

The Children Act Amendment 2016

APRIL 2016

Key objectives

The journey

Key amendments

Next steps



Key Objectives

- enhance protection of children;
- provide for guardianship of children;
- regulate inter-country adoption;
- prohibit corporal punishment;
- prevent all forms of child exploitation



Key amendments...

(N.B. Numbering of individual clauses in direct reference to the approved Bill)

Clause 4 comprehensively provides for full rights of the child.

The old Act limited child rights to basic needs. The new Act introduces rights of children to:

- Express their opinions in matters affecting the child.
- Birth registration.
- Privacy, legal representation in court, access to information to which a parent or guardian deems necessary for the child's growth and well-being.
- Freedom of expression.
- Inheritance of property.
- Be treated without discrimination etc.

Clause 7 introduces protection of Children from harmful customary practices (e.g. child marriage, FGM/C) as well as penalties for offenders.

Clause 8 protects children from harmful employment.

In close connection with the Employment Act, 2006, the new Act:

- Prohibits harmful employment, including the worst forms of child labour / hazardous labour. This includes work that exposes a child to physical, psychological, sexual abuse, work underground, dangerous heights, dangerous machinery etc.
- Sets the age of admission to employment at 16 years in line with Employment Act, 2006.

Clause 10 protects children from violence and provides a right to access child protection services.

The new Act:

- Addresses sexual abuse and exploitation, child marriage, child sacrifice, child labour, child trafficking, institutional abuse of children, female genital mutilation (FGM), other forms of physical and emotional abuse.
- Provides for preventive and response services for victims of child abuse and neglect.
- Provides for mandatory reporting of child abuse by medical practitioners, teachers and social workers / counsellors.



The journey...

- ... 1990 Ratification of the CRC.
- ... 1996 Enactment of the Children Statute which associated child rights to basic needs such as food, shelter, housing, clothing, education and health. The Children Statute focused on basic needs and did not include other human rights, especially civil and political rights.
- ... 2000 Revision of the Children Statute resulting in the formulation of the Children Act.
- ... 2008 Establishment of a Government led multi-stakeholder committee to inform the development of a Cabinet memo outlining proposed amendments to the Children Act.
- ... 2010 Development of a draft Children Act Amendment Bill by the First Parliamentary Council in the Ministry of Justice and Constitutional Affairs.
- ... 2013 Finalization of the Children Act Amendment Bill.
- ... 2015 Presentation of two Children Act Amendment Bills before Parliament, and consolidation of the Private Member and Government Bills.
- ... 2016 Approval of the Children Act Amendment Bill.

Clause 11 offers clarity on guardianship

The new Act:

- Introduces legal customary guardianship – according to customs.
- Grants guardianship only in the event that no relatives are willing to look after the child, or if alternative care options have been exhausted.
- Restricts guardianship only to Ugandans. Non Ugandans can only adopt and this requires foster care for 12 months.
- Establishes that guardianship stops when a child turns 18 years, or when it is revoked.
- Mandates that people who adopt children are obliged to provide periodic reports on the child.
- Calls for the establishment of an adoption agency to handle adoption applications. Inter country adoption will be a matter of last resort after other alternative care options have been exhausted.
- Clarifies on issues of offence by administrator with regards to the estate of a child to ensure that children's property is not abused.

Clause 24 prohibits death sentence for a person below 18 years and adults whose offence was committed while one was below the age of 18 years.

Clause 106A prohibits corporal punishment in schools.

The new Act:

- Sets the penalty for offenders to a maximum of 3 years imprisonment or a fine not exceeding 100 currency points or both. A currency point is equivalent to 20,000 Uganda Shillings.

Next Steps...

- Support the implementation of the Act across different sectors, e.g. health, education, justice and social welfare.
- Prioritize the expansion of birth registration, as well as universal prevention of violence against children in communities and schools.
- Ratify the Hague Convention on Inter-country Adoption and the Palermo Protocol on trafficking of persons. This also requires the expansion and strengthening of alternative care programming.
- Invest in the full realization of children's right to education including prevention of violence in schools. Of particular importance is the enforcement of the ban and criminalization of corporal punishment in schools.
- Advocate for increased funding of national programmes affecting children at both national and sub-national levels.
- Popularize the Children Act, 2016, by producing child friendly materials in both English and local languages.

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