Graduate School of Development Studies

# Children Born in LRA Captivity:
## The Case of Gulu District in Northern Uganda

A  Research Paper presented by:

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**Dedication**

This work is dedicated to all the children born as a result of rape in armed conflicts across the world.

# Acknowledgements

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# List of Acronyms

LRA   -      Lord's Resistance Army

AC     -      Amnesty Commission

CMI   -      Chieftaincy of Military Intelligence

CRC   -      United Nations Convention on the Rights of the Child

GISO  -      Gombolola Internal Security Organ

HURIFO   Human Rights Focus, Gulu, Uganda

ICC    -      International Criminal Court

ICLA  -      Information, Counselling and Legal Aid

IDP    -      Internally Displaced Person

JPC    -      Justice and Peace Commission

LC        -      Local Councillor

LDU   -      Local Defence Unit

LRA   -      Lord's Resistance Army

MP    -      Member of Parliament

NGO  -      Nongovernmental Organization

NRA   -      National Resistance Army

NRC   -      Norwegian Refugee Council

OCHA -      United Nations Office for the Coordination of Humanitarian Affairs

OHCHR   Office of the United Nations High Commissioner for Human Rights

SPLM/A   Sudan People's Liberation Movement/Army

UHRC -      Uganda Human Rights Commission

UN     -      United Nations

UNHCR    United Nations High Commissioner for Refugees

UNICEF   the United Nations Children's Fund

UPDF -      Uganda Peoples' Defence Forces

ICCPR     International Covenant on Civil and Political Rights

ICESCR    International Covenant on Economic, Social and Cultural Rights

ACRWC    African Charter on the Rights and Welfare of the Child

# Abstract

This study concerns children born captivity the way in which this research was conducted was through The main contribution of the study are to better understand of the situation of children born in LRA captivity and how vulnerable and invisible they are in both the government and NGO policies. This research, conducted in Gulu District in Northern Uganda, intends to make policy makers and agencies working with returned children better understand the accounts of human rights violations and the protection needs of children born in LRA captivity. It aims at documenting the situation of these children as a vulnerable group and brings out clearly Uganda's obligation as a state to wake up and do something, and at presenting both the children's rights and the obligations of various actors in this regard. In addition, the social, cultural and policy frameworks that are significant for the protection of the rights of children born in LRA captivity will be analyzed. Much of this report focuses on children born in LRA captivity who reintegrated in their communities.   Families and the broader community.

## Relevance to Development Studies

The problem of children in armed conflict is one that has an increasingly high profile in Development Studies and in the study of conflict and human rights. Children are increasingly recognised as having rights of their own, not only under law, but also in customary arrangements. This study contributes to the knowledge of how children born in captivity in the conflict in Northern Uganda have been denied their basic rights and suggests some ways in which their position might be improved in future.

### Keywords

# Chapter 1
# Introduction and Background to the Study

The purpose of this research was to explore the human rights of children born in LRA captivity. These are children born to girls who were abducted and taken to Sudan by Lord Resistance Army rebels, or children born in Sudan to LRA commanders who came back to Uganda. The 20 years war in Northern Uganda between the government of Uganda and the Lord's Resistance Army (LRA) of Joseph Kony has had devastating impacts on children and especially on girls in the region. Many girls have been abducted and became wives to the commanders and/or were recruited as soldiers. Underlying the study is the fact that children born in captivity do not enjoy human rights protection at a level similar to many other children in Uganda. The condition of this special group of children has so far not attracted the attention of most policy makers or academicians.

This research, conducted in Gulu District in Northern Uganda, intends to make policy makers and agencies working with returned children better understand the accounts of human rights violations and the protection needs of children born in LRA captivity. It aims at documenting the situation of these children as a vulnerable group and brings out clearly Uganda's obligation as a state to wake up and do something, and at presenting both the children's rights and the obligations of various actors in this regard. In addition, the social, cultural and policy frameworks that are significant for the protection of the rights of children born in LRA captivity will be analyzed. Much of this report focuses on children born in LRA captivity who reintegrated in their communities. Their parent(s) and mates, families, and the broader community around them can be sources of care and support, but also of the contrary.

This report presents narratives that have been gathered from focus group discussions and interviews held during 2 months of fieldwork in two sub-counties in Gulu district, Northern Uganda. The focus group comprised of mothers of the children, the children, community caregivers and locally elected leaders. Key informants comprised of district local persons, NGO staff and

county leaders who gave the researcher clear interpretations of the different laws and policy frameworks in place for care and support to these children.

## 1.2. The Conflict in Northern Uganda: General Background

Human Rights violations in Northern Uganda have typically been committed by both the official government forces (UPDF) and the LRA. The Acholi tribe has been the most affected since 1986. A prime example of this trend was reported by Human Rights Watch (2005: 10):

> *"The conflict between the Ugandan government and the LRA began shortly after the National Resistance Army (NRA), led by the current president Yoweri Museveni seized power in 1986. Defeated soldiers of the deposed government fled to their birth places in northern Uganda and in many cases continued to fight the new government. Others sought refuge across the border in Sudan. Once in power, the NRA (which became the government army) committed widespread human rights violations throughout 1986, as well as forcibly displaced large numbers of the civilian population in the north".*

Many experts have labelled these abuses as one of the causes of the current rebellion in Northern Uganda. As (Chobrok and Akutu 2008: 5) noted:

> *"Alice Lakwena, of the Acholi ethnic group, created the Holy Spirit movement in 1987 in response to abuses committed by the new government army in northern Uganda. The movement was able to attract support beyond the Acholi, from most tribes in northern and eastern Uganda and for a short time she was successful in recruiting willing youths into her fighting force. Her forces were able to fight up to within 100km of Kampala before it was defeated by the NRA".*

Because the grievances of the Acholi were not resolved, remnants of Alice Lakwena's forces regrouped and formed the LRA. Writings by many scholars indicate that LRA leader Joseph Kony has been using several approaches and tactics in fighting the government. Among others, Chrobok and Akutu

(2008:5) reported that by the end of 2007 the LRA had abducted thousands of adults and children:

> *Through the years the LRA has carried out widespread human rights abuses against the northern Ugandan population, including killing, mutilations, rape and sexual enslavement, the burning and destruction of property and looting. Between 50,000 and 70,000 people, including thousands of children, were abducted and used in hostilities."*

Acording to(Bainomugisha and Tumushabe 2005:8):

> *"The primary motivation of the LRA is the conviction that their struggle against the Museveni government is a divine call sanctioned by God through his 'prophet' Joseph Kony. This ideology is systematically implanted into the minds of young abducted fighters who eventually go into the battle with the belief that god is on their side and will ensure the total defeat of their enemies".*

While Alice Lakwena was the first woman to lead youths into warfare, over the years there has been an increase in the involvement of (young) women in the warfare. Many of these women were forced to join the ranks and fight. In large majority they were abducted and used both as fighters and wives to the fighting force. Hence the term "beast of burden in warfare" is sometimes used to describe the situations that these women undergo while in captivity. On their return, the majority of these girls have fatherless children who are in most cases rejected by their communities. The children are rejected partly due to the hatred towards their mothers and fathers, who will often have participated in gross atrocities. Community members at times torment abducted girls by asking silly questions such as "do you want to kill me like you killed the other woman?"

According to Acord (2007:10):

> *"A cease fire between the government of Uganda and the LRA came into force in August 2006, and the LRA has since begun to assemble in two camps on the border between Sudan and Uganda. The LRA has agreed to release all women and children present in the group. At the time of writing, negotiations to finalise the Peace agreement are still continuing in Juba, the southern Sudan capital".*

## 1.3. Effect of the LRA War on Children in Northern Uganda

The abductions and use of children by the LRA began in the late 1980s and peaked between 2002 and 2004. The effects of the LRA on children, and on the population in Northern Uganda at large, were well described by Human Rights Watch (2003: 3):

> "*Once in the LRA, children were forced to participate in the combat, to carry out raids, to loot and burn houses and to kill and mutilate other child soldiers and civilians. They were trampled to death, beaten or mutilated, either as punishment or if they were physically unable to keep up with their unit. Girls were raped and many have borne children while in the LRA. While thousands of children managed to escape or were captured by government troops, large numbers of those abducted, and their children, remained unaccounted for. Many have undoubtedly died in the battle, been killed by their abductors or died from physical injury or illness.*

It can also be confirmed that in July 2005 because of the escalation of atrocities on the population, the International Criminal Court (ICC) issued warrants against LRA leader Joseph Kony and four of its commanders "for war crimes and other crimes against humanity, including murder, rape, sexual slavery and forced recruitment of children" (Human Rights Watch, 2003: 4). The impact of this ICC intervention remains to be studied

## 1.4 Problem Statement

Since 1986 over 5000 children were born from LRA abducted girls. (GUSCO 2003: pp 13) There are no mechanisms specifically tailored for addressing the needs and rights of these children born in LRA captivity. Although several international human rights conventions are relevant to the situation of these children, they do not contain specific references to children born in captivity. These conventions include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the UN Convention on the Rights of the Child (CRC) and its two optional protocols, and the African Charter on the Rights and Welfare of the Child (ACRWC). The national legal regimes relevant to children born in captivity include the Republic of Uganda Constitution (1995) and the

Children's Act (1996). At the national level too, attention for children born in captivity is lacking.

Children are the future. Investing in all children's education, health and wellbeing, and protecting them from harm and exploitation contribute to sustainable national development. But the reality for children born in captivity in northern Uganda is stark and powerlessness obscures their conditions. Like others, the children born in LRA captivity are entitled to grow up in a family environment, to be protected against discrimination, neglect, abuse and exploitation, to have a name and nationality and allocation of resources and a right to culture as well.

However, instead of full rights protection, these children are considered 'illegitimate'. They are left with their mothers, which often leads to suffering for these children. For example, boys then cannot inherit property from the mother's side because the Acholi custom considers them illegitimate. If they do not belong to the paternal clan they are not entitled to inherit paternal property either, which leaves the children and their mothers in a vacuum. The children are often called all sorts of names upon their reintegration, including children of murders, killers, rebels and possessed children with evil spirit. Oftentimes they cannot play with other young children.

Programmes developed by many NGOs and by government tend to focus primarily on ex-combatants and leave out the category of children born in captivity. Packages provided by these agencies upon resettlement also leave out children born in captivity thus making them vulnerable to discrimination or leaving them socially excluded.

Reintegration programmes in Gulu have been implemented since 1997 by reception centres (rehabilitation centres) and the district government official targeting ex-combatants who return from LRA captivity. These services usually begin at reception centres and end in the community where the children and adults are re-united back with their family and community members. This has not always been a success due to many challenges. For example, some family members may have ill feelings about the material support that an ex-combatant

gets upon reintegration. This resentment may then also affect children born in captivity.

On returning home, many of the mothers of children born in LRA captivity and the children themselves are rejected by their family and community for belonging to the LRA. This is similar to the practice regarding children born outside marriage under normal conditions, who are said to belong strictly to the mother's family, unless a man pays some money, called 'luk' in Acholi local language, to 'bail' the child out. For the 'LRA children' this is usually not done, which often makes the families hate them.

Many of the mothers involved were forcefully abducted against their will because both the community and the state could not protect them from the acts of the LRA rebels. This problem is then compounded by the gaps in the programmes implemented by many NGOS doing psychosocial work, whose reintegration packages treat children born in captivity as secondary. This is for example expressed in the fact that such NGOs assume that packages given to their mothers will automatically benefit these children also.

Uganda is a state party to various international human rights conventions that charge the state with a duty to ensure as far as possible the survival, protection and development of children, and to act in their best interests. For example, states parties to the ACRWC (article 21) are required to take measures to eliminate harmful social and cultural practices which are prejudicial to the health or life of the child and those that discriminate against the child on the ground of sex and status. The right of the LRA children to name and nationality has often been accorded although their names represent a burden for the majority of these children (Carpenter 2007a:12).

The state, therefore, has an important role in protecting these children, who should not be confronted as enemies or their mothers blamed for bringing them in to the society. As a marginalised group, they require special measures appropriate for these children along side with their mothers, something that is grossly lacking at present. Without such support there is a risk that these children may be viewed as war criminals rather than as children in need of protection and respect for their rights.(Carpenter 2007b:13)

## 1.5 Research Objectives and Questions, Relevance and Justification

This research analyses the legal and social framework within Uganda that should guarantee the rights of children born in LRA captivity, in order to be able to bring up recommendations for stepping up respect for the needs and rights of the children involved. In doing so, the roles of the state, NGOs, communities and the individual will be addressed. A special feature of this research is that the researcher made an effort to investigate and expose the views of both children born in captivity themselves and of their mothers.

### *Main Research Question*

Are the rights of children born in LRA captivity sufficiently protected in Gulu District at the moment? Why (not)? How could such protection be improved in future?

### *Sub Research Questions*

What are the rights of children born in captivity?

Are these rights realised in practise?

If not, what are the main obstacles to realising the rights of children born in captivity?

Which actors have a role to play in the protection of the rights of children born in LRA captivity?

What should these actors do to improve the situation of children born in captivity?

### *Relevance and Justification*

Most studies about armed conflict have focused primarily on its impact on the civilian population at large or on both male and female ex-combatants, and some have detailed their experiences. Attention has also been paid to the effects of war generally on children and women as vulnerable groups during a violent armed conflict. However, very limited research has been done about

children that were born during captivity as in the case of Northern Uganda with the LRA.

Being one of the victims of this war and a former child soldier, with the experience of working in two different organisations (Education for Peace, active on prevention of violence and HIV/Aids, in 2003 to 2004 and War Child Holland in Uganda in 2005 to 2007) handling psychosocial issues in Gulu district with the mothers of children born in captivity, the researcher is deeply motivated to work on the topic of children born in LRA captivity and in exposing the gaps that exist in relation to their rights. Hence this study explores and gives recommendations for greater protection and promotion of the rights of children born in LRA captivity.

## 1.6 Methodology

This research has largely used qualitative methods and depends on primary as well as secondary data. Primary data mainly consist of the findings of 68 interviews held in Gulu district between 10 July and 8 August 2008. Focus group discussions as a well as a one-on-one in-depth interview method was used. Each interview lasted between 40 and 50 minutes. Transcripts of the interviews are with the researcher. This research was cross sectional, focusing on children born to mothers while in LRA captivity. Focus group discussions were conducted with the mothers of children born in captivity to provide rich data through interaction between researcher and respondents. This method was selected with due consideration for the level of literacy among the former abducted mothers and their families, which is generally low.

In this research, children were used as both subject and object. Children participated by methods that the researcher felt would be comfortable for them. The researcher found it difficult to interview the children as in the first interaction with their mothers the researcher realised that the identity of the children was often not known to the children themselves. The researcher then started by talking to the children, for example on whether they had ever heard about somebody called Joseph Kony, the LRA leader. The researcher had to stay in the camp for one week playing games with the children so as to get used to them and vice versa, and to build up some trust. Use of a drawing method

provided children with possibilities for-self expression which was easier and more enjoyable for them than simply answering questions.

Review of documents was conducted to produce some complimentary secondary data. Relevant documents include the Constitution of the Republic of Uganda, the international legal instruments and the regional standards related to children's rights, NGO reports on the situation in northern Uganda and many others relevant for the topic. These documents were also used for making an informed comparison between interpretation of events and those recorded in the documents.

### *Study area and participants*

The study was conducted in Northern Uganda, Gulu District and in particular within Gulu Municipality and Bobi Sub-county. Gulu is one of the districts where insurgency began, the central district for the Acholi tribe, and the headquarter of the Northern district. It is also a place where a considerable number of non-governmental organisations and other humanitarian agencies are based. As such, working there facilitated access to information and respondents for interviews and discussions as the researcher is familiar with the environment. While the researcher's first intension was to work within Gulu municipality, on the pre-test interviews the researcher got a recommendation from the mothers that their colleagues in the rural areas needed to be interviewed as well because they are facing more serious challenges with their children compared to the ones staying in town. This made the researcher to select one of the sub-counties within Gulu district (Bobi)

Gulu Municipality of Northern Uganda has two reception centres for former child soldiers (GUSCO and World Vision). Gulu Support Organisation is a non-governmental organisation that was created in 1994 for the rehabilitation of children/child soldiers that return from the Lord Resistance Army. They have been offering psychosocial support and reintegration of formerly abducted children. World Vision is an international non-governmental Christian Organisation that is carrying out the same function as Gulu Children Support Organisation in Northern Uganda. They are also located within the Gulu municipality. These centres were able to identify for

the researcher relevant child mothers within the municipality. This helped the researcher to avoid impersonation (people pretending to be formerly abducted mothers so as to get material benefit). This made the two reception centres play a key role in this research.

The main participants of this research were children and mothers that came back with children from LRA captivity. The researcher was referred to a group of child mothers within Gulu municipality and later Bobi camp. The staff of rehabilitation centres were also interviewed, the Probation officer, the focal point person child protection, the Resident district commission (RDC) and the Paramount chief of the Acholi, opinion leaders, and representatives of NGOs that work on children's issues.

## 1.7 Structure of the Paper

The paper has five chapters. The introductory chapter has stated the problem of children born in LRA captivity and introduced the scope of the paper, the research objectives and questions and the methodology. It has also sketched the historical context of the conflict in Northern Uganda and shown the general effect of the war on children in Northern Uganda. Chapter two presents the situation of children born in LRA captivity, both when still in Juba and currently in Uganda. Chapter three contains an analytical framework and some theoretical concepts relevant to the problems addressed in this paper. Chapter four discusses the roles of relevant actors in the protection of the rights of children born in LRA captivity while Chapter five presents the general conclusions and recommendations. The paper as a whole will bring together recent debates about children born in LRA captivity. The main objective of the study is to analyse the role and strengths and weaknesses of legal and social frameworks in Uganda for guaranteeing the rights of children born in LRA captivity.

# Chapter 2
# The Situation of Children Born in LRA Captivity

## 2.1 When born in Juba, Sudan

The nationality of children born within the LRA has been a political issue. They are unlikely to have been registered at birth, particularly as most have been born in the jungles of Southern Sudan. Unfortunately, their nationality has been called into question. The Sudanese government does not grant them nationality on the basis of the argument that they are illegal immigrants. As their presence in Sudan is not official, Sudan argues that is does not have the obligation to register the children, neither to account for them in the government plans. However, as Sudan is a state party to the CRC, it therefore has the obligation to guarantee children's rights for all within its jurisdiction regardless of whether registered or not, legally or illegally residing in Sudan. Obviously this is a sensitive political issue. Under the Ugandan Constitution, children whose parents or grandparents are Ugandan citizens are regarded as Ugandan citizens as well. Nevertheless, neither the Ugandan nor Sudanese government has granted them legal status.

While in captivity, that is in Juba in Sudan, the children faced poor nutrition and health care but in terms of social interaction and school there was no problem. As explained by a mother: "*my daughter used to teach me how to write my name in Juba, she was going to a nursery school by then*" (female respondent, Gulu municipality 2008). According to a 14 year old child respondent: "*I had my friends while in captivity and we would play together with Tek-Kwo (not real name), war games, and making toy guns. They used not to abuse me and just play peacefully. My mother told me that if one uses abusive words the wind will blow your mouth away and your mother will die*".

While in captivity the children were the first priority. In anything that would take place the children were consider first. According to a female respondent from Gulu municipality: "*Our children were fed well and clothes that were looted from*

*the Sudanese dinka (this is a tribe found in Sudan) were given to our children".* In Sudan the children were relatively well catered for in terms of feeding. Even if there was nothing to eat, at least soldiers would be sent to get food for the children as a mother lamented: "*ha our children, now you see people undermining were like chief while in captivity they enjoyed more than us*"

As explained to the researcher by an 11 year old child respondent from Gulu municipality, the children had their caretaker who was call "ting- ting". These were like house helpers for the mothers who would go away to the garden and leave their children behind. While in Sudan the children were also divided into groups of children that were young and those of medium age. These were each taught under a tree. Accordingly*,* the children had informal education while in captivity.

While in captivity the children lacked proper medical care. For most of them, there were no accessible hospitals around. The children belonging to high rank commanders were taken to Juba or Khartoum for treatment but traditional experts using traditional medicine were there for low rank commanders and ordinary soldier's children. Nevertheless the mortality rate was low. When asked whether this situation worked for them, very few said they lost their children as a result of not getting proper treatment: "*It was just God helping us I did not see any modern medicine to treat my son I only used the traditional one for diarrhoea, Malaria, cough flu and scabies*"

While in captivity the children were treated according to their status. Children belonging to the commanders had more benefit than children of an ordinary soldier "*the children belonging to commanders were treated at Juba hospital and their shopping was done from Juba as well*" (Focus group discussion Lela Obaro 2008)

## 2.2  The Situation of the Children in Uganda

The children that came back to Uganda with their mothers were either relased by the LRA or escaped from Sudan or were rescued by the government soldiers. On very few occasions did these mothers come back with the father of these children. Most of the mothers interviewed in this research shared that

their husband were either killed in the battlefield or still in captivity with the LRA.

Once back in Uganda, the children had to face major challenges arising from stigmatisation of the children by the community and the structural violence that results from references made in the different laws and policy frameworks. The Good Practice Principles are one example. This is a book developed by the National Psychosocial Core Team (NCT), which is an official advisory body of the Ministry of Gender, Labour and Social Development. It arose from the shared desire on the part of the Ugandan Government, donors, UN agencies and NGOs for a coordinated approach to Psychosocial programming in Uganda. Prior to the development of the NCT in 1997, many agencies – both government and non-government – strove to alleviate the suffering of people affected by conflict. The national psychosocial team, spear-headed by the Ministry of Gender, Labour and Social Development, and the Amnesty Commission, have deemed it appropriate to develop Good Practice Principles as guidelines to be applied in the care of children who are admitted into Trauma Counselling Centres in war affected parts of the country. These guidelines were to serve as a day-to-day operational regulation, used by managers and staff of reception centres. The core team took the international and regional instruments ratified by Uganda into consideration so as to avoid contradictions and secure safety. For Working with Formerly Abducted and Other Vulnerable War-affected Children in Uganda principle 5 refers to children born in captivity as "*other vulnerable children*".(Ministry of Gender 2006:16) According to various mothers this makes the community look at their children as a hopeless lot and think that the children have an evil spirit which makes them very dangerous to the community. As explained by a female respondent from Lela Obaro Bobi: "*I don't have a mother; people say that the child with whom I came back has an evil spirit. To make it worse this is a boy who will not leave the home. If it were a girl that would have been better as she would get married away*". According to another female respondent from Lela Obaro Bobbi:

> "*My husband that I eloped with does not like my child. He segregates my child from his children and always beats her. When he buys edibles he gives these to his children and not to my child. This makes me feel bad. I cannot leave my child born in captivity with*

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*my mother because she is too old to take care of her. So I resisted and got into arguments with my husband. This led to our separation. Now am staying with my mother in the village*".

The cultural context that gives men fundamental control over the family resources is a huge challenge to those children who returned to Uganda without one of their parents. In those circumstances, the biggest burden rests on the mothers, who often themselves are children. They have to keep their children from suffering Post Traumatic Stress Disorder (PTSD) as a result of the war. This often makes the mothers lie to their child(ren) about the identities of their fathers. The majority of the respondents reported that their children ask a lot of questions about their fathers. This in many ways is an obstacle to the coping of both the mothers and the children who feel deprived of the love from their fathers. According to a female respondent from Gulu municipality:

"These *children ask for their parents (fathers),but for us mothers it is very difficult to tell them. At school other children abuse our children because they are children of the rebels. One day my daughter came and asked me, mama where is my dad, is it true that my father is a LRA? I told her no your father is here and I showed her my brother. It is very difficult to say this thing to the children because they are still young. For me I fear that my child will run mad*".

The other obstacle to the psychological recovery of the children is closely linked to the denial of the children knowing their fathers or the relatives of their fathers. As the children grow up, many tend to become wild and aggressive, even to their own mothers in caser they cannot provide everything that the child wants.

The parents of the girls often do not accept the children because they do not know or approve of the father. According to Ljung (2004), her informants were concerned about these children and felt that special attention should be given to their needs. The majority of the respondents reported rejection of their children by both the community and (new) family where the young mothers are staying.

On return to Uganda:

*"Series of traditional rituals were performed on us, for instance stepping on eggs to cleanse us from the different bad spirits that we had faced while in captivity. These traditional rituals are not done to everybody. It is even worse for unaccompanied children where there is no one to help them undergo the traditional ritual. In addition there are no traditional systems that protect our children. We fear that most of the children we came back with will become mad. For instance, there are four unaccompanied children who were staying with their grandmothers, but they have now turned into street children who behave like mad persons. The main cause of this problem is that most caretakers sell away things given to them for the protection of these children. The other problem is cruelty by the mothers towards the children. For example if a child wants something and the mother cannot afford it, she might feel guilty and start shouting at the child. The child then may start thinking that the mother does not like him or her. The other problem is with our husbands. For those who came back with their husband they are in problems because the men do not want the children. Instead they get other women and move to stay with them in a different location. Our parents also hate these children, and they cannot assist. For example a son to one of us was sent away from school, the boy walks naked now he is in the village"*. (Focus Discussion Group Gulu Municipality 2008)

O'Brien et al. (2008) have brought in very interesting arguments regarding food poverty among socially excluded children. They argued that food poverty has tangible consequences for single parent households (mostly child mothers). These consequences range from lower nutrition and vitamin levels to general food deficiencies. Without any food policy framework put in place both by government and NGOs operating in Northern Uganda, O' Brine et al. would argue that children born in captivity would continue to suffer from food poverty. This is especially serious for displaced child mothers and their children.

### 2.3   Situation of mothers

The problem of domestic violence persists among the child mothers. This is usually not reported to the authorities as in Uganda physical violence is generally vetted as a routine response to domestic conflict. This is reported by the majority of the respondents, as in the following example:

*"I separated from my husband because of my child born in captivity. Whenever he found out that I had bought something for my daughter, he normally beat me up. I brought the case before the local council and then I moved back to my parents' home"* (Female respondent Bobi).

The mothers to children born in captivity believe that male combatants, especially the commanders, must be "punished not simply to deter crime, but also to signal a polity's collective abhorrence of the offending act (sexually enslavements they under went)" (Laury 2000: 230). The mothers also attest to the "moral impoverishment" (ibid.) that they have gone through as the result of forced marriage and rape which led to them to give birth to children outside wedlock – a shame among the Acholi tribe. Marita Ljung (2004) stated that during abduction and time in captivity many girls have been raped and suffered psychological trauma, that physical damage was inflicted on them during sexual assaults, that many of the girls became pregnant against their will, were forced to go through abortions, faced birth complications and/or contracted Sexually Transmitted Diseases including HIV/AIDS. In many cases returning girls remained quiet about their experiences, partly because of the fear of being rejected by their families. When a girl returned with a child that she had during captivity as a result of rape, the situation was even more complicated as those children would usually not be accepted. Their mothers often find themselves in a difficult dilemma. According to a female respondent from World Vision:

"I *am facing very many problems such as in getting money for sending my child to school. My parents are not there to support me. My child keeps on demanding for material things which I cannot afford. In a way my child thinks I don't like him. Just because of my child I don't have a man and hearing experiences from my friends, I get discouraged about staying with a husband*".

However to wrapped the above the situation of children while in captivity and back in Uganda differs, the challenges of reintegration of their mother affects the reintegration of the children too both the children and their mothers are rejected by the community and exclude from the social activities as the community believe they are possessed with "evil spirit"

# Chapter 3
# Framework for Analysis and Relevant Concepts

**Figure 1: Framework for Analysis**
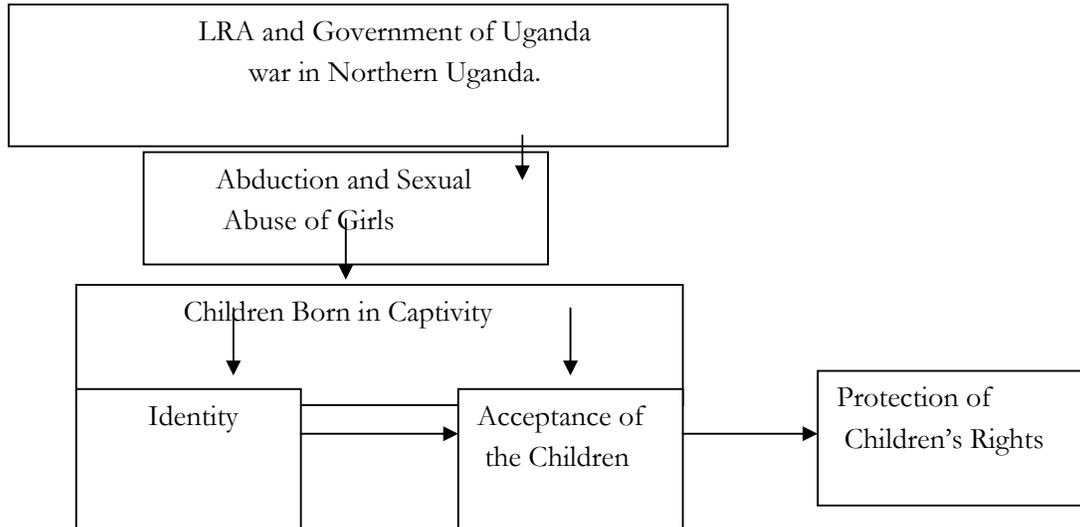


The above illustration presents that the northern Uganda conflict has led to massive abduction of children including girls who have often been sexually abused by their male captors. While in captivity the girls then gave birth to children to these rebels. On moving to Uganda, the children of the child mothers face problems of identity especially when their father remained or were killed in the bush as this makes it especially difficult for the community to accept the children. In the end this directly affects the scope for protection of their rights.

## 3.1   Terminology 'children born in captivity'

 in this paper, the term 'children born in captivity' refers to persons of any age who were conceived and born in Sudan to LRA fighters and came back to Uganda thereafter. 'Abducted girls' are the mothers of these children. The term 'children born in captivity' is used in this research because the alternative terminology of 'children born of sexual violence' is too broad as that includes children that were born as a result of rape, by  government soldiers, LRA

rebels or others. The term 'born in captivity' is also milder than the term 'children born of sexual violence' which is more stigmatising and can hardly be translated into the local language.

## 3.2 A Child Right Based Approach

A rights-based approach to development is commonly understood as a conceptual framework that is "normatively based on international human rights standards and operationally directed to promoting and protecting human rights" (UNOHCHR, 2006: 15). It pursues empowerment of disadvantaged and vulnerable groups, their participation in the society, equality, non-discrimination and explicit linkages to rights. Right-based approaches hold powerful people and institutions accountable for their responsibilities towards those with less power, in this case children born in LRA captivity. Rights-based programmes support rights holders to claim their rights, especially the poor, powerless and the discriminated. They also address the underlying causes of rights violations (Save the Children 2005:21).

A child right based approach, based on the key rights in the UN Convention on the Rights of the Child, is one which sees each child as a unique and equal valuable (non-discrimination art 2) human being with life not only to survival, but also to development to their fullest potential(Art6). Child rights based approach understands that children offer the best understanding of their own situation that they have essential to offer (participation Art 12), and that they deserve to have their best interest met (Art 4) through allocation of resources and implementation of all rights in UNCRC (Art 4)

Non discrimination is a principle present in all human rights treaties. The UNCRC aims to reduce discrimination in three areas 1) against individual children, against a specific of children such the children with disability, against population group as a whole and to stop children from being treated as adults for example in terms of violence that society allows to be used against them the obligation to provide equal rights and opportunity to all children is expressed in the non-discrimination clause. It requires a particular attention to the most marginalised for this case children born in captivity (save the children hand book)

The best interest of the child deciding on programmes for children should be on the best interest of the child. The principle emphases on every aspect of a Childs life. In the past adults have act supposedly " in their best interest" and this is still the case when one applies the situation of children born in captivity where the government and different NGOs assumes the whatever has been given to the mother will benefit the child not evaluating the impact of this on the children themselves. This principle implies that whenever decisions are taken that affects children life the impact of that decision must be assessed. That is interest of parents, community and state should not over ride that of a child

As mentioned in save the children hand book, this is the first explicit assert children civil rights every child has a right to information, to have the opportunity to express his or her views heard in decision affecting him or her. However for this case children born captivity maybe having a right to information but cannot participate in decision making as said by one child in the interviews that "

*Whenever I try to say something in class my friends laugh at me and say am saying abnormal things and when people are having drama at school related to war they always tell me that am an expert in that field because my father is a rebel*

In this situation where the children are denied their participation rights other rights, such as the right to life, health, education or protection maybe weakened

Childrens rights to survive and develop are fundamental. The UNCRC states that children have inherent right to life and that states shall ensure that to the maximum extent possible the survival and development of the child, so that children can contribute to peaceful tolerant society. Child development includes wider extent that is physical mental, cultural, spiritual, moral and social development they must be living in a conducive environment for their development. However for the children born in captivity this is not so mentally they are affected by the community discrimination calling them as children of murderers, cultural they do not know where they belong simply a child born

out of wedlock is not entitled to inherit property Uganda being a party to CRC has a role to play here as a state

Child rights-based approaches specifically focus on children's rights aspects. "Children's rights are comprehensively protected by a wide-ranging set of international and regional instruments spanning human rights, humanitarian and refugee law. Children also benefit from the rights contained in general treaties" (http://www.hrea.org/index.php?base_id=81). The most important general framework for children's rights is the 1989 UN Convention on the Rights of the Child (CRC). "This was the first treaty specifically concerned with the rights of children and marked an important shift in thinking towards a "rights-based approach" which held governments legally accountable for failing to meet the needs of children. The Convention creates a new vision of children as bearers of rights and responsibilities appropriate for their age" (ibid) The UN Convention on the Rights of the Child (CRC) is a comprehensive human rights treaty in that it contains all civil, political, economic, social and cultural human rights of children, and also covers some areas usually associated with international humanitarian law. The CRC re-emphasises that children are holders of rights, and that their rights cover all aspects of their lives. It applies to all human beings under the age of 18 years.(Save the Children 2005:15) It is particularly useful in supplying the main ingredient of a child rights-based approach (CRBA) for any form of concrete action or intervention. The general principles that the Convention prescribes for all action affecting children and young persons – best interests of the child, non-discrimination and participation –  are also important elements of CRBAs.(Karin 2005:10)

## 3.3   Social Exclusion Theories

Social exclusion does not have a "single unambiguous definition" (Silver, 1995: 59. See also Andersen *et al.*, 1994; CEC, 1993: 10) According to Silver (1995: 63) social exclusion means "being treated as an object, a condition which could apply to virtually any individual or group". However, Commins defines social exclusion as "the dynamic processes of being shut out, partially or fully from any or all of several systems which influence the economic and social

integration of people into their society" (2004: 68). Social exclusion of a category of people from economic and social development and enjoyment of economic and social rights leads to their "suffering from low self-esteem [and] inadequacy in their capacity to meet their obligations" (CEC 1993: 7-10 in Rodgers 1995a: 43). This is applicable to the children born in captivity and their mothers. An example came out in one of the interviews where a child said "I *cannot participate in the radio programmes because people will call me a son to the rebel 'dwong cen paco'* " (Child respondent Lela Obaro Bobi). Theories of exclusion also refer to ways for inclusion and integration (Silver 1995: 61, 64).

This research uses social exclusion indicators, such as lack of basic needs satisfaction (medical support and immediate relief), lack of security, lack of justice (legal), and lack of participation and representation in economic and social activities Social exclusion theory is used here to explain the dissolution of social bonds between children born to LRA combatants and their parents, communities and families in northern Uganda. It is mainly concerned with the incomplete extension of social rights and lack of social protection policies that fuel rejection and can be used to re-enforce findings from the current research.

Exclusion of children born in captivity is often caused by diverse "individual, familial, or socio-economic" factors which may lead to "cumulative" exclusion (Silver 1995:59). Children born in captivity and their families are excluded from others, as this especially may lead to "instability of social relations: family instability … social isolation, and the decline of class solidarity based on social network" and ultimately to exclusion from the dominant society (Silver 1995:56,64). An example is the stigmatisation by the community, to the extent that those who were abducted are said to be possessed with evil spirit, 'Cen' in the local language, and that having a relationship with them would deteriorate one's own social position for associating with 'killers' or 'murderers'.

Fischer(Fischer 2008:10) argued that social exclusion as a paradigm must be differentiated from circumstances that give rise to poverty. This would correct the tendency among those who blame inequality-induced conflict on the poor. The social exclusion of children born in LRA captivity does not result from the poor conditions in which these children find themselves but

from the social and legal ambiguities in their situation and from lack of policies both at district and national levels. Fischer (ibid) explicitly argued that social exclusion marginalization, discrimination and the conflict that these children find themselves in can occur in the absence of poverty. Thus the claims that children born in LRA captivity continue to be rejected due to economic deprivation is not correct. Rather it is lack of "the structural, institutional, and the intentional, repulsive and obstructive" (Fischer 2008:18) social setting where children can reintegrate that contributes to their exclusion.

Orr (2005:5) argues that social exclusion is seen as wrong because it violates social equality in economic opportunities, political and social participation. The author argues further that social exclusion "can happen when people or areas face a combination of linked problems" (Ibid: 5). this certainly applies to northern Uganda, where there has been war and disease epidemics (e.g. Ebola, Hepatis E and HIV/AIDS). The current research found out that the majority of child mothers willingly exclude themselves from joining groups and or applying for amnesty on return. Thus they end up being excluded from programs which could have catered for them and their children in the long run.

Social exclusion can be combated by an explicit inclusion policy. Australia is one of the first countries in the world that has implemented such an inclusion policy. Laury (2000) argues that inclusion of the excluded through policy making should involve more than providing technical solutions to the problem of governance. It must include actions that express people's values and belief. The community to which the children born in LRA captivity value belonging to and their family and parent(s) are all important for ensuring justice for them (Laury 2000:229).

## 3.4 State Obligations Arising from Relevant Legal Instruments

There are three main forms of state obligations accepted in contemporary human rights theory and practice: the obligations to respect, fulfil and to protect human rights. Firstly, the obligation to fulfil means that "states shall take legislative, administrative, judicial and practical measures necessary to

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ensure that the rights in question are implemented to the greatest extent possible" (Skogly 2006:71). This level of obligation requires the state to take measures to ensure, for persons within its jurisdiction, opportunities to obtain satisfaction of their basic needs as recognized in human rights instruments, which cannot be secured by personal efforts (Manfred 2005:179,Theo Van Banning et al. 2004:16). For example, this entails that the state should develop legal measures that protect the rights of children born in captivity. Secondly, the obligation to protect "requires the state to prevent violations of human rights by third parties". The obligation to respect human rights represents the obligation not to interfere in the individual enjoyment of such rights. This obligation is often considered the "traditional" or "classic" (Skogly, 2006: 67) States should refrain from intervening unless such interventions would be considered admissible or even necessary.

Children born in LRA captivity, as any other children in the world, are entitled to all the human and children's rights listed in the different relevant UN Conventions and in the Constitution of the Republic of Uganda 1995 and in other national legislation.

### Universal Declaration of Rights

The Universal Declaration of Human Rights was adopted in 1948. It is not a human rights treaty but a general Assembly resolution. While it is therefore not necessarily fully binding it nevertheless sets major standards for international human rights law as applied today. Article 25(2) more specifically addresses the rights of children, and can be applied to children born in LRA captivity: "motherhood and childhood are entitled to special care and assistance. All children whether in or out of wedlock, shall enjoy the same social protection."
Under UDHR Articles 1 and 3, "all human beings are born free and equal in dignity and rights" and "all people have the rights to life, liberty and security of person". The UDHR also guarantees the right to nationality, the right to "equal access to public service in his or her country" and the right to education (Articles 15, 21(2) and 26).

### *International Covenant on Economic Social and Cultural Rights (ICESCR)*

ICESCR Article 10(3) places further responsibility for the protection of the vulnerable into the hands of states parties by declaring that "special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reason of parentage or other conditions".

### *Convention on the Rights of the Child*

The CRC sets basic rights which should be guaranteed to all the children, "without any discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex language, religion, political, national or social origin, property, disability birth or other status (art. 2). As indicated above, the Convention on the Rights of the Child has identified three general principles to be emphasised in the realisation of every child right: articles 2, 3 and 12. These general principles of best interests of the child, non-discrimination and participation are all supposed to strengthen action for the survival and development of children (CRC art. 6). For example, in relation to the best interests of the child, Article 3 states that in all "action concerning children, whether undertaken by public or social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest shall be a primary consideration". The best interests principles seeks to bring about an ad-hoc examination of the particular circumstances and interests arising in each case and to make sure that the child's interests will be given proper primary emphasis (Arts 2005: 12)

CRC Article 39 calls for states to "to take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of: neglect, exploitation, or abuse; torture or any other form of cruel, inhuman degrading treatment or punishment; or armed conflicts".

### The African Charter on the Rights and Welfare of the Child

Uganda ratified the African Charter on the Rights and Welfare of the Child (ACRWC) in August 1994, and took full responsibility for each and every article as per its Article 1 (1):

> *"members states of the Organisation of African Unity parties to the present Charter shall recognise the rights, freedoms and duties enshrined in this Charter and shall undertake the necessary steps, in accordance with their Constitutional processes and with the provisions of the present Charter, to adopt such legislative or other measures as may be necessary to give effect to the provision of this Charter".*

According to ACRWC Article 6 on name and nationality, every child shall have a right from birth to a name, every child shall be registered immediately after birth, every child has a right to acquire nationality and states parties to the ACRWC shall ensure that their constitutional legislation recognises the principles according to which a child shall acquire nationality of the state in the territory of which he has been born if, at the time of the child's birth he or she is not granted nationality by any other state in accordance with its laws. For children born in captivity the right to a name has been respected. However on the right to nationality, when some mothers where interviewed they said that the registration of their children at birth was not done in Uganda nor in Sudan whereas both are states parties to the African Charter on the Rights and Welfare of the Child.

Article 11 of the Charter refers to education and stipulates that every child shall have the right to education. The education of the child shall be directed to the promotion and the development of the child's personality, talents and mental and physical abilities to their fullest potential, fostering respect for human rights and fundamental freedoms, with particular reference to those set out in the provisions of various African instruments on human and peoples' rights. According to sub-section 3, states parties to the present Charter shall take all appropriate measures with a view to achieving the full realization of this right and shall in particular provide free and compulsory basic education. As Uganda is a party to the Charter, it has to provide basic education. However, the majority of the children born in captivity are still at

pre-primary school. Yet the free education is at the primary schools. Special measures are required in respect of female, gifted and disadvantaged children so as to ensure equal access to education for all section of the community. Subsection 5 states that state parties to the present Charter shall take all appropriate measures to ensure that a child who is subjected to school or parental discipline shall be treated with humanity and with respect for the inherent dignity of the child and the conformity with the present Charter. Sub-section 4 says that state parties shall respect the rights and duties of parents, and where applicable legal guardians to choose for their children

### *National Legislation and Policy initiatives*

Article 34(1) of the Constitution of the Republic of Uganda emphasises the principle of the best interests of the child. Section 3 of the Children's Act also sets out this principle as a guiding principle in the making of any decision concerning a child as well as other provisions on child protection. The 1995 Constitution also outlines the duties and obligations of the state. It effectively outlines the fact that the state is responsible for acting through its institutions to protect and prevent children from abuses. An example is Ugandan Human Rights an institution for which the Constitution has laid down duties in protecting children's rights. Their enforcement and implementation is left to the state organs such as ministry MGLSD. (Committee report, 2006: 19)

Article 6 of the Children Act Cap 59 states that "Every parent shall have parental responsibility for his or her child" (Children Act 1997 Article 6 Sect.1). The Children Act (CAP 59) though enacted before the coming into force of the Optional Protocol on Children in Armed Conflict, makes the provisions of the UNCRC and its optional Protocols legally enforceable in Uganda. The Children Act also provides for the basic duty of parents and guardians to supply the child's needs such as education, guidance, immunisation, clothing, shelter and health needs. The primary duty of the parents is to maintain children financially and otherwise. it is mainly the mothers of children born in captivity who are fulfilling the parental roles stated in the Children Act. They are playing a role in guidance, in providing

education, shelter and clothing for their children, although they are limited by resources.

Uganda has a law governing birth and death since the 1970s. Today this law is known as the birth and death Registration Act (CAP 309). Birth registration is a fundamental human right, usually required for realizing the right to a name and nationality. Registering children at birth fulfils this right. In addition there are protection issues, for example the age of a child with a birth certificate can be decisive for protecting a child from early marriages, recruitment into military service or other case instances of child rights violations. The Civil Registration Act provides for registration of birth and deaths within a stipulated period of time, failure of which attracts penalties. This law has never been strictly enforced thus only few children, mostly those born to educated women, are registered at birth.

Article 257(1) of the Constitution of Uganda 1995 defines a child as a person under the age of eighteen years. The Children Act 2000, CAP 59 is in conformity with the supreme law in defining who a child is and stipulates that children's rights and their welfare shall be the guiding principle in the making of any decision relating to a child whether before a court of law or otherwise.

The Amnesty Act passed by Parliament in 1999 and became law following the presidential assent in January 2000. This paved the way for setting up an Amnesty Commission. This Commission's focus is on demobilisation, reintegration, and resettling of rebels who have returned from the bush and renounced violence. The Commission also had a mandate to sensitise the public to the Amnesty. However, there is as yet no law aimed at promoting reconciliation with all rebel insurgents (including child soldiers) since the coming to power of the NRM in 1996.

In order to enhance the above legal provisions, the national Psychosocial Core Team, spear-headed by the Ministry of Gender, Labour and Social Development, and the Amnesty Commission, have deemed it appropriate to develop Good Practice Guidelines to be applied in the care of children who are treated by a Trauma Counselling Centre in the affected part of the country. These guidelines are in line with the Children Act's Cap59

which provides for custodial disposal as to be used in last resort. The Good Practice Guidelines serve as day-to-day operational regulations and are used by the managers and the staff of the Trauma Rehabilitation Centres the Guidelines took into consideration the international and regional legal instruments as well as national laws regarding children while framing their main principles

This policy document was developed by the National Psychosocial Core team which is an official advisory body of the Ministry of Gender, Labour and Social Development. It arose from a shared desire on the part of the government, donors, UN agencies and NGOs for a coordinated approach to psycho-social programming. It describes the National Psychosocial Team, a definition of psychosocial programming, psychosocial programming for war affected children, the rationale of the good practice principles and the legal and normative framework of the good practise principles. The second part specifies the principles, including:

1) the overall determinant for all programming is the best interests of a child;

2) family reunification;

3) centre-based care should only be used as last resort;

4) when non-family member care arrangements are necessary, they should be community based;

5) the aim of reintegration efforts is to enable formerly abducted, or other vulnerable children to access services;

6) some children may be more vulnerable and require additional support to promote reintegration and healing.

While accordingly there is a clear policy framework in place in Uganda, whether it is sufficiently put to use is another question. It has been used by reception centres though.


## 3.5   Conclusions

Children born in LRA captivity are seriously at risk of abuse, rejection abandonment and marginalisation. There is thus a high risk of human rights violation. Uganda as state party to various international and regional human

rights instruments, while keeping in mind the extent of its available resources, has to make sure that children born in captivity will not be discriminated against and that they will be accorded the same rights and protection as children who were born under more socially, culturally, or politically "acceptable" circumstances. This is because Human rights are universal, interrelated and indivisible. Humanitarian agencies working on human rights have a role to play in monitoring and seeking to ensure that the state will respect, protect and fulfil the rights of children born in captivity living in Uganda.

# Chapter 4
# Roles of Relevant Actors

## 4.1 Introduction

The roles and responsibilities of stakeholders in Northern Uganda should be to allow and/or restore the normal functioning of children born in LRA captivity so that the children involved can accomplish both psychological and social tasks in accordance with their age. In the last two decades, various actors have engaged with the protection of the rights of children in Uganda. The government of Uganda took the lead role and responsibilities at the national, regional, district and local levels. At all these levels there are focal persons responsible for the psychological and social development of children, including the most vulnerable children and children born in captivity. Segregation by the different organisations that give care and support to the mothers and fathers of these children is also an obstacle to the protection of the rights of children born in captivity. The government tends to segregate male returnees from female returnees which has led to sentiments among the returned abductees. The worst scenario is with the commanders who are being favoured by the government of Uganda, yet they are considered the perpetrators of abduction. According to a female respondent from Gulu Municipality: "*Not all returned child mothers are staying together with their former bush husbands. Most of the commanders that came back do not take care of their own children and yet they are being supported by NGO and government*".

## 4.2 The Roles of Mothers

While they were in captivity, the mothers continued with their role of taking care and looking after the welfare of the child as a mother. As one of the respondents said: "we are still carrying the burden that we had in captivity, all burden of looking for food and making clothes using our hands for the children was on us women". Even now in Uganda it is these mothers who are responsible for guidance, health, education, shelter and clothing for their chil-

dren. The mothers do all kinds of petty business to see that their children survive and go to school.

The role of the mothers is well illustrated by the following statement made during the Focus Group Discussion:

> *"If you compare our conditions when we had just returned, then you can see a big change in our life and that of our children. For instance, some of us came back and found our parents dead. The little assistance given to us by rehabilitation centres could not cover all our needs. There was also stigmatisation by the members of the community. Through hard work our children are now getting most of what they need".*

The mothers are the full bread winners for these children. According to one of them: "I am a man and a woman at the same time. I just struggle to get something for the child. I am having a petty business now that my child has started going to school". Therefore it is mainly the mothers who are trying to respect and fulfil their duties as parent to send their children to school

The mothers "protect" their children in that they feel the children are part of them. The mothers try to protect the identity of their children for security reasons and try to avoid stigmatisation from the community. When a female respondent at the World Vision Centre said that "the time will come when I will tell my son where his father is, he is still young and he does not understand. Even if I tell him now, it will not help but I don't want people to keep on reminding him about his past".

## 4.3 The Roles of Fathers

According to an interviewed woman, her 11 year old son asked for his father. She told him that his father was not there as she gave birth to him in Juba. She also told her son that:

> "his father died and that if he has any problems he should come to me or to his uncle. So when I said this to him he has never asked me again. I asked him why he was asking the question and he said one time when he was playing with a friend they fought and the friend abused him by saying that his late father was a rebel – a killer. But I told my son not to mind". (Female respondent Gulu Municipality 2008)

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This research found that the roles of the fathers of children born in captivity are not clear and are in fact in any case largely absent: "since we came back we did not get any assistance from the fathers of these children, we struggle on our own" (focus group discussion Bobi). Obviously some fathers will have died, some mothers will not know the father(s) of their child(ren) or where they come from. In other cases, where the fathers are alive, either the women or the men involved might not be willing to stay with each other and engage in marrying others or live alone.

It is extremely important to identify much more clearly the roles of the fathers and to find out why they are so often not supporting their children at presents. This requires another separate research as it involves a whole range of complex issues on its own.

### 4.1.3 Roles of the State

The state has various important roles to play, in fulfilment of its obligations to respect, protect and fulfil human rights. Sensitisation of the community is one important activity. According to an involved caregiver in Bobi:

> *"I played the role of sensitizing the community about the human rights of children who return from captivity. I also contributed by creating awareness about these children's well being and equal rights. The exact things that I do are: counselling them on how they should stay with the community and building good relationships. I also participate in creating awareness on their economic rights and how to work for money to earn a living. I also link the child mothers and their children to NGOs which come in the sub-county and lobby for assistance for these children e.g. health care, supply of drugs, clothes, food for malnourished children, education, books, and school uniforms".*

The state can also be instrumental for linking up different organisations working on child rights issues. As explained before, Principle 9 of the Good Practice Principles for Working with Formerly Abducted and Other Vulnerable War-affected Children in Uganda, states that "all duty bearers, particularly interim care givers of formerly abducted children and other vulnerable children (including children born in captivity) have the

responsibility to ensure continuous protection of children from unwanted stigmatisation". The District Child Protection focal person in Gulu reported that:

> "*our role as the district is to coordinate and chair all child protection meetings, coordinate the formulation of child protection policies and their implementation, make referrals to traditional leaders for cleansing ceremonies and report to central government about vulnerable children in the district*" (interview with District Child Protection officer Gulu 2008).

The district Child Protection focal person is also responsible for linking leading Non-Governmental Organizations and Community Based Organizations (CBOs) working with children in the district.

In northern Uganda hence both local and central government responded differently to these upheaval or sudden disruption. While the Ministry responsible for health came out immediately with policies regarding care and support to victims in general, there has been no response from government concerning children born in LRA captivity. (O 2007:15) argues that even in the events that individuals decided to exclude themselves from their society due to personal identity matters, that decision should not impede policy implementation. It is glaringly clear that it is a problem that the government of Uganda does not pay special attention to the circumstances under which the children involved were born.

## 4.4 The Role of Traditional/Cultural Leaders

The Acholi do not have any particular rituals to cleanse a young mother who conceived and/or had children from the bush but rather believe in rituals like stepping on an egg, cleansing of the body, or blessing by elders. The mothers interviewed said that these rituals in general were conducted by the chief in the sub-counties. Traditional rituals may provide young mothers with a sense of relief as they cleanse them and their children of 'Cen' derived from cultural taboos experienced in the bush. Rituals are a form of reconciliation with oneself and with the spiritual world which guides moral behaviour and social codes of conduct among the Acholi. Accordingly, these rituals are a way to

protect the mothers and their children, whom they fear will inherit 'cen' evil spirit from their bush experience.

Cultural leaders presently play no role in supporting the economic reintegration of the mothers and their children as "Ker Kwaro" this is name used fro the royal family as being the over all leader of the cultural leaders meaning the beauty of tradition is institutionally weak and lacks resources. As a chief respondent said: "we just wait for money to conduct these rituals from NGOs, we do not have the money to buy all that is needed".

## 4.5 The Roles of Non-Governmental Organisations, the Family and the Community

Gulu Support the Children Organization (GUSCO) is a child focused development organization that was established in 1994 with the aim of promoting the psychosocial recovery and reintegration of children affected by armed conflict. The vision of the organisation is to achieve a peaceful, harmonious and prosperous society that respects the rights of children and ensures equitable access to basic needs. It is guided by the mission of promoting the well-being of war-affected children in Northern Uganda through psychosocial support, educational activities, advocacy, peace building and building capacity of the community.

The basis of GUSCO's work is guided by the United Nations Convention on the Rights of the Child which was signed and ratified by Uganda in 1990. GUSCO's work is also based on the Children Act which provides for the domestication of the United Nations Convention on the Rights of the Child. The Constitution of the Republic of Uganda enshrines the protection of the rights of the child and the development of a conducive environment where children would be nurtured to develop their full potential. GUSCO does not compromise on commitment to quality-service to children, good interpersonal relationship, transparency to all stakeholders and team work. (GUSCO Operational Manual)

The understanding of child protection policy in the organization is that this is a statement of commitment to promote physical and emotional

wellbeing, equal access to basic services and to safeguard the legal and human rights of children. The child protection policy is based on the UN Convention on the Rights of the Child, the African Charter on the Rights of the Child, the Constitution of the Republic of Uganda and the Ugandan Children Act 2000. This policy will set out an implementation guide which will also be referred to as the Reception Center Operational Manual.

GUSCO believes that every child in Uganda has a right to life, food, adequate and proper accommodation and the enjoyment of physical, economic, social, religious and political resources which will enable him or her to grow up peacefully and to develop holistically into useful and productive citizens. It is the conviction within the organisation that armed conflict (as currently ongoing in Northern Uganda) greatly undermines the development of children as it disrupts normal ways of life and greatly endangers the lives of children. GUSCO's intervention is thus one of the many responses in northern Uganda aimed at mitigating the effects of armed conflict on children and their communities. GUSCO's work with children affected by armed conflict. is guided by the following principles:

- Holistic child development

- Best interests of the child

- Non-discrimination of children

- Within a framework of rights and responsibilities

- Gender sensitive programming

- Natural justice

- Partnership with key stakeholders

- Child participation

- Survival and development

World Vision is a international Christian relief organisation dedicated to helping children and their community world-wide to reach their full potential,. World Vision plays a role of advocacy against human rights violations of children; provides vocational training and microfinance training for child mothers; and education for both the children and mothers who are willing to go back to school. In an interview with a caregiver at the Centres, World Vision was

stated to be an organisation facing challenges in terms of decisions on where the mothers should put their children should they want to continue with their education. World Vision does not only provide education to children that came back from captivity, but to all orphans and vulnerable children, also referred to as OVCs.

Psychological and social programming have on the one hand focused on helping children born in captivity to address their individual emotions, behaviour, memory, learning ability, perceptions and understanding. On the other hand, the social effects of the war on this group of children are currently also addressed by also focusing on relationships, family and community structures, social values and customary practices. The Department of Social Development in the Ministry of Gender, Labour and Social Development has been a lead actor directing such activities. Major activities that both the government and NGOs have undertaken include:

- The operation of reception centres that receive formerly abducted young persons and their children in order to prepare them for reunion with their families.

- Support for the reintegration of returned children and their mothers into their communities. This included helping the children return to formal and non-formal education as well as to acquire basic skills in business and vocational training that would enable them gain economic livelihood.

- Strengthening community structures to promote the reintegration of persons involved in armed conflict including return to their communities in dignity.(Northern Uganda child protection document)

Reception centres were meant to be very short-term solutions in the lives of the returning children. They were to "be used as a last resort, for the shortest possible time, and should take place within the context of the child's cultural and familial environment" as per principle 3 of the Good Practice Guidelines 2006. Support for the reintegration of returning children was meant to serve the best interests of the child. This was meant to conform Principle 1 of

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the Good Practice Guidelines which states that "the overall determination for all reintegration programming is the best interest of the child".

Reintegration and healing of children born has often proved very difficult for both the children and their caregivers. Many children and their mothers reported fear of rejection as a major factor that determined their unwillingness to return to their communities. To overcome this, according to an interviewed caregiver from Lela Obaro, Bobi:

> *"NGOs should link with the parents of these children and local authorities. Local authorities should have proper links with the care givers in their areas and the referral system should be strengthened to help the children integrate properly, because many children really fear going to communities they do not trust".*

The capacity of the family and the community to care and protect children born in captivity must be developed and supported. Programs should be developed with the communities and they must build on existing resources. The programs currently operating in the communities across Northern Uganda seem to operate contrary to original designs. Many respondents reported that since they returned things have remained almost the same, there is segregation by the community members, stigmatization and intimidation. According to a care-giver in Bobi:

> *"Inadequate training of the community and segregation in the selection of children who should benefit from humanitarian assistance is hampering the protection of the rights of these children. We also fear these children to be identified as rebels, because some of the returned children have poor relationship with their parents due to inadequate coping and so on."* (Care giver Lela Obaro, Bobi 2008)

Many NGOs working in northern Uganda at least take part in advocacy against the violations of children's rights in conflict but none has put children born in captivity as a priority. Many agencies focus on emergencies while leaving out this vulnerable group of children that are victimised for something they don't know. As a respondent from a development agency said, their advocacy is always affected by government interference blocking NGOs when they raise issues concerning child rights or human rights violations. In the researcher's view this could be partly explained by the fact that Uganda wants to appear before the CRC Committee as doing well. This would mean that the state is

not following its obligation to respect, but rather that it is trying to infringe on implementation or interfere with advocacy work.

There are concerns about the lack of accountability for abuse and violence that children associated with armed groups and forces are often exposed to. Such abuse and violence regularly results in some children needing specialised care and counselling which a number of care givers and CBOs have taken sole responsibility for. This has some times been under very difficult circumstances.

Monsignor(Cappo 2007:5) further notes that by the end of 2007 the policy on social inclusion had assisted 14,866 people through housing programs and providing affected persons with advice, information, referral and advocacy. This research has found that in Uganda most NGO programs do not reach children born in LRA captivity directly.

Many respondents also feel that "Poverty *is leading to child abuse and domestic violence. Some assistance is diverted and used by those taking care of the children purposely*". (Focus Group Discussion 2008) This makes it very difficult for either government or NGOs to implement policies in uniformity across the sub-region.

# Chapter 5
# Conclusion and Recommendation

## 5.1 Conclusions

Children born in LRA captivity, as any other children in the world, are entitled to all the human and children's rights listed in the different relevant UN Conventions, in the Constitution of the Republic of Uganda 1995 and in other international instruments and national legislation. However, children born in LRA captivity do not benefit from these rights because both the government and the humanitarian agencies look at these children as objects but not as subjects who have rights. Thereby they fail to work by a rights-based approach to development.

It is increasingly recognised that challenges associated with the integration of children born in captivity required more systematic study and analysis. The United Nations commissioned a study on women, peace and security in the year 2002, and a report on this was published in the same year (United Nations, 2002). This study acknowledged that "children who are born of forced marriage by girls in armed conflict are one of the basic impacts of armed conflict on women and girls". It also mentioned that little is known about them and how they can be integrated with their mothers into the community. Yet conflicts where girls are used as sex slaves are found all over the world. In most cases the result is the birth of children. This research confirms these findings by the United Nations and adds more substance to these findings on the basis of the legal and social documents and practices that do not refer to these children anywhere. This affects their integration and that of their mothers. This research therefore brings important insights that can aid the processes of planning; the implementation of rights-based approaches rather than needs-based approaches, and the integration of their needs into the policies to protect their rights from violation or discrimination.

And the Ugandan government should be held accountable for its obligations (under the CRC and the ACRWC) to realise the rights of children born in captivity. It should implement the basic principles of the CRC, including the best interests of a child, non-discrimination, survival and development, and participation, and look into the basic rights that promote the child's development for example in the sphere of education and relating to the issues around being recognised as nationals of Uganda

In order to reduce the discrimination and stigmatisation of children born in captivity, both the Ugandan government, NGOs and the community need to engage much more comprehensively and actively. Policies for doing so are required. There is need to develop policies relating to discrimination. Otherwise, the obligations to respect, fulfil and protect the rights of children born in captivity will not be met as the children will continue to be confronted as enemies by the communities they live in.

The findings of this research challenge several key assumptions about the way in which children in Northern Uganda should be treated according to the provisions of the Children Act. That is children in Northern Uganda should be treated the same as children in the south, where there is peace. It also challenges the assumption that interventions in conflict areas normally follow the best interests of the child as stipulated in the United Nations Convention on the Rights of the Child. The main finding is that in Northern Uganda there are no specific policies or laws for the protection of children born in captivity, although these children continue to face lot of rejection and abuse from the community and their own parents. The polarization and increasing inequalities (Fisher 2008) which these children have to face should be attributed to the lack of policies, poor application of the Good Practice Guidelines and the poor implementation strategies identified among the current research findings. Unless policies are revised, children born in LRA captivity will continue to face personal insecurity, lack of access to food, and continue to be vulnerable to malnutrition. The mothers and their children shall continue to have low self-esteem within their societies.

There are huge challenges concerning the protection of the rights of children born in captivity. They range from inadequate implementation of legislation to availability of community-based structures to handle the enormous socio-economic problems that the children and their mothers face on a daily basis. For instance, the Amnesty Act 2000 does not fit with 'conventional' or western understandings of justice. The Amnesty Law raises serious and complex questions about the concept of justice in conflict and post-conflict situations, and the ownership of that justice. For instance it is not clear who should drive the process of justice within this context as well as how should international understandings of justice influence local perceptions and implementation of Amnesty, as well as which justice system should take precedence.

The government/state is a main actor in the protection of the rights of children born in captivity as Uganda has ratified several relevant human rights conventions and has obligations to protect, respect and fulfil the rights of the children born in captivity. NGO have a role in supporting the government in the implementation and in making it accountable according to the Constitution and CRC. For example UNICEF and Save the Children are lead agencies in children's rights.

Most stakeholders implementing programs concerning the protection of the rights of the children lack follow-up mechanisms for both the mothers and their children. Only inadequate community-based activities are geared towards the protection of the rights of these children. Coupled with widespread poverty within the communities where these children are staying this makes it impossible for the mothers acting single-handedly to cope with the daily demands of life. Therefore some children have to fend for life on the streets.

This study showed that segregation between female and male ex-combatants makes their relationship fragile and thus makes it difficult to sustain a meaningful family life in which the children can have a stable psychosocial development. The government seems to introduce this separation deliberately. However, often his will make the children to become at the centre of domestic violence when their mothers are re-marrying. Because male former

combatants usually have very little to no attachment to children born in captivity, the burden and suffering experienced while in captivity still remains with the mothers who have to shoulder all the responsibilities alone. Physical, verbal, and psychological abuses of both the children and their mothers often result in them being denied dignified lives. Overall, the research study has revealed that children born in captivity are a source of trauma for their mothers, for example because they interfere with relationships between their mothers and new spouses upon return from captivity

This research also revealed that the weak state-structure in northern Uganda combined with inadequate language development among this vulnerable group, results in failure to involve the children in child protection programmes in the community and at schools. Caregivers usually concentrate on the mothers of these children more than on children themselves, partly because they have got dual responsibility in the community. Some of the care givers interviewed were Local Councillors in their areas as well as representatives of CBOs implementing child protection programmes in their communities. This is leading to conflict of interests. Some caregivers are mainly interested in the economic benefit that may derive from the children.

There is a big difference in terms of coping between those who are in groups and those who are not in groups and also between those in rural areas and those within a municipality because of the economic circumstances. The research also found out that those in the rural areas fear to come back in groups because of the community stigmatization. This research revealed furthermore that there is divergence in child protection programmes among the different rehabilitation centres, where the international conventions are deliberately applied, child protection appeared to be more mainstream than in rehabilitation centres that use locally formulated policies. This was apparent with GUSCO which uses international conventions, the CRC and the African Charter. However, in all cases the protection ability of all these centres is jeopardized for example by poverty, community stigmatization and abuses by the new spouses of mothers coming from captivity.

## 5.2 Recommendations

This study recommends that children born in captivity and their mothers should continuously be talked to, in order that they cope. Those under the age of 6 (pre-school) should be provided care centres at school, including counselling rooms. Basic health care should be provided through care givers in the community. Where the local government cannot afford this in the short run, NGOs could offer assistance, e.g. recreation facilities, basic needs like blankets and food, to these children in school through care givers and local counsellors

Children born in captivity remain "invisible", i.e. they are not given explicit attention in policies, reports and interventions. To change this, research should be conducted by the government and different organisations that are working on children's rights, so as to come up with a qualitative and quantitive mapping of the situation of children born in captivity. The facts of their situation should be broadly disseminated and policies and law that guarantees their rights should be drawn up in response.

Uganda as a state should ensure the consistent implementation of international human rights instruments, particularly at the local level. All national strategies as well as laws, policies, programmes and action plans affecting children born in captivity should comply with the international children's rights standards.

Intervention strategies should be designed and implemented in a participatory fashion. It should involve many actors, the community, children, mothers, fathers and local leaders in order to achieve a joint intervention and community sensitisation with the aim of preventing maltreatment or stigmatisation of mothers and their children born in captivity

The state should register these children and cater for their education because education is a key to life these children some are very young that needs support from the parents or local leaders though there is child participation for the case of these group it minimal. As stated in UNICEF hand book(Unicef 2002:214) states should commit themselves to ensuring access to education without discrimination, including free primary education for all children With-

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out the provision of education by the state, from elementary class to primary, most of the children involved will not have access to education. As most of their mothers are single and do not have good economic prospects, subsidies will have to be made available.

Healthcare for these children should not be physically focused only, but also mentally. The health of these children should be frequently checked, if possible a community referral system should be put in place and psychiatrists specialized in handling child mental health should be identified and placed in communities most affected by the war.

The priority should shift from the social and economic rehabilitation of these children and their mothers to enacting by-laws that will restrain community members from stigmatizing these children and their mothers. The enacted by-laws should be non-discriminatory and implemented across the board by including all those affected by the war. Special programmes, especially in language development skills (English) that enhance child-to- teacher interaction and participatory approaches for learning, should be introduced in both primary and secondary schools in war affected areas.

**Figure 2: Map of Uganda showing Acholiland**
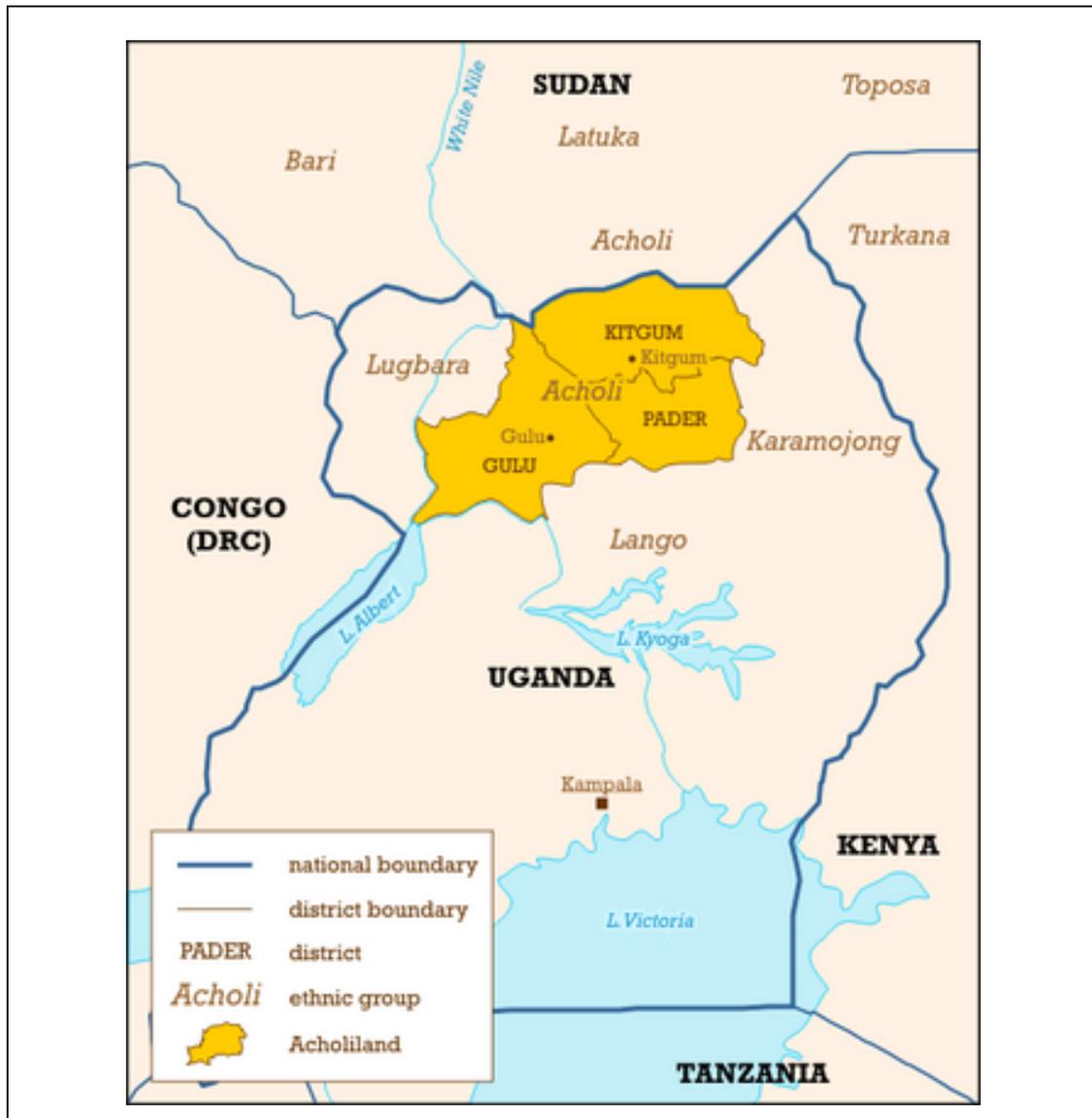
# References

Bainomugisha, A. and G. Tumushabe (2005) *The 'Torturous Peace Process' in Northern Uganda; An Analysis of Peace Initiative and Prospects for settlement.*

Cappo, M.D. (2007) 'Social Inclusion Initiative'. Australia: Department of premier and cabinet.

Carpenter, c., R (2007a) *Born of War War:Protecting Children Of Sexual Violence Survivors in Conflict Zones*: Kumarian Press,Inc.

Carpenter, C., R (ed.) (2007b) *Born Of War: Protecting Children of Sexual Violence Survivors in conflict Zones*. Bloomfield: Kumarian Press,Inc.

Fischer, A.m. (2008) 'Resolving the Theoretical Abiguities of Social Exclusion with Reference to Polisation', *working paper*.

Karin, A. (ed.) (2005) *International Criminal Accountability And the Rights of Children.* The Hague: Academic Press.

Laury, G.C. (2000) 'Social Exclusion and Ethinic groups: The Challenge to Economic'. Boston: World Bank Conference paper

Manfred, N. (2005) *Indivisibility of Human rights.* London: Hodder & Stoughton.

Ministry of Gender, L.a.S.D.N.P.C.T. (2006) *Good Practice Principles for Working with formerly Abducted and other Vulnerable, War-Affected children in Uganda.* Kampala: Ministry of Gender, Labour and Social Development.

O, M.D.C.A. (2007) *Social Inclusion Intiative.* Paper presented at the conference 'Welfare Conference Paper'.

Save the Children, D. (2005) *Child Rights Programming: How to Apply Rights-Based Approaches to Programming*

*A Handbook for International Save the Children Alliance Members*: JMD Servicos Grafico.

SIlver, H. (1995) *Reconceptualising Social disadvantage: Three paradigm of social exclusion.* Geneva: International Institute for Labour.

Skogly, S.I. (2006) *Beyond National Borders: States Human Rights Obligation in International cooperation.* Antwerpen: Oxford.

Theo Van Banning, Magdalena Sepulveda, G.D.G. and and C. Chamoun (2004) *Human Rights Instruments.* Costa Rica: Mundo Grafico, San Jose.

UNICEF (2002) *Implementation Handbook for the Convention on the Rights of the Child.* Geneva.


http://www1.umn.edu/humanrts/africa/afchild.

http://www.c-r.org/our-work/accord/northern-uganda/which-children-count.php

http://www.macfound.org/atf/cf/%7BB0386CE3-8B29-4162-8098-E466FB856794%7D/UGANDA_REPORT.PDF

http://www.unicef.org/infobycountry/uganda_40339.html

http://www.womenscommission.org/pdf/ug_machel.pdf

http://www.crisisgroup.org/home/index.cfm?id=1141&l=1

http://www.hrw.org/reports/2003/uganda0303/uganda0403.pdf

http://www.hrweb.org/legal/cdw.html

http://www.unhcr.org/refworld/country,,,LEGISLATION,UGA,456d621e2,,0.html