementation, measure progress and evaluate performance to ensure effective implementation of National OVC Policy (NOP) and NSPPI. OVC-MIS is housed within MGLSD and is coordinated by OVC National Implementation Unit (NIU). The OVC MIS is a central hub for OVC related data in Uganda. It has been developed for use by program planners and implementers both within and outside government, and access is freely available to public users via the MGLSD website www.mglsd.go.ug/ovcmis. OVC MIS is an open system that does not require a password to access reports.

The OVC MIS is based on a conceptual M&E framework that links the NEEDS and characteristics of OVC and their households, the SUPPLY or PROVISION OF SERVICES by national and local government institutions as well as donors, non-government and civil society organizations (CSOs), and the UTILIZATION of these services. The assumption is that if the NEEDS of OVC and vulnerable households are identified; there is adequate SERVICE PROVISION meeting National Quality Standards and such services are being UTILIZED by OVC and vulnerable households, this should lead to healthy practices short to medium term, and in the long term to improved quality of life for OVC and vulnerable households.

It should be noted that OVC MIS captures data for completed quarter and not the running quarter, i.e. the report captures data in the immediate completed quarter and the reporting is closed once the reporting quarter has been closed. The OVC MIS is supposed to work as one stop centre for all OVC related information. The OVC MIS is a management tool developed to help users in planning, budgeting and advocating for OVC. The target users of the OVC MIS include; MGLSD and other Ministries and government departments and sectors working with OVC, local governments, donors, development

partners, CSOs, FBOs, NGOs, Universities and other training institutions, researchers and any other stakeholders.⁷⁰

The OVC MIS requires all service providers to register within the districts where they operate. Then they will be required to fill in the quarterly OVC MIS summary forms and forward to the district OVC focal person who is in most cases the probation and social welfare officer for online data entry. Below is a summary of how OVC MIS data flows;

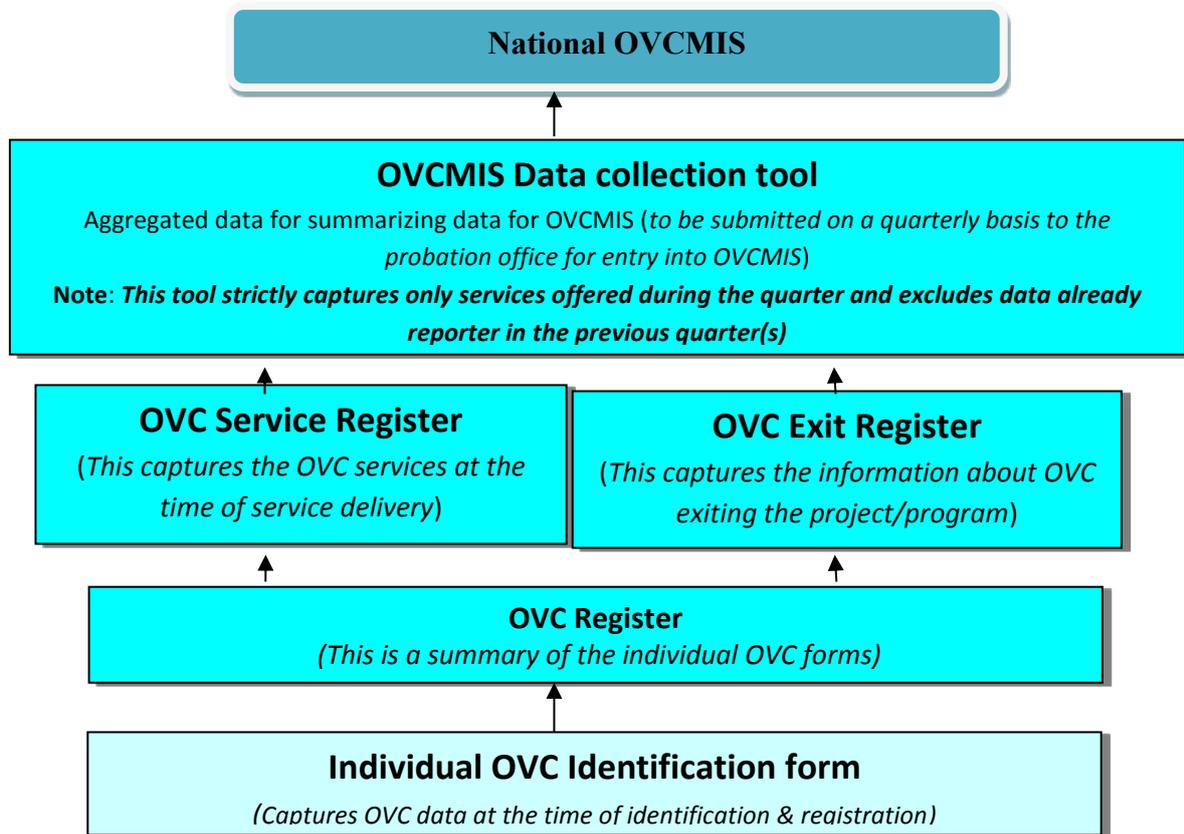
Data flows from the service provider who fills in the quarterly reporting form

Service providers who work in one Sub County can submit their quarterly reporting form to the sub county community development officer for onward submission to the district or submit it directly to the district and give a copy to the Sub county Development Officer (CDO).

Service providers who work in more than one Sub County submit their reports directly to the district but must give a copy to the respective sub counties.

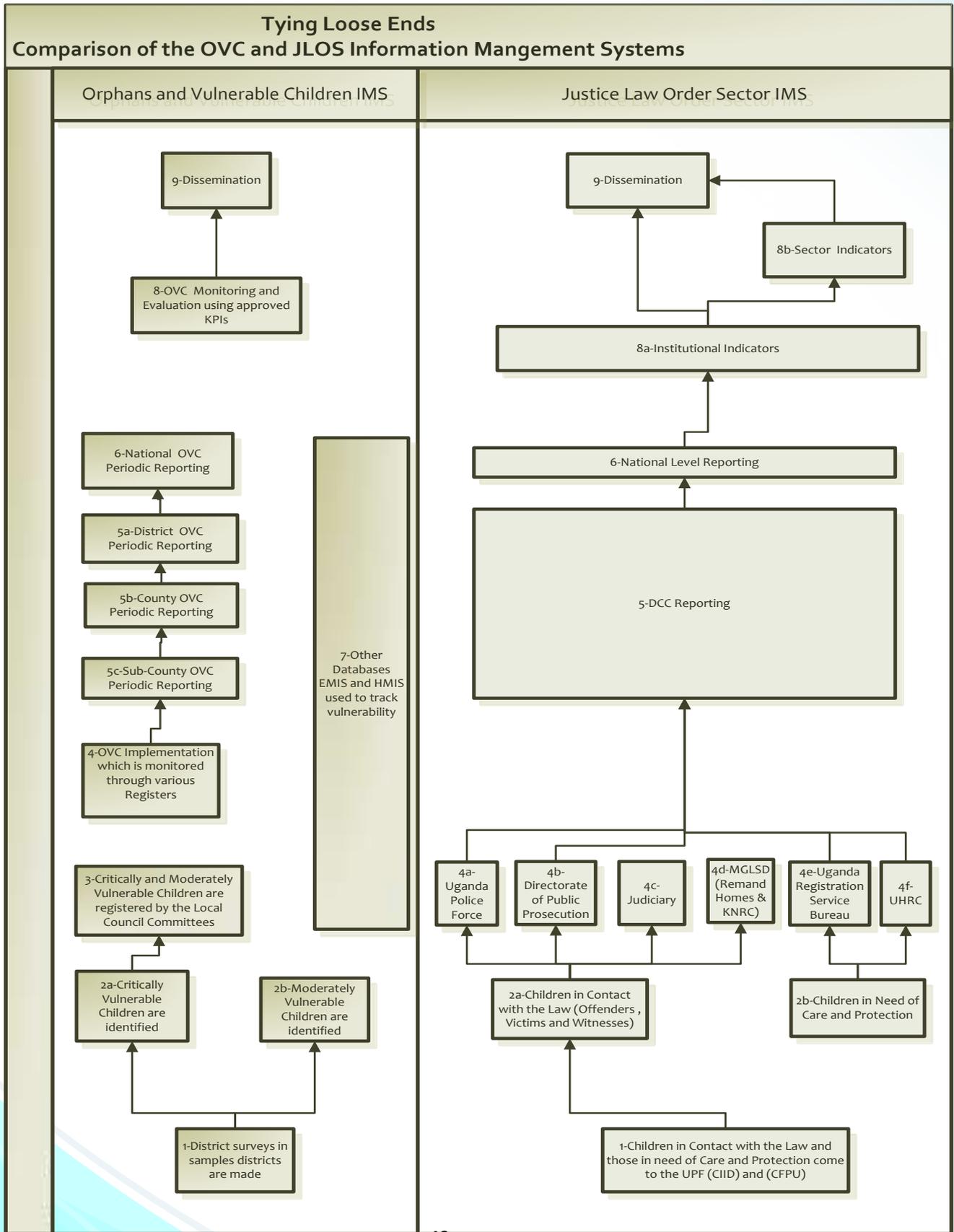
Community development officers also submit quarterly reports to the district OVC focal point concerning services offered to OVC in their sub counties.

All service providers use the same form for reporting i.e. OVC MIS Quarterly Reporting Tool



⁷⁰ Ibid.,

3.2 OVC Data Capture System - How are OVCs data captured in the systems?



Although the data contained in an OVC District survey is far bigger than data found in the JLOS IMS, both data bases can benefit from information generated from each. Both systems can develop deeper children profiles that can help to better understand the complexities pertaining to children wellbeing in Uganda.

3.3 Is there exchange of data, cross linkages?

NSPP-2 accesses data from other sources such as the Health and Education Information Management Systems. JLOS IMS uses data from member institutions.

3.4 How is the implementation in each sector done?

Both Systems use the offices of the Probation and Social Welfare Officers as the information collection platform.

At District level, both Systems have the District Orphans and Vulnerable Committee (DOVCC) and JLOS has the District Coordination Committees (DCCs). There is potential for improved coordination of effort at this level. Administratively, the legal system planning and programing for children is shifting from being a national-led process to a District based process. Recent investments under the National Justice for Children Programme⁷¹ registered progress in the preliminary introduction of local level planning for children services. Working through the District Chain Linked Committees and Justice for Children Sub-Committees⁷², legal and law enforcement actors utilize system information to address speed in case management, ensure child friendly processes and improve conditions in children facilities. OVC District Plans are approved by the District OVC Coordination Committees. There is no linkage between the two plans. NGOs, Probation Officers and Child and Family Protection Officers in the Uganda Police Force are represented in both the Justice for Children Committees as well as the District OVC Coordination Committee⁷³.

At national level both systems can collaborate on policy issues pertaining to children in Uganda.

3.5 Areas for collaboration in the monitoring and evaluation in both IMSs

<i>OVC Indicators</i>	<i>JLOS Indicators</i>
<i>21-Birth Registration</i>	
<i>22-No of children receiving protection and legal support services</i>	<i>13) Number of prioritized laws simplified and translated</i>
	<i>56) Proportion of persons in need of legal aid accessing legal aid services</i>
	<i>61) Annual count of estates of deceased persons managed by the Administrator General (AG) and wound up</i>

⁷¹ National Justice for Children Program 2011-2014

⁷² These draw together all State and Non State legal service providers at the District level.

⁷³ Responsible for planning, identification of capacity gaps, and improves partnership and collaboration amongst OVC stakeholders at District level.

<i>OVC Indicators</i>	<i>JLOS Indicators</i>
<i>23-No of children in conflict with the law whose cases have been handled</i>	<i>1. Public satisfaction with JLOS services</i>
	<i>2. Public confidence in the justice system</i>
	<i>1. Proportion of target population with access to updated laws</i>
	<i>2. Proportion of the public confident in the enforcement of existing laws</i>
	<i>3. Use of Alternative Dispute Resolution (ADR)mechanisms increased</i>
	<i>4. Ratio of completed cases to registered cases</i>
	<i>5. Proportion of districts with complete chain of core JLOS services and institutions</i>
	<i>7. Incidence of crime per 100,000</i>
	<i>9. Average time for disposal of public complaints by JSC</i>
	<i>14. Average time for disposal of land cases</i>
	<i>15. Average time for disposal of cases by Law council</i>
	<i>20. Proportion of UHRC recommendations adopted</i>
	<i>1) Studies undertaken</i>
	<i>8) Average time to deliver judgments</i>
	<i>9) Proportion of JLOS institutions with user standards developed and disseminated</i>
	<i>10) Compliance with codes of conduct</i>
	<i>11) Annual count of laws and subsidiary legislation passed</i>
	<i>12) Annual count bills of at the commencement SIPIII whose enactment by Parliament is pending</i>
	<i>24) Escape rates of prisoners</i>
	<i>27) Average case load per Magistrate</i>
	<i>28) Average case load per Chief magistrate</i>
	<i>29) Average case load per Judge of the High Court</i>
	<i>30) Average case load CID officer</i>
	<i>31) Average case load per DPP state attorney</i>
	<i>33) Proportion of backlogged cases in the system</i>
	<i>36) Average time spent in detention by children before sentencing</i>
	<i>41) Number juveniles arrested per 100,000 of the child population</i>
	<i>42) % of juveniles diverted from formal judicial proceedings</i>
	<i>43) Increase in number of cases diverted after investigations</i>
	<i>48) Juvenile rates of recidivism</i>
	<i>54) Disposal rate of cases in post conflict areas</i>
	<i>70) Proportion of inspectors forum recommendations implemented</i>
	<i>24-No of children survivors of violence , exploitation and abuse supported by the system</i>
<i>17. Proportion of disposed of, to registered human rights complaints</i>	
<i>34) Conviction rates</i>	
<i>25-No of children withdrawn from child labour</i>	
<i>26- No of children living in formal institutional care facilities</i>	<i>6. Average length of stay on remand for accused persons.</i>
	<i>17) Increase Juvenile offenders rehabilitated and reintegrated</i>
	<i>38) Proportion of juveniles resettled upon release</i>
	<i>45) Proportion of juveniles receiving non-custodial sentences</i>
	<i>46) Number of children on remand per 100,000 child population</i>
	<i>65) Compliance with the 48hr rule</i>
<i>66) Mortality rate in places of detention</i>	
<i>OVC Indicators</i>	<i>JLOS Indicators</i>
<i>27- %age of children's homes meeting national standards</i>	<i>20) Number of new service points opened</i>
	<i>22) No of new remand homes gazetted and constructed.</i>

4 Conclusions and Recommendations

4.1 *Summary of Findings*

A document review of policy documents of the Justice, Law and Order Sector and the Social Development Sector indicates convergence of policy intention to support vulnerable children. Similarly in both Sectors and Programs there exists a convergence in the overarching intention to work in an integrated, collaborative and cooperative manner to improve outcomes for children.

There are however elements of divergence in three areas at operational level that stand to benefit from improved synergy between programs. These exist in the areas of conceptualization of vulnerability, profiling of vulnerability, assessment and mutual exchange of child vulnerability information with the legal system.

Referrals to essential services appropriate to the wellbeing of the child remain a challenge for the legal system due to lack of information related to available essential services for children. Yet the NSPP-2 maps and maintains a register of services and service providers at sub-county and district levels. Access to this information by the legal system would expand the range of referral, treatment and sentencing options.

Follow up of children to complete the full cycle of accountability is an area of minimal focus in the legal system. The NSPP-2 Program makes provision for a Service Delivery Register where all OVCs who access a service are recorded into a service delivery register. Access to this register would enable the legal system to track OVC who have been referred to a service provider to ensure their wellbeing.

4.2 *Implications for children and child protection systems*

The National OVC Policy and Strategy recognize that OVC's lives as well as those of their care givers are lived holistically, not sectorally. Amidst this milestone achievement, a lot needs to be done to deliver this vision in practice. Building upon existing platforms to deliver across sectors will expand the reach of OVC services. Effective delivery will require carefully calibrated systems speaking to each other as well as jointly monitoring for equity in service provision.

4.3 Implications of Research on Child Protection

The extent to which information held by different sectors in the service of OVCs is utilized to improve services for OVCs will be a good initial indicator of progress. The legal system and the OVC system have a lot to learn, share and form a basis for collaboration.

4.4 Implications of Research on Management Information Systems in the community and in the legal system

Both systems stand to benefit from a comprehensive appreciation of complexities pertaining to child wellbeing in Uganda.

4.5 Recommendations

The recommendations target three categories of persons: Policy Community; Justice Law and Order Sector and Administrators of OVC programs

Policy Community

Strengthened commitment and leadership at policy level to translate the OVC Policy and NSPP 2 into tangible actions which should result into improved wellbeing for OVCs.

Justice, Law and Order Sector

Improving legal programming in three aspects so as to improve the impact of legal protections on child wellbeing: exchange of information between the legal system and the community on OVCs for legal processes such as a social inquiry report; development of vulnerability assessment mechanisms within the legal system and improved accountability for services to OVCs through reporting on services provided to OVCs in the OVC MIS.

Administrators of OVC Programs at district and national level

Strengthened linkages between the OVC Secretariat, local governments and legal service provision through information sharing on service delivery, vulnerability profiling and legal programming

Both actors working on OVC and the legal system stand to benefit from a partnership where both work in an integrated, collaborative and cooperative manner to improve outcomes for children. This partnership will require the legal system to appreciate the concept of vulnerability profiling and borrow from the OVC Policy to develop indicators on how to identify and target OVC. Actors working on OVC can also benefit in knowledge and information on spectrum of child protection measures available to OVC.

NEXT STEPS

In a validation workshop held on the 8th April 2015 at Grand Imperial Hotel the experts group agreed upon the following 3 key next steps:

1. AfriChild to utilize the findings of this report to inform the Social Protection Policy (presently in draft); emerging thinking around the development of a holistic child protection policy and the redesign of the Justice for Children Program and the OVC program of interventions.
2. AfriChild to work with the National Child Protection Working Group and the Centre for Justice Studies and Innovations (CJSI) to generate a policy and practice brief out of the study. The briefs should target the National Child Protection working Group- the Coordinator of the Working Group committed to take the lead; the Social Protection Working Group; the National Council for Children and the Management of the MoGLSD-(Assistant Commissioner, DYC committed to take the lead); Justice, Law and Order Sector(CJSI to take the lead); and the National OVC Steering Committee (OVC Secretariat to take the lead).
3. As part of the follow up activities, OVC Secretariat urged to follow up the request to UBOS for secondary data analysis of the National Census Data under the mandate of the Uganda Bureau of Statistics(UBOS) for the purpose of providing holistic baselines at community level for use by all child related programs utilizing the approach proposed by the study.

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Annex 1: List of Legislation Reviewed

United Nations Convention on the Rights of the Child (UNCRC)

African Charter on the Rights and Welfare of the Child

Constitution of the Republic of Uganda, 1995

Children Act, 2000

Domestic Violence Act 3, 2010

Probation Act, Cap 122

The Local Council Guidelines on Implementation of the Children Statute, 1996

The Judicature Act

The Local Council Court Act

The Penal Code Act Cap 120

The Births and Deaths Registration Act- Chapter 309

The National Council for Children Act- Chapter 60

Local Governments Act, Chapter 243

The Succession Act Cap 162

National Policy Frameworks

Uganda Gender Policy 2007

Universal Primary Education Policy

National Orphans and Other Vulnerable Children Policy

National Plans

Justice Law and Order Sector Third Sector Strategic Investment Plan (SIP III) 2012/13-2016/17

National Action Plan on Elimination of the Worst Forms of Child Labour in Uganda 2012/13 - 2016/17

National Development Plan 2010/11-2014/15

National Strategic Programme Plan of Interventions for Orphans and other Vulnerable Children 2011/12—2015/16

Social Development Sector Plan

Uganda National Plan of Action on Child Sexual Abuse and Exploitation (2008-2012)

Annex 3: List of Attendance of Experts in Validation workshop 8th April 2015 at Grand Imperial Hotel Kampala

S/NO	NAME	ORGANISATION/ INSTITUTION	DESIGNATION
1.	Kashemeire Obadiah	MoGLSD	M&E Officer
2.	Nyende Noah R	AfriChild	VACs Coordinator
3.	Atuhaire Maureen	UPDF(CFPD)	Deputy CFPD
4.	Agnes N. Wasike	MoGLSD- Child Protection Working Group	National coordinator
5.	Lydia Namuli Lubega	Centre for Justice and Innovations (CJSI)	
6.	Nalubega Rose	Uganda Police	CID Kibuli
7.	Kato Arthur Freeman	Ministry of Gender labor and Social Development	SPWO
8.	Beatrice Mulindwa	NCG(U) Ltd	Consultant
9.	Ochom O Edward	UPF	D/R, P&D
10.	Valentine Namakula	CJSI	Executive Director
11.	Violah Ajok	CJSI	J4C Coordinator
12.	Ssesanga Lydia	Prisons Service	Welfare & Rehabilitation
13.	Kaboggoza James	Ministry of Gender labor and Social Development	AC/CA
14.	Sarah Birungi	UHRC	HRO
15.	Kabashemeza Doris	AfriChild	Intern
16.	Hellen A Odongo	AfriChild	Administrator
17.	Gift Sandra Mukeera	Africhild	Office Assistant
18.	Timothy Opobo	AfriChild	Ag Executive Director
19.	Lillian C. Mwandha	Judiciary	D/R



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