

Anonymity in Judgments: Safeguarding Children's Rights in Uganda and the Global South

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Abstract

This original study investigates the extent to which Ugandan courts protect—or fail to protect—the anonymity of children in defilement judgments intended for public access. Using a data set of 45 publicly available judgments, this research provides the first systematic empirical examination of how judicial reporting practices in Uganda expose sensitive personal information about child victims, including names, addresses, family details, and explicit descriptions of abuse. These findings reveal a consistent pattern of rights violations that contravene both national and international standards on children's privacy and dignity. This study makes a significant contribution to legal scholarship by generating new data on the intersection of judicial transparency and child protection in the Global South—an area that remains underexplored. It proposes a set of practical, context-sensitive guidelines for anonymising judgments, offering a roadmap for reform that balances open justice with the best interests of the child. The findings have wide-reaching implications for judges, legal practitioners, law enforcement, and media actors, and provide a foundation for future research and policy development on ethical judicial reporting across similar jurisdictions, thus its wider impact particularly in Global South jurisdictions.

Keywords: judgments, publication, children, anonymity, Uganda, defilement, Global South.

1. Background

The anonymity of children in judicial reporting is paramount to safeguarding their future and well-being. Public disclosure of a child's identity can lead to significant long-term consequences, including stigmatisation, discrimination, and psychological harm. In family proceedings, the identification of children of a marriage under scrutiny in divorce proceedings can expose them to embarrassment and stigma, exacerbating their vulnerability. Explicit findings and evidence, particularly in cases of sexual abuse, can cause enduring trauma, affecting the child's mental health and social integration for years. Revealing the identity of child defendants can also affect the well-being of siblings. Ensuring anonymity protects children from these adverse outcomes, aligning with the principles of child-friendly justice and the best interests of the child. By maintaining anonymity, the judicial system upholds the dignity and rights of children, fostering a safer and more supportive environment for their development. But simultaneously, there is an inherent expectation of transparency and open justice within the judicial system. Open justice ensures public confidence in the legal process and accountability of the courts. However, it presents a complex dilemma as courts must balance the protection of children's identities with the principles of open justice. Striking this balance is essential to upholding both the rights of children and the integrity of the judicial system.

Uganda, with a population of 51 million, is home to 26 million children, making up half of the nation's populace (Countrymeters 2025). Despite this significant demographic, it remains uncertain

whether Uganda's legal framework adequately ensures the anonymity of children in judicial reporting. In its periodic report to the African Committee of Experts on the Rights and Welfare of the Child, regarding the implementation of the African Charter on the Rights and Welfare of the Child, the Ugandan government outlined several measures aimed at fostering a child-friendly justice system (Periodic Report 2020:57). These measures included the expedited processing of cases involving children, conducting hearings in chambers, and utilising audio-visual facilities to safeguard children while they provide testimony in court (Periodic Report 2020:57). In its 2022 concluding observations and recommendations, the African Committee of Experts on the Rights and Welfare of the Child implored Uganda “to undertake an assessment of laws and policies before their adoption on their impact on children and ensure that all decision-making processes are geared towards the protection of the best interest of the Child” (Concluding Observations 2022:5). To further its commitment to child-friendly justice, the Ugandan government has developed a handbook on prosecuting child-related cases (Handbook for Directorate of Public Prosecutions 2016). These initiatives underscore Uganda's dedication to ensuring justice processes that are sensitive to the needs of children. Given these reports and frameworks, it is pertinent to question whether Uganda's judicial practices regarding the anonymity of children align with the best interests of the child and, more broadly, with children's rights. This inquiry is crucial to ensure that the justice system not only protects but also upholds the dignity and privacy of its youngest citizens.

This article aims to evaluate the extent to which Ugandan courts protect the identity of children in judgements intended for the public arena. This evaluation is conducted by examining selected defilement judgments to determine the type of information disclosed and whether this information reveals the identities of children. The paper then assesses whether the public disclosure of such information in judgments aligns with the best interests of children and their broader rights. Based on the findings of this analysis, the paper provides a nuanced perspective on how Uganda's judgements can be framed to better protect children while maintaining transparency and accountability in the judicial process. Specific guidance on fostering child anonymity is provided to key stakeholders in judicial reporting. To achieve the aims of this paper, it is divided into six sections. Following this background, the second section unpacks international and constitutional standards on the rights of children. This section underscores that current international and constitutional standards support the position that the identity of children in judicial reporting should be anonymised. The third section provides an overview of the methodology used to assess Uganda's current practices regarding anonymity. The fourth section presents the results and discusses them, concluding whether Uganda protects the rights of children by ensuring their anonymity. Should the results and discussion establish that judicial reporting in Uganda undermines the rights of children by failing to anonymise their identities, the fifth section provides a nuanced perspective on how Uganda's judicial reporting can be improved. The sixth section offers guidance to various stakeholders on how to maintain transparency and accountability in the judicial process while better protecting children's rights.

The findings, conclusions, and recommendations presented in this paper are highly relevant to other countries in the Global South, given the prevalent lack of a robust legal framework on child anonymity and the widespread availability of information about child sexual abuse victims in media reports and judgments.¹ This work contributes to the existing literature in four significant ways.

¹ In India for example, a media coverage of a judgment on penetrative sexual assault against a child was covered as follows “The case pertains to a brutal sexual assault on a 4½-year-old tribal girl by the appellant, Raveendran V.S., a resident of Kasaragod district. The victim, belonging to the Maratti Scheduled Tribe community, was allegedly subjected to multiple instances of rape and penetrative sexual assault by the accused, who lived in in the same quarters as the child's family.” The accused was convicted under the Protection of Children from Sexual Offences (POCSO) Act 2012 of India. The Law Trend “Any Physical

First, it challenges the assumption that a state's commitment to international children's standards through the ratification of key treaties guarantees the implementation of the rights enshrined therein. Second, it highlights that children's rights standards, such as ensuring the anonymity of children in judgments, which are well-established in the Global North, are still largely unaddressed in the Global South. Third, by developing guidelines for various stakeholders in the criminal justice system, this work provides practical toolkits for systems in the Global South, arguing that aligning the practices of affected states with these standards is feasible and not necessarily dependent on financial resources, contrary to common governmental assertions in the Global South. Fourth, it fills the gap of dearth of literature on anonymity of children in the Global South. Notably, while literature abounds on protection of witnesses and victims, much of it has focussed on protection of witnesses before and during trial (see e.g. Demleitner 1998:641-664; Beresford 2005:721-748; Lubaale 2022: 319-348). And while there is some work on protection of children's anonymity in the Global North (see e.g. Fitz-Gibbon and O'Brien 2017: 1061-1079; Clark and Olar 2016: 881-884), hardly any work has been conducted in the Global South context.

2. The case for anonymity of children in judicial reporting: International and constitutional standards on children's rights

There is no binding treaty provision or Ugandan legal provision that explicitly mandates the anonymity of children in judicial reporting or publication. Consequently, it could be argued that states are not obligated to implement measures ensuring child anonymity in judicial reporting. This section examines two children's rights treaties, guidelines, and Ugandan legal provisions on children's rights. The aim is to demonstrate that, despite the absence of a specific binding legal provision on anonymity, current international and national children's rights standards strongly advocate for the anonymity of children in judgements and media reports related to those judgments. Understanding that child anonymity in judicial reporting is supported by both international and Ugandan children's rights standards helps us better appreciate the necessity of protecting children's identities in judgements.

2.1. International children's rights standards

Uganda is a signatory to two pivotal international human rights treaties concerning children's rights: the United Nations Convention on the Rights of the Child (UNCRC 1989) and the African Charter on the Rights and Welfare of the Child (ACRWC 1999). As a party to these treaties, Uganda is obligated to implement their provisions in good faith. These treaties include several mandates requiring Uganda to ensure the anonymity of children's identities in judgements. Article 6 of the UNCRC guarantees children's inherent right to life, obligating Uganda to "ensure to the maximum extent possible the survival and development of [children]." Article 24 further guarantees children the right to "the enjoyment of the highest attainable standard of health." Public disclosure of children's identities in judicial reporting can lead to psychological harm, embarrassment, and stigma, exacerbating their vulnerability. These consequences directly impact children's rights to life

Contact with Victim's Genitalia Constitutes Penetrative Sexual Assault Under POCSO Act: Kerala High Court, 25 February 2025, <https://lawtrend.in/any-physical-contact-with-victims-genitalia-constitutes-penetrative-sexual-assault-under-pocso-act-kerala-high-court/> (accessed 26 February 2025). In Nigeria, see e.g. judgment in *Boniface Adonike v The State* (SC.168/2013) [2015] NGSC 2 (29 March 2015); in Tanzania, see e.g. judgment in *Joas Otieno v Republic* (Criminal Appeal 81 of 2020) [2021] TZHC 3459 (4 May 2021); In Bangladesh, a media coverage of child sexual abuse case under investigations was covered as follows "the OC said the 14-year-old girl, a madrasa student, went to visit a park in Jhenaigati with three of her friends on February 14" reported in The Daily Star, "Case filed over rape of girl in Sherpur" 19 February 2025, available at: <https://www.thedailystar.net/news/bangladesh/crime-justice/news/case-filed-over-rape-girl-sherpur-3828661> (accessed 26 February 2025). Only a few countries in the Global South have robust frameworks on child anonymity. Among these few are South Africa, Kenya and Botswana.

and health. The ACRWC contains similar provisions regarding the right to life and health (article 5, article 24 ACRWC).

Both the UNCRC and ACRWC guarantee the right to privacy, prohibiting any unlawful or arbitrary interference with children's privacy (article 10 ACRWC, article 16 UNCRC). Additionally, children are protected from unlawful attacks on their reputation and honour (ibid). When the publication of children's identities in judgements causes embarrassment and stigma, it is difficult to argue that their honour and reputation are protected; rather, they are unlawfully and arbitrarily attacked. The right to freedom from torture, cruel, inhuman, or degrading treatment is also strongly guaranteed by both the UNCRC and ACRWC (article 37 UNCRC; article 16 ACRWC). Procedures that traumatise and stigmatise children, such as publishing the names of child sexual abuse victims, are undoubtedly cruel, inhuman, and degrading. Moreover, the protection of dignity extends to children in conflict with the law. Both the UNCRC and ACRWC emphasise the need for children who breach the law to be treated with a "sense of dignity and worth" (article 40 UNCRC; article 17 ACRWC). Publishing information that reveals the identity of children in conflict with the law in judgments is far from treating a child offender with dignity and worth. Based on these provisions of the UNCRC and ACRWC, it can be concluded that legal systems failing to protect children's anonymity are complicit in violating their rights under both the UNCRC and ACRWC.

The issue of child anonymity underscores the principle of the best interest of the child, a concept strongly emphasised by both the UNCRC and the ACRWC. The UNCRC designates it as "a primary consideration," while the ACRWC refers to it as "the primary consideration" in all actions concerning children (article 3 UNCRC and article 4 ACRWC). This principle applies to public and private institutions, courts, legislative bodies, and administrative authorities (ibid). In General Comment No. 14, the Committee on the Rights of the Child elaborates on this principle, emphasising the importance of children's dignity and well-being. The Committee notes that applying this principle necessitates a rights-based approach to ensure the dignity, integrity, and psychological and physical well-being of children (CRC General Comment 14: para 5). To actualise the best interest of the child, the CRC stresses that it should be consistently integrated and applied to all actions by public institutions, including judicial proceedings that impact children directly or indirectly (CRC General Comment 14: para 14). The CRC interprets the mandate to integrate the best interest of children "in all actions" literally, meaning "every action relating to a child" (CRC General Comment 14: para 17). This includes decisions, acts, conduct, proposals, services, and procedures (ibid). Therefore, every action encompasses decisions, procedures, and even the writing of judgments that reveal children's identities. In its General Comment on Child Justice, the CRC explicitly states that "case-law reports relating to children should be anonymous, and such reports placed online should adhere to this rule" (CRC General Comment 24, 2019: para 68).

The CRC's elaboration on the term "concerning" is particularly significant. It clarifies that the legal duty applies to all decisions and actions that directly or indirectly affect children (CRC General Comment 14: para 18). This is crucial because actions such as revealing the identity of parties in divorce proceedings, even if children's names are not mentioned, can potentially lead to the identification of children, causing stigma, trauma and embarrassment. Thus, decisions on how judgments in divorce proceedings are written and published "concern" children, automatically triggering the best interest principle. Moreover, the CRC's emphasis on the obligation to apply the best interest principle to public and private institutions, including individuals (CRC General Comment 14: paras 24-26), strengthens the argument that media houses publishing judgments in a manner that undermines anonymity, as well as individuals reposting such judgments on social media, are undermining the best interest of children. The principle of the best interest of the child being "a/the" primary consideration means that both public and private actors are not left with the

discretion to ignore it (CRC General Comment 14: para 36). As the CRC notes, it is "a strong obligation" (CRC General Comment 14: para 36).

While guidelines by the CRC, the African Committee of Experts on the Rights of the Child, and other international bodies are not legally binding, they reflect prevailing international standards on children's rights. Notably, the Guidelines on the Right to Participation by the African Committee of Experts on the Rights and Welfare of the Child (African Committee) call upon state parties to the ACRWC to protect children who come into contact with the justice system as victims, witnesses, or complainants in criminal and civil matters (Guidelines on Child Participation, para 94). The African Committee advises addressing gaps within the criminal and civil legal frameworks to ensure effective participation of children in judicial processes (Guidelines on Child Participation, para 94). Although these Guidelines are not prescriptive on the strategies to be employed, they envisage practices and procedures that ensure the well-being of children is not compromised. Among these practices would be procedures and frameworks that ensure children's identities are anonymised as a matter of principle, with children's best interests not being sacrificed on the altar of participation in judicial processes. Against this backdrop, the African Committee underscores the obligation of states to uphold the paramountcy of the child's best interests when children participate in judicial proceedings (Guidelines on Child Participation, para 96).

The United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime also emphasise the protection of child victims and witnesses. These Guidelines recognise the necessity of ensuring that child victims and witnesses are not subjected to additional hardship and trauma due to their participation in judicial proceedings (Guidelines on Justice in Matters, 2005: para 6). They acknowledge that child sexual abuse often results in severe emotional, physical, and psychological harm, necessitating special measures and protections to prevent revictimization (Guidelines on Justice in Matters, preamble, 2005: para 7 & 38). Revictimisation frequently occurs when the identities of child witnesses and victims are not anonymised, leading to further trauma. States are urged to treat child witnesses and victims with dignity and compassion (Guidelines on Justice in Matters, 2005: para 10). This treatment inherently excludes the publication of information that could cause trauma, embarrassment, or physical, emotional, and psychological harm to children. Furthermore, the Guidelines highlight the importance of taking appropriate measures to protect the safety of child witnesses and victims (Guidelines on Justice in Matters, 2005: para 32). For instance, revealing the identities of sexual abuse victims undoubtedly exposes them to risks such as stigma and victimisation. Therefore, it is prudent for states to implement measures ensuring the anonymity of these children to safeguard their well-being. It can therefore be concluded that anonymity of children in judicial reporting finds strong support in current international children's rights standards.

2.2. National children's rights standards

International children's rights standards provide a robust normative framework for states. However, where these standards are not incorporated into national law, significant challenges in implementation can arise. Despite the critical role of international children's rights standards, it is essential for national law to recognise and incorporate these standards to ensure accessibility and awareness among citizens. Moreover, in dualist states such as Uganda, the domestication of international standards is pivotal for their enforcement and implementation (Ugandan Constitution 1995:123(2)). The dualist approach means that international law does not automatically become part of the national legal system unless it is explicitly incorporated through legislative action. This process of domestication ensures that national laws are tailored to fit the specific cultural, social, and economic contexts of a country, making the rights not just theoretical but practical and relevant to children's daily lives. Additionally, with the plethora of international children's rights standards,

which are not contained in a single document, the domestication of these standards ensures legal certainty. This legal certainty is crucial for the consistent application and enforcement of children's rights, thus a need to explore Ugandan standards on children's rights to assess whether a case for anonymity of children in judicial reporting can be made out.

Selected national legal provisions in Uganda demonstrate a strong advocacy for the anonymity of children in judicial reporting. For instance, the Constitution of Uganda, while not specific to children, guarantees the right to a fair hearing for all individuals, including children (Ugandan Constitution, 1995: article 28). This provision ensures that judicial proceedings are conducted fairly and justly, which is crucial for protecting the rights of children involved in such processes. Although this article guarantees the right to a fair hearing for all individuals, it is essential for ensuring that children receive fair treatment in judicial proceedings. This arguably extends to the publishing of these judicial proceedings. The Constitution also guarantees several rights critical to protection of children's identity in judgments, among these, the right to dignity, privacy and life (Ugandan Constitution, 1995: article 24, 27 & 22 respectively). Also, the Children's Act, which governs the rights of children in Uganda, makes it clear that "the welfare of the child shall be of paramount consideration" in matters pertaining to children (Children's Act 1997: section 3(1)). The Act emphasises that in determining the welfare of children, factors including their physical and emotional well-being, as well as the harm they are likely to suffer, shall be considered (Children's Act 1997: section 3(3)). It follows logically that all judgements must make the welfare of children a matter of paramount consideration. Judgements that lead to the disclosure of information that undermines the best interests of children, undoubtedly fail to foster the welfare of children and is therefore in contravention of the Children's Act.

Uganda has also developed guidelines relevant to the rights of children in the justice system. Among these, the Handbook for the Directorate of Public Prosecutions on Prosecuting Child-related Cases (Handbook for Directorate of Public Prosecutions 2016). This Handbook provides for a range of child-friendly procedures, including the use of video links and one-way screens (Handbook for Directorate of Public Prosecutions, 2016:48-50). However, these measures primarily offer protection to children during proceedings. Currently, no specific guidance exists regarding the anonymity of children in judicial reporting after judgment has been entered. It is notable, however, that this Handbook contains provisions that can be progressively interpreted or understood to make a case for children's anonymity in judicial and prosecution reporting. Notably, they are informed by the need to protect children's private and family life, integrity, and dignity (Handbook for Directorate of Public Prosecutions, 2016:2). The Handbook underscores that a key criterion for determining if any action is child-friendly is whether such action is in the best interests of the child (Handbook for Directorate of Public Prosecutions, 2016:3). It also recognises the need for cases involving children to be handled in non-intimidating and child-sensitive settings, aiming to support children's emotional stability (Handbook for Directorate of Public Prosecutions, 2016:37). With specific regard to child sexual offences, the Handbook aims to ensure that survivors of child sexual abuse have confidence in the judicial process (Handbook for Directorate of Public Prosecutions, 2016:74). This entails protecting them from further trauma and respecting their dignity (*ibid*). Any form of disclosure of judicial proceedings to the public regarding explicit details of a child's sexual abuse not only results in survivors losing confidence in justice processes but also causes further trauma to them, thus contravening the spirit of these guidelines. The Handbook also provides specific guidance regarding the identity of children, emphasising that personal information about the victim should be kept completely confidential (Handbook for Directorate of Public Prosecutions, 2016:30,79). Such information should be removed from all court documents that are to be filed and made public (*ibid*).

Overall, the current international and Ugandan children's rights standards strongly advocate for the anonymity of children in judgements meant for the public arena. There is therefore a need to protect children's identities in judgements. The issue, however, is whether published judgments by Ugandan courts ensure this protection for children. The next sections answer this question by analysing 45 defilement judgments to determine the type of information disclosed and whether this information reveals the identities of children. But first, the paper provides an overview of the methodology used in the case analysis and discussion.

3. Methodology

3.1. Procedure and data material

This paper aims to examine judicial practices in Uganda to assess whether children's anonymity is protected in publicly accessible judgments. Court judgments are examined because they typically include facts of a case and the court's findings on those facts. It is therefore important to determine what types of facts are included in judgments and whether these facts undermine children's anonymity.

The data, in the form of judgments, were sourced from the Uganda Legal Information Institute (ULII), a free legal information service provided by the Law Reporting Unit of the Uganda Judiciary and a member of the global Free Access to Law community (ULII, <https://ulii.org/>). The selected data consists of judgments handed down between 2020 and 2024. Focusing on the last five years ensures that the analysis is based on current Ugandan law, as recently as 2024. Additionally, this period is long enough to allow for the evaluation of any recent efforts to implement child-friendly judicial reporting considering that Uganda ratified the UNCRC in 1990, the ACRWC in 1994, and enacted a national Constitution in 1995, all of which guarantee the rights of children.

The search focused on judgments related to defilement, an offense involving children. Defilement occurs when an individual performs a sexual act with someone below eighteen years of age, and upon conviction, the offender is liable to life imprisonment (Penal Code Act 1950: section 129). The offence can be aggravated by factors such as the victim being under fourteen years of age, having a disability, the accused being in a position of trust, or the accused being infected with HIV (ibid). The maximum penalty for the aggravated offence is death (ibid). The ULII search used "defilement" as the search word. This search yielded various document types including Judgments, Acts, Gazettes, Ordinances, Decrees, Handbooks, Legal Notices and Parliamentary Debates. However, as the focus was on court decision between 2020 and 2024, judgments were selected as the documents of interest. The search specifically targeted defilement judgments handed down by the High Court of Uganda. This court has unlimited original jurisdiction over all civil and criminal matters (Ugandan Constitution 1995: article 139). It also entertains appeals from courts lower than the High Court (ibid). This comprehensive jurisdiction ensures a wide coverage of cases. As a trial court and appellate court, the High Court provides a wide scope of case law that contains key information that helps assess the type of information about children made accessible in these judgments.

The initial search yielded a total of 62 judgments, all of which were assessed through document analysis. Each of the 62 decisions was screened by reading the full judgments to identify those that specifically addressed the offence of defilement. Of the 62 decisions, 3 were bail applications by defendants charged with aggravated defilement, 2 were rape judgments in which defilement was mentioned in passing, 1 was an application by a defendant for leave to appeal out of time after a conviction in a defilement case, 1 was an application for the determination of a defendant's fitness to stand trial on a charge of defilement, 7 were murder cases in which defilement was mentioned in passing, and 2 were civil matters relating to land in which defilement was mentioned in passing. These decisions did not specifically address defilement and were therefore excluded from further

analysis. Additionally, 1 of the judgments on defilement was published twice, making it redundant to analyse it twice. Consequently, it was excluded, bringing the total number of excluded cases to 17. Therefore, 45 decisions were included in the study for further analysis. Despite the reduction in the number of judgments to 45, this dataset has an appropriate range of defilement cases to analyse the extent to which Uganda's judiciary ensures anonymity in reporting defilement cases.

3.2. Data extraction

Document analysis involves a structured approach to examining and assessing documents. Similar to other qualitative research methods, it necessitates extracting and interpreting data to derive meaning, enhance understanding, and build empirical knowledge (Bowen 2009:27-40). This helps in understanding underlying themes or patterns within data, which can be valuable for making predictions and informed decisions ((bid). To determine whether Uganda's practice on judicial reporting through published judgments protects children's anonymity in defilement judgments, it was necessary to extract and interpret information from judgments on defilement.

Since this article investigates the extent to which Uganda's approach adheres to children's rights in as far as anonymisation of children's identity is concerned, six parameters were developed and used in analysing these judgments. These parameters are the child's name, age, residential area, parents/guardian/family members' names, sexually explicit descriptions of child abuse, and information on the child victim's exposure to HIV. The parameters were informed by the United Kingdom's Practice Guidance for Child Anonymity (2018:1-20). The goal was to apply these parameters to the analysed cases in order to determine the extent to which Uganda's approach adheres to children's rights in as far as anonymisation of children's identity is concerned.

In analysing the content, the manifest presence of these parameters/themes was examined. In addition to the foregoing manifest content analysis, the analysis also paid attention to latent aspects signifying presence of these parameters including the context in which the judgments are delivered and subtle cues or signals that demonstrate presence of these parameters despite not being directly stated or evident in the judgments. These findings were then interpreted to identify recurring themes and patterns. By examining all the judgments through these parameters, it was possible to establish whether information that reveals the identity of child victims of defilement is readily accessible to the public thus, undermining the principles of child-friendly justice and the best interests of the child.

Correlation analysis was then carried out to explore relationships between the parameters identified namely, the child's name, age, residential area, identity of family members/relatives, explicit descriptions of sexual abuse and exposure to HIV on the one hand and protection of children's anonymity in defilement cases. Correlation signifies the presence of a relationship between variables. However, it does not imply causation between them. The potential influence of a third variable affecting both observed variables was considered (Frey et al., 1999).

4. Results and discussion

As noted, the majority of research on the anonymity of children within the justice system has predominantly focused on perspectives from the Global North. Consequently, there is a notable lack of research on this practice in the Global South. Using Uganda as a case study, the results and discussion in this section will help us conclude whether there is a correlation between the disclosure of a child's name, relatives' or parents' names, age, and residential area, and the violation of the child victim's anonymity in defilement judgments.

4.1. Child's name

Of the 45 judgments analysed, 43 published the full names of the children who were victims of the sexual offence of defilement. This means that both the surname and first name of the child involved

in the case were published, thereby exposing their identities to the general public. Only 2 of the 45 judgments did not publish the names of the child victims, instead referring to them as PW, meaning Prosecution Witness. However, it is notable that in both cases where the name of the child was not published, other identifying information was disclosed, such as the child's age, child's residential area, date of birth, and the full names of relatives, including mothers, fathers, and uncles. Thus, although in these two defilement cases the victims' names were not published, thereby ostensibly anonymising their identities, the publication of other identifying information rendered the exclusion of the children's names ineffective in ensuring their anonymity. It may therefore be concluded that in all 45 of the cases examined, anonymity of child victims of defilement was not ensured as the child victim could still be identified. This analysis underscores that merely omitting the child victim's names is insufficient for safeguarding the anonymity of children where there is other identifying information.

One might ask, "What is in a name?" In the context of the international and national children's rights framework discussed in section 2 of this article, the answer is: Everything. A child's name in defilement cases has implication for their life, health, dignity, privacy, freedom from cruelty and degrading treatment, survival, development, and their best interests. For many children and their families, being mentioned in the media can be highly damaging and invasive. Victims of sexual abuse might not be concerned about being identified at the time the judgment is published. However, they may recognise the implications years later, when it is too late to mitigate the impact. Once a child's name is published, reversing the harm becomes exceedingly difficult.

The fact that in 2 of the 45 judgments, the names of the child victims were not published, instead referring to them as PW, indicates that Ugandan courts have the potential to avoid disclosing children's names in defilement cases in judgments meant for the public arena. However, it is important to note that the courts in these two instances acted out of discretion, as there is currently no binding legal obligation to ensure the anonymity of children in judgments. This gap exists partly due to the absence of specific legislative provisions addressing this issue. In addressing this gap, the practice in South Africa and England and Wales, offer valuable insights. Under the Children and Young Persons Act in England and Wales, there is a prohibition on publishing the name, address, school, or any other information likely to identify a person under 18 involved in Youth Court proceedings (Children and Young Persons Act 1933: section 49). This includes victims, witnesses, and defendants. Additionally, the Youth Justice and Criminal Evidence Act in England and Wales allows courts to impose reporting restrictions to protect the identity of children involved in criminal proceedings (Youth Justice and Criminal Evidence Act 1999: Section 45). This Act further provides for lifelong anonymity for victims and witnesses under 18 (Youth Justice and Criminal Evidence Act 1999: Section 45A). With this legislative framework in place, courts and media are obligated to ensure the anonymity of children. South Africa also has laws prohibiting the publication of identifying details about child victims, witnesses, and defendants (see e.g. the Criminal Procedure Act, 51 of 1977: 154(3)). Recent judicial pronouncements in South Africa have also reinforced the need to protect the anonymity of children (see e.g. *Centre for Child Law & Others v Media24 Limited & Others* CCT 261/18 2020 (4) SA 319 (CC)).

Uganda's own practice, though limited, as evidenced in the two judgments, along with comparative practices, supports a shift in approach regarding the publication of children's names. However, as seen in the approaches of South Africa and England and Wales, ensuring this shift will require the enactment of explicit laws or policies. Without such a move, the decision will remain discretionary, with no guarantee that the best interests of children will be served.

4.2. Child's age

All 45 judgments analysed published the age of the child victim of the sexual offence of defilement. In 19 of the 45 judgments, the date of birth of the child was published, making the date, month, and year of birth accessible to the public. In 25 of the 45 judgments, although the date of birth was not published, the age in number of years was disclosed, for example, 10 years old. This means that the year of birth of the child victim was readily accessible through the published judgments. Only 1 judgment generalised the age of the child victim to the offence of defilement by using the words: "below 18 years of age."

Extensive literature highlights the human rights and ethical concerns that arise when personal information about children, including their dates of birth, is made public (Vaghri et al 2022: 93-102; Arnold 2007:599-608). Privacy is paramount, as disclosing a child's date of birth can significantly breach their privacy, especially when combined with other personal information like their full names, potentially exposing them to unwanted attention or harm. Additionally, personal information such as a date of birth can be misused for malicious purposes, including identity theft or exploitation, with children being particularly vulnerable to such risks. In publishing child victims' dates of birth, Uganda's judiciary has gone squarely against its constitutional and international children's obligations as discussed in section 2 of this article.

Given that defilement is a crime against individuals under the age of 18, it is crucial to emphasise age as it is a key element that the prosecution must prove beyond reasonable doubt for a conviction to be secured. While the age-specific nature of the offence of defilement means that the element of age cannot be disregarded during court proceedings, making this information publicly accessible in judgments is not in the best interest of the child victim. Commendably, in one of the 45 judgments analysed, the court described the child's age as "below 18 years of age". Effectively, the child's date of birth was not published. This approach satisfied the requirement that defilement pertains to individuals under 18 without invading the child's privacy. The fact that this approach was employed in one of the judgments suggests that there is scope for such child-friendly approaches in publishing judgments in defilement cases.

4.3.Residential area of child

All 45 judgments published the residential details of the child victim. This was done through the judgments' reference to the particulars of the offence concerning the geographical area where the offence took place. Details published included the village, ward, cell, sub-county, county, town, and district in which the offence occurred. This information was largely published at the start of each judgment to establish the geographical jurisdiction of the court over the offence of defilement. In some judgments, information disclosing the residential area of the child victim was published through witness testimony. Notably, one judgment published the testimony of a prosecution witness as follows: "the afternoon of 19/05/2019, at Atali village, the victims left their mother at home while they went..." This information, read together with other identifying information in the judgment, effectively published the residential area of the child victim of defilement thus undermining anonymity.

Publishing the residential area of a child victim of abuse in judgments can severely compromise their safety and privacy. It exposes the child to potential retaliation or further harm from the abuser or others who may seek to exploit their vulnerability. Additionally, it can lead to social stigma and emotional distress, as the child and their family might face unwanted attention or discrimination from their community. Moreover, there have been documented instances where child victims and other prosecution witnesses have faced interference (Kato, 2024:89). Disclosing the residential area of a child victim in public judgments significantly heightens the risk of harm and interference, as their location can be easily traced. Even if residential information is deemed necessary for establishing jurisdiction, once the court's geographical jurisdiction over the criminal matter is

confirmed, it seems unnecessary and potentially harmful to publish this information in judgments intended for the public arena after the proceedings have concluded and a conviction has been secured. This practice undermines the protection and privacy of vulnerable children, contrary to the principles of justice and the best interest of children involved.

4.4. Identity of family members/relatives of child

Of the 45 judgments analysed, 32 published the full names (first name and surname) of relatives of the child victims, while 13 did not. The relatives mentioned include mothers, fathers, siblings (some of whom were children themselves), uncles, aunts, and grandparents. The full names of these relatives were predominantly mentioned in the context of giving evidence for the prosecution. This undermined the child's anonymity in that, even in the few cases where the child's name was not published, the publication of the parents' or relatives' name could easily lead to the identification of the child victim. In judgments where the defendant was a relative or parent, the full name of the defendant was published and their relationship to the child victim. This is concerning as revealing the defendant's identity can indirectly lead to the identification of the child victim. This can result in further trauma and stigmatisation for the child victim, who may already be dealing with significant emotional and psychological distress resulting from the abuse. Moreover, disclosure of such sensitive information can violate the child's privacy and expose them to unwanted attention and scrutiny. Additionally, the fear of public exposure can deter victims from seeking justice.

In an analysis of 13 judgments where the names of the child's relatives were omitted, it was found that 11 of these cases involved guilty pleas resulting from plea bargains, thus negating the need for witness identification by name. Despite the omission of relatives' names in these 11 cases, the full name, residential details and age of the child victim were still published in all 13 judgments. Consequently, the non-disclosure of parents' or relatives' names did not contribute to preserving the child's anonymity. In the remaining 2 cases, witnesses were anonymised as Prosecution Witnesses and identified by numbers (e.g., PW1, PW2). However, even in these two instances, the full name and age of the child victim were disclosed, again failing to protect the child's anonymity. This analysis underscores that merely omitting relatives' names is insufficient for safeguarding the anonymity of child victims if other identifying information is not anonymised.

The results clearly indicate that ensuring a child's anonymity extends beyond merely withholding their name; it necessitates safeguarding all information that could potentially lead to their identification. When a judgment includes the names of a child victim's parents, it becomes possible for the public to identify the victim. A person intent on uncovering the victim's identity can engage in what is known as jigsaw identification, where they piece together various bits of information from different sources to reveal the child's identity, even if it is meant to remain confidential for legal reasons (Medical Research Council 2021). For instance, consider a family with three children. If the parents' names and the child's age are published, someone determined to identify the victim of abuse could easily deduce which child was affected by correlating the age information with the family structure. This scenario underscores the importance of protecting all potentially identifying information to ensure the child's safety and privacy. As noted by Chamberlain J, "One piece of information may on its own seem innocuous, but when taken together with other information known to a particular malign actor, it may lead to the identification of an individual" (*Attorney General v BBC* 2022: page 24). This underscores the necessity for a comprehensive and critical engagement with information in judgments by judges to ensure the protection of children. Furthermore, this issue should not be left to the discretion of judicial officers but should be mandated through legislation.

Advocating for the enactment of legislation to ensure that the information of child victims is not made available to the public is not unprecedented, as similar practices are observed elsewhere.

Notably, the Contempt of Court Act in England and Wales (1981: section 11) may serve as a valuable reference for Uganda. This provision empowers a court to prohibit the publication of any name or other matter related to the proceedings if it is necessary to avoid a substantial risk of prejudice to the administration of justice. This section is frequently employed to protect the identities of individuals involved in legal proceedings, such as witnesses or victims, thereby ensuring a fair trial. Similarly, the Sexual Offences (Amendment) Act (1992: Section 1) in England and Wales mandates the anonymity of victims of certain sexual offences. Specifically, it stipulates that no information relating to the person against whom the offence is alleged to have been committed shall be included in any publication if it is likely to lead members of the public to identify that person during their lifetime.

4.5. Sexually explicit descriptions of child abuse

In all 45 cases, graphic descriptions of the nature of sexual abuse experienced by the child victim of defilement were published. This information was presented in two ways: through the evidence of prosecution witnesses, sometimes including the child victim, and through medical evidence provided by expert witnesses. The medical evidence described the genital injuries to substantiate the element of penetration, thereby proving the offence of defilement beyond reasonable doubt. In 1 of the 45 judgments, the published judgment included a pictogram of the victim's vaginal injuries, as documented by the medical expert who examined the victim. Additionally, in 1 of the 45 judgments, the prosecution published details of the child victim's sexual history.

The publication of sexually explicit description of child abuse is problematic for several reasons. Notably, such descriptions can cause further trauma to the victims, who may feel re-victimised every time their abuse is publicly detailed. Knowing that explicit details of a child's abuse are accessible to the public can lead to ongoing psychological harm, not to mention undermine their right to privacy and dignity. Additionally, even if names are withheld, detailed descriptions of child sexual abuse can lead to the identification of the victims through jigsaw identification, with the public piecing together various pieces of information to reveal a child's identity. Beyond the victim, explicit descriptions of abuse can be distressing for the public, yet they may not contribute much to the public's understanding of the case. In publishing sexually explicit descriptions of child sexual abuse in all 45 of the judgments, the best interest of the children involved was undermined.

4.6. Exposure of child to HIV

An aggravating factor in the offence of defilement is the defendant's positive HIV status. Analysis of 45 judgments revealed that 9 cases involved defendants who were HIV positive, and this information was disclosed and published in the judgments. Notably, in all 9 judgments, the full names of the child victims of defilement were published. This means that information about these children's exposure to HIV was readily accessible to the public. The suggestion here is not that information on HIV exposure should never be published. Far from it as to do so would be to fuel the silence, shame and stigma that society continues to unjustly inflict on those it rejects as 'other' based on their HIV status. However, like all other personal health information, such disclosure needs to be made subject to consent from concerned individuals (Williams 2011:15-26). In all the 9 judgments where this was the case, there was no indication in the Judgments that fully informed consent was obtained from child victims or their parents before this information was published. This is problematic not only because disclosing their exposure to HIV status violates their right to privacy but raises ethical concerns relating to consent (Williams 2011:15-26).

In sum, there is a correlation between the disclosure of a child's name, relatives' or parents' names, age, and residential area, and the violation of the child victim's anonymity in defilement judgments. Although there is no direct correlation between the publication of the defendant's HIV-positive status or explicit descriptions of child sexual abuse and the violation of the child victim's anonymity,

the publication of such information alongside other identifying details (such as the victim's name, age, residence, and parents/relatives) compromises several rights of the child. These rights include their dignity, privacy, and best interests. Overall, these findings highlight the importance of thoroughly and critically engaging with information in judgments on a case-by-case basis to ensure the protection of children. It is crucial to recognise that innocuous details that may not necessarily undermine a child's anonymity in one case may do so in another due to differences in context.

5. Guidance on balancing child anonymity in judgements and maintaining transparency and accountability in judicial processes

While it is crucial to ensure that the best interests of child victims are protected through anonymity in child sexual abuse cases, courts must also consider the principle of open justice (Ougleux 2024:7-69; McDonough 2022; Bosland and Townsend 2023:242-278). Open justice is a legal principle that mandates that judicial proceedings be conducted transparently and be accessible to the public. This ensures accountability, promotes public confidence in the legal system, and safeguards the rights of those involved. It is a fundamental aspect of fair and impartial justice systems. This right is strongly guaranteed in international treaties, including the United Nations International Covenant on Civil and Political Rights (ICCPR), to which Uganda is a party.

Article 14 of the ICCPR guarantees the right to a fair and public hearing by a competent, independent, and impartial tribunal established by law. It emphasises that judgments rendered in criminal cases or in suits at law shall be made public, except where the interests of juvenile persons otherwise require, or the proceedings concern matrimonial disputes or the guardianship of children. This provision makes it clear that the rights of children need to be balanced with other rights, raising the question: can child anonymity be ensured without undermining transparency and accountability in judicial processes? This section provides guidance on how information pertaining to child victims' names, ages, relatives' names, residential areas, explicit descriptions of child sexual abuse, and HIV exposure should be handled in judgements meant for the public arena to ensure a proper balance between child victims' anonymity and open justice.

5.1. Child's Name

The names of child victims in defilement cases should not be published under any circumstances. The use of initials such as PW (Prosecution Witness) or letters, such as A, B, etc., suffices. Excluding the name of the child does not undermine accountability and transparency in judicial reporting, as the initials can contextualise the elements of the offence of defilement while guaranteeing the rights and best interests of the child victim. Details of the child's name can be appended to an abridged version of the judgment for purposes such as appeal, ensuring that sensitive information about the child victim is protected.

5.2. Child's Age

The offence of defilement is age-specific, applicable only to children under the age of 18 years and, for aggravated defilement, under the age of 14 (Penal Code Act 1950: section 129). As this is a key element in proving the offence of defilement beyond reasonable doubt, information indicating that the child victim was under the age of 18 or under the age of 14 at the time of the offence must be published. However, the date of birth of the child victim should not be published due to ethical and human rights implications discussed in section 4 of this article. Publishing the age range of the child, without disclosing the date of birth, ensures judicial openness regarding the element of age while protecting the rights of the child victim. Although evidence containing the child's date of birth such as a birth certificate may be tendered into evidence during trial to prove the case beyond reasonable doubt, it should not be disclosed in a judgment intended for the public arena. For appeal

purposes, where the issue of age is contested, descriptions of evidence of the date of birth may be included as annexes for appeal only, not for public access. The published judgment can be abridged to exclude details of the child victim's date of birth.

5.3. Child's Residential Area

The child's residential area should not be published under any circumstances due to the potential consequences discussed in section 4 of this article. This information is often indirectly published when providing particulars of the offence, which is critical for procedural purposes and establishing the court's jurisdiction. However, once these issues are resolved, there is no need to publish information revealing the child victim's residential area to the public. Similar to the guideline on the date of birth, where jurisdiction and particulars of the offence are contested, it may be necessary for the court to provide information on the child's residential area as annexes to an abridged judgment for appeal purposes only, not for judgments intended for the public arena. Otherwise, all geographical identifiers of a child, including those that could result from jigsaw identification, should be anonymised. Judgments generally include broad descriptions of the High Court handling the matter, providing a general geographical area where the offence took place. This ensures transparency and openness without compromising child anonymity through intrusive geographical identifiers.

5.4. Identity of family members or relatives

The names of the child victim's relatives should not be published because of the risk of jigsaw identification as discussed in section 4 of this article. Additionally, based on the risk of jigsaw identification, anonymity is not confined to names of relatives but to any information in judgments that potentially leads to the identification of the parent and ultimately the child. For example, in one of the judgments analysed, the disclosure of the victim's father's job title and employer's information made it possible to identify the father, and by extension, the child victim herself.

The results also revealed that there are certain cases where the defendant was a parent. In one of these cases, the full name of the defendant was published with additional identifying details, such as: "It was the case of the prosecution that the accused, being the husband of the mother of the victim..." This scenario presents a complex issue. While the argument made here is not for the anonymisation of defendants in child sexual abuse cases, if the publication of the defendant's name is likely to lead to the identification of the child victim, a case for the anonymity of the defendant can be made. In reporting such judgments, the judiciary has two options: either keep the defendant anonymous while disclosing the relationship (e.g., father and daughter) or publish the defendant's name without disclosing the relationship. The former approach seems more appropriate, considering that the parent/child relationship between the defendant and the child victim is an aggravating factor in cases of defilement that must be proved by the prosecution. It is therefore necessary for this relationship to be made explicit to justify the conclusion that the offence in question is one of aggravated defilement, rather than mere defilement. This approach balances the need for public access to information on the aggravating factors in the offence of defilement with children's best interests.

5.5. Sexually explicit descriptions of child abuse

Defilement and sexual offences predominantly involve unlawful sexual activity (Penal Code Act 1950: section 129) which constitutes a crucial element in the proof and reporting of such cases. Furthermore, if the trial court's judgment is appealed, these elements may be scrutinised, underscoring the necessity for judgments to comprehensively document the facts that establish this component of the offence. Consequently, as judges draft and make judgments available for public arena, there is an inherent expectation that these judgments adhere to the standards of criminal procedure and evidence. Failure to meet these standards could result in convictions being

overturned on appeal due to the absence of critical evidence and non-compliance with procedural requirements. Simultaneously, the best interest of the child victim must be given primary consideration, raising the question of how courts should strike a balance in writing defilement judgments for public access.

Summarising the abuse in a way that conveys its severity without explicit details should be more appropriate for judgments intended for the public arena. The judgment can be abridged in a manner that retains key information critical to establishing the key elements of defilement, among others, that sexual intercourse occurred, without being explicit about the sexual act. For example, the element of penetration in the case of defilement can be proved or disproved without publishing a pictogram of the child's victim's vaginal injuries as was the case in one of the judgments. Moreover, even assuming this evidence was needed in the criminal proceedings over a contentious issue in court, upon addressing the contentious issue, there seems to have been no need to have a pictogram of the child's victim's vaginal injuries disclosed in a judgment intended for the public arena. This analysis highlights the occasional necessity of explicitly describing sexual abuse to prove certain elements of a defilement case. However, once such proof has been established, anonymity must be maintained by withholding this evidence from the publicly accessible judgment. The explicit details of the child's sexual abuse can be appended to an abridged version of the judgment for purposes such as appeal, without being made available to the public. Consequently, the publicly accessible judgment can be abridged, excluding or redacting sexually explicit details of the abuse.

5.6. Exposure of child to HIV

As HIV is a factor that aggravates the offence of defilement (Penal Code Act 1950: section 129), information about the defendant's HIV status is needed to conclude that the defilement is aggravated. It is therefore necessary for this information to be published. However, where this information is published alongside other identifying information such as the child's name, age, residence and parents' names, such publications undermine the rights of the child involved where no consent has been obtained. In reporting such judgments, it seems more appropriate to publish information about the defendant's HIV status while keeping all other identifying information about the child anonymous. This approach balances open justice with the best interest of the child victim. Notably, HIV as an aggravating factor in the offence of defilement is made accessible. Simultaneously, the personal health information of the child victim is protected from public access without their consent, as their names, date of birth, and other identifying information are anonymised.

6. Balancing Open Justice and Child Anonymity: Implications for Selected Stakeholders

The guidelines on anonymity that I have developed have significant implications for various stakeholders, including judicial officers, legal practitioners, law enforcement officers, and the media. Judicial officers, in particular, must critically evaluate the content of their judgments to ensure a proper balance between fostering open justice and upholding the best interests of children, which are primary considerations in all matters pertaining to children. This may necessitate additional work at the judgment-writing level, such as creating abridged judgments intended for the public arena and annexes with details relevant for appeals. The effort invested in these precautionary measures, however, is incomparable to the children's rights undermined when anonymity is not ensured.

Legal practitioners, including prosecutors and defence counsel, play a pivotal role in criminal proceedings. They are often called upon to comment on ongoing cases and have access to information that reveals the identity of child victims. Given the sensitive nature of this information,

the obligation to protect the anonymity of children rests heavily on legal practitioners. They must ensure that, in presenting evidence in court and reporting on ongoing cases, the anonymity of children is guaranteed.

Law enforcement officers are crucial in child sexual abuse cases, responsible for investigating allegations, identifying and apprehending offenders, and filing appropriate criminal charges. They collaborate closely with other professionals, such as social workers, medical personnel, and prosecutors, to ensure a comprehensive response. During the investigation process, law enforcement officers access extensive information that identifies children. While most legal provisions guarantee the protection of children during and after criminal proceedings, it remains unclear whether law enforcement and the media may publish a child victim's identity before criminal proceedings commence. I submit here that the obligation to protect the child's anonymity rests on law enforcement and the media even before the commencement of criminal proceedings, as failure to do so early on renders future protection efforts ineffective.

The media plays a significant role in reporting judicial judgments by ensuring transparency and public awareness of legal proceedings. It helps demystify complex legal decisions, making them accessible and understandable to the general public. Additionally, media coverage can highlight important legal precedents and societal issues addressed in judgments, fostering informed public discourse. However, it is crucial for the media to balance this role with ethical and human rights considerations, such as protecting the privacy and anonymity of children involved. The obligation to ensure child anonymity applies to media houses reporting on defilement judgments, ensuring that the best interests of the child are a primary consideration in all coverage. It is important to note that posting any information on social media about a defilement judgment constitutes 'publishing,' thus placing an obligation on social media users to protect children's anonymity in these posts.

7. Conclusion

This paper underscores the critical need to anonymise children's identities in judgments to uphold their dignity, privacy, and best interests. The analysis of 45 defilement judgments from Uganda reveals a troubling pattern where sensitive information, including children's names, ages, addresses, and other identifying details, is publicly accessible. This practice not only violates children's rights but also exposes them to further harm. The findings highlight the urgent need for reform in Uganda's judicial reporting practices. By adopting the proposed guidelines, stakeholders can enhance the protection of children's anonymity while maintaining transparency and accountability in the judicial process. These guidelines are not only relevant to Uganda but also offer valuable insights for other countries in the Global South facing similar challenges. Policymakers, legal practitioners, judges, law enforcement officers, and the media must collaborate to implement these reforms. Ensuring the anonymity of child victims in judgments is paramount to safeguarding their rights and well-being. It is imperative that all stakeholders recognise the importance of this issue and take proactive steps to protect these vulnerable members of society.

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