

RIGHT TO EDUCATION;
A COMPARATIVE ANALYSIS OF THE IMPLEMENTATION OF UNIVERSAL PRIMARY
EDUCATION IN RURAL AREAS OF UGANDA'S EASTERN REGION: LESSONS FROM
SIMILAR INITIATIVES IN OTHER AFRICAN COUNTRIES.

OKUMU MARY MONICA

CS20B11/770

A DISSERTATION SUBMITTED TO THE SCHOOL OF LAW IN FULFILLMENT OF THE
REQUIREMENT FOR THE AWARD OF BACHELOR OF LAWS OF UGANDA CHRISTIAN
UNIVERSITY

APRIL 2024



**UGANDA CHRISTIAN
UNIVERSITY**

A Centre of Excellence in the Heart of Africa

ABSTRACT

This paper explores the right to education, specifically focusing on universal primary education (UPE) and its effectiveness in rural areas of Eastern Uganda. Since Uganda gained independence in 1962, the Ministry of Education and Sports has overseen four education tiers: pre-school, primary, post-primary, and higher education. The Commission for the Review of Education Policy, established by the National Resistance Movement, recommended universal primary education. In 1996, the National Resistance Army initiated free education, aiming to provide access up to grade seven. However, UPE implementation faces challenges such as inadequate government commitment and coordination. This study, utilizing qualitative methods including literature reviews and stakeholder interviews, assesses UPE effectiveness and coordination mechanisms. It also considers international treaties on the right to education for comparative analysis. Additionally, the research compares Kenya's education system to identify strategies for enhancing UPE outcomes and realizing universal education rights for all children.

DECLARATION

I, OKUMU MARY MONICA, hereby declare that all work presented is my own. I affirm that all ideas, research findings, interpretations, and conclusions are original and have been generated by me unless otherwise cited. I take full responsibility for the content of this work and understand the consequences of academic dishonesty.

OKUMU MARY MONICA

Signature:

Date:

APPROVAL

This dissertation has been submitted for examination with my approval as the university supervisor and has been submitted upon my approval.

MISS. NORA AMANYA

Signature:

Date:

ACKNOWLEDGEMENT

I express profound gratitude to God for granting me the opportunity and responsibility for the valuable contributions to my academic journey towards becoming a legal scholar. My appreciation extends to my family, colleagues, institutions, and societies. Particularly, I am indebted to the following individuals:

First and foremost, my beloved parents, whose unwavering support included financial assistance and guidance in accessing necessary resources throughout my academic endeavours.

I am also grateful to the academic staff at Uganda Christian University, especially those within the School of Law, whose contributions significantly contributed to my success in legal studies. Special acknowledgment is due to Miss Norah, whose dedicated supervision played a pivotal role in guiding me to the finish line. I extend my thanks to all the lecturers whose names cannot all be mentioned here, for their invaluable tutoring, cooperation, and guidance.

Additionally, I wish to express my gratitude to my dear friend, Otong Micheal Favour, who tirelessly provided computer services, assisted with reading and editing academic papers, and consistently reminded me of my responsibilities. May God bless each one of you for your support and contributions.

Table of Contents

ABSTRACT	i
DECLARATION	ii
APPROVAL	iii
ACKNOWLEDGEMENT	iv
CHAPTER ONE: PROPOSAL.....	1
1.1 Introduction.....	1
1.2 Background	2
1.3 Statement problem.....	3
1.4 General objective.....	4
1.5 Specific Objectives of the Study.....	4
1.6 Research Questions.....	5
1.7 Significance and Justification of the study.....	5
1.8 RESEARCH METHODOLOGY.....	6
1.8.1 Research Design.....	6
1.8.2 Data Collection Sources.....	6
1.8.3 SCOPE OF THE STUDY.....	7
1.8.4 Time scope.....	7
1.9 Chapter synopsis.....	7
CHAPTER TWO: LITERATURE REVIEW.....	8
CHAPTER THREE: THE LEGAL FRAMEWORK THAT PROVIDE OFF THE RIGHT TO EDUCATION.	14

3.1	Introduction	14
3.2	International provisions.....	14
3.2.1	The Universal Declaration on Human rights.....	14
3.2.2	The UNESCO Convention against Discrimination in Education <i>of 1960</i>	15
3.2.3	The International Covenant on Economic, Social and Cultural Rights.....	16
3.2.4	Convention of the Rights of the Child.....	17
3.2.5	Convention of the Elimination of Discrimination against Women.....	18
3.2.6	Convention of Rights of Persons with Disabilities CRPD.....	19
3.2.7	African Charter of the Rights and Welfare of the Child ACRWC.....	20
3.2.8	American Convention of Human Rights (the Pact of San José).....	20
3.3	National perspective.....	22
3.3.1	1995 Constitution of Uganda.....	22
3.3.2	Children Act.....	23
3.3.3	The Education Act.....	25
3.3.4	Education (pre-primary, primary and post-primary) Act, 2008.....	25
3.4	Conclusion	25

CHAPTER FOUR: EXPLORING THIRD-PARTY ROLES IN THE IMPLEMENTATION OF UNIVERSAL PRIMARY EDUCATION (UPE) WITHIN UGANDA'S NON-LEGAL FRAMEWORK.

26

4.1	Introduction	26
4.1.1	The principles of non-discrimination and equality.....	29
4.1.2	The principles of transparency and participation.....	30

4.1.3	The humanistic mission of education.....	30
4.2	PARENTS AND OTHER CAREGIVERS.....	31
4.3	COMMUNITIES	33
4.4	TEACHERS.....	34
4.4.1	<i>Introducing practical measures for equality.....</i>	35
4.4.2	<i>Promoting a respectful environment.....</i>	35
4.4.3	<i>Encouraging local engagement.....</i>	36
4.5	CIVIL SOCIETY ORGANIZATIONS.....	37
4.5.1	Collaborating in the provision of education.....	38
4.5.2	Mobilizing and capacity-building.....	38
4.6	Conclusion	40
4.7	Implementation of Universal Primary education in Uganda.....	41
4.7.1	realization of the goals and objectives.....	43
CHAPTER FIVE: THE LESSONS FROM UNIVERSAL PRIMARY EDUCATION IN OTHER AFRICAN COUNTRIES, THE REPUBLIC OF KENYA.....		49
CHAPTER SIX: CONCLUSION AND RECOMMENDATIONS.....		52

1CHAPTER ONE: PROPOSAL

1.1 Introduction

Education has been defined as a discipline that involves methods of teaching and learning in schools or alike environments as opposed to various informal and informal means of socialization¹.

Basic education is defined as the fundamental learning experience available to every individual within both formal primary education and informal educational settings. Its purpose is to equip individuals with essential knowledge and skills necessary for personal development and meaningful participation in society². This includes acquiring foundational literacy, numeracy, critical thinking abilities, and practical skills that are relevant and beneficial for individuals' lives within their communities³.

Education holds immense importance for individuals and societies alike. It empowers individuals with knowledge, skills, and critical thinking abilities, enabling them to pursue personal and professional goals, contribute to their communities, and adapt to a rapidly changing world. Education also plays a crucial role in promoting economic development, social cohesion, and innovation. Additionally, it fosters understanding, tolerance, and empathy, contributing to a more equitable and harmonious society. For this reason, international and national laws have put in place different frameworks that place this noble cause as a fundamental right that foster these benefits.

1.2 Background

¹ [Education | Definition, Development, History, Types, & Facts | Britannica](#) retrieved on 01 April 2024

² Section 2 of the Education (Pre-primary, primary and post primary) Act

³ *ibid*

In January 1997 by the National Resistance Movement as a political commitment, it aimed to cover the primary education costs for up to four children per family, as announced by President Yoweri Kaguta Museveni in December 1996 established the Universal Primary Education (UPE) served as a pivotal government initiative in Uganda aimed at fulfilling constitutional mandates and state obligations regarding the human right to education⁴. This policy outlined in the 1998 Ministry of Education and Sports Policy Paper, was recognized as Universal Primary Education (UPE), representing a central strategy for realizing economic, social, and political goals⁵. However, at the onset of the program, only four members of one family was allowed into the program and everyone that wanted to attend this education had to register under the program.

Under this system the government was responsible to provide tuition fees and fees for Parents and Teachers associations (PTA) although this didn't take away responsibility from the parents, they were expected to provide for the children's' pens/pencils, books, clothes, and in some communities building materials and physical participation in the building of classroom. The passage implies that the UPE program was primarily designed to guarantee universal access to primary education for all citizens and this aim was discovered evidenced by the significant increase in primary school enrolment which further suggests that the requirement to pay school fees, particularly for disadvantaged families, has been a significant barrier to accessing education. In 2007, Uganda pioneered the introduction of Universal Secondary Education (USE),

⁴ Bategeka L. and Okurut N. (2006). "Economic Analysis and Financial Management" published by Consulting LTD (Econ-FIN) in Kampala, Uganda

⁵ Ibid

marking the first instance of such a program in sub-Saharan Africa⁶. Under this initiative, students who achieve specific grades in each of the four primary school leaving exams gain admission to public schools and have the option to enrol in private schools under the secondary scheme. Accordingly, only 50 percent of primary school graduates traditionally transitioned to secondary school annually but due to the system introduction and within a year of the USE's implementation, this figure surged to 69 percent, with continued substantial growth in subsequent years.

Although the above initiatives, Uganda still encounters significant obstacles in delivering high-quality and easily accessible basic education to children and adolescents and for this reason the reason still to examine the implementation of the government programs on access to education.

1.3 Statement problem

objective XVIII⁷ of the constitution stipulates that the government must advocate for free and mandatory basic education, ensuring that every citizen has an equal chance to achieve the highest possible educational level. Additionally, individuals, religious institutions, and other non-governmental organizations are permitted to establish and manage educational institutions as long as they adhere to the nation's educational policies and uphold national standards. This objective is further provided for under **Article 30**⁸ which provides for the fundamental right to education. In addition, both governmental and non-governmental organizations have intensified efforts to uphold the right to education. It's worth noting that universal education initiatives have significantly advanced the right to education,

⁶ Dr. Yusuf Nsubuga in that Article titled free universal secondary school education in Uganda <https://www.theguardian.com->

⁷ 1995 constitution of Uganda

⁸ 1995 constitution of Uganda

particularly in rural areas. However, despite these efforts, children, who are the primary beneficiaries, face challenges, particularly with the decreasing educational outcomes in rural Universal Primary Education (UPE) programs, notably in Eastern Uganda

However due to several factors pose challenges to the enforcement of this scheme, including widespread poverty, insufficient infrastructure such as classrooms and seating, shortages of educational materials and equipment, a shortage of qualified educators, pervasive ignorance, and the impact of diseases like HIV/AIDS and malaria.

My research endeavours to elucidate the prevailing conditions concerning educational entitlements, with a particular emphasis on the realization of the right to education delineated in Article 30 and its associated objectives.

1.4 General objective

To Analyse the implementation of universal primary education in rural areas of Uganda's eastern region.

1.5 Specific Objectives of the Study

1. To identify the factors influencing the decline and inefficacy of universal education in advancing the right to education.
2. To examine the effect of universal education on gender equality, including gender-based discrimination and the reduction of disparities between boys and girls in accessing education in Uganda.
3. To evaluate the influence of social attitudes towards universal education and cultural disparities on the realization of the right to education.

4. To propose mechanisms that can enhance the protection of the right to education in Uganda

1.6 Research Questions

1. What factors contribute to the decline of universal education, resulting in its inefficiency in promoting the right to education?
2. What impact does Universal Primary Education have on gender equality on education?
3. How do social and cultural disparities influence the realization of the right to education?
4. What measures are implemented to uphold and advocate for the right to education?

1.7 Significance and Justification of the study

This study serves as a crucial resource for policymakers within the Ministry of Education and Sports, offering foundational insights to address the shortcomings of the universal education program. By identifying and providing solutions to the existing loopholes, policymakers can effectively harmonize the program, ensuring its efficacy in fulfilling the objectives outlined by the state. Additionally, the findings of this research will be invaluable to academicians and researchers, serving as a fundamental framework for further studies in the field of education.

This study also aims to address this disparity by identifying solutions to harmonize the two sectors, thereby promoting equal access to quality education for all individuals, regardless of their socio-economic background.

Despite being one of the most ambitious social policies implemented in recent times, there is a lack of research on the causal impact of Universal Primary

Education (UPE). The findings of this study will provide valuable insights for policymakers, offering lessons learned and guiding future efforts towards universal secondary education. Additionally, the research outcomes will shed light on the correlation between educational attainment, gender equity, and other socio-economic indicators such as income and health levels.

Furthermore, this study aims to educate policymakers on the intricacies of the right to education, guiding them towards reducing or eliminating the existing disparities between private and universal education programs in the long term. By understanding the essence of the right to education and its implications, policymakers can make informed decisions to ensure equitable access to quality education for all individuals in Uganda.

1.8 RESEARCH METHODOLOGY

1.8.1 Research Design

The research will utilize a historical research approach to gather data from past sources, both within Uganda and internationally. Additionally, a descriptive research method will be employed to acquire the necessary information.

1.8.2 Data Collection Sources

1.8.2.1 Primary sources

I will primarily be getting original information from statutes (both national and international laws).

1.8.2.2 Secondary Sources

Secondary data will content of data already collected by someone other than me. I will gather this data from already existing materials like books, journals, reports

and internet and for the case secondary data I will keep most parts original as recorded so as not to alter facts i.e. extracted from books, journals, articles, newspapers, internet and other sources available in libraries physical and online.

1.8.3 SCOPE OF THE STUDY

The subject scope of the study is eastern region of Uganda a case study of Tororo municipality.

1.8.4 Time scope.

I will conduct this research in two (2) months, including data collection, analysis, and report writing.

1.9 Chapter synopsis

Chapter one: Proposal

Chapter two: literature review

Chapter three: The legal framework that provide off the right to education.

Chapter four: The involvement of third parties in ensuring the right to education and implementing Universal Primary Education (UPE) in Uganda.

Chapter five: the lessons from Universal Primary Education in other African countries, The Republic of Kenya.

Chapter six: Recommendation and conclusion.

2CHAPTER TWO: LITERATURE REVIEW

The Universal Primary Education initiative, as delineated in the findings of the USAID Project, traces its roots back to the recommendations of the Kajubi Commission-Education Policy Review Commission in Uganda. This commission scrutinised the state of education between 1987 and 1989 and put forth a set of educational overhauls, among which was the government's mandate for compulsory and cost-free access to primary education (Kaburu 2003)⁹.

During the 1996 general elections, the incumbent President pledged support for free primary education for up to four children. This initiative commenced in January 1997, abolishing all school fees and Parent-Teacher Association (PTA) charges. However, this approach proved impractical, prompting a shift towards a more inclusive policy where anyone interested in education could enrol. According to Grogan (2008), primary school enrolment unexpectedly surged following the implementation of this program, with concurrent reductions in access disparities related to gender, income, and location.

Despite these improvements, dropout rates and grade repetition remained stubbornly high, averaging 12% annually. The Ministry of Finance's 2013 report cast doubt on Uganda's ability to achieve universal primary education by 2015. This study holds significance as it analyses the changes before and after the establishment of universal education. However, it solely relies on policy document reviews, limiting its scope in connecting universal education with the right to education and its efficacy. Unlike previous research, my study will incorporate fieldwork, offering a

⁹USAID Advocacy for better health, An assessment of the policy and practice in Uganda, Universal Education, human rights and the right to health

more comprehensive understanding of the implementation and impact of universal education.

In 1997, when the government abolished primary education fees, it initially committed to providing Shs. 7,506 per pupil annually. However, Technocrats proposed Shs. 10,000 per pupil, a suggestion declined by the government due to financial constraints. Fast forward 17 years, and the government has yet to fulfil its pledge, as reported by Pascal Kwesiga¹⁰. Consequently, the Minister of Education must allocate the limited funds available to cover student expenses, leading to unpredictable unit costs per student as enrolment fluctuates annually.

Additionally, Lawrence Bategeka, an independent research scientist, commented that while Universal Primary Education (UPE) was initially a promising initiative aimed at eradicating illiteracy, it has been marred by politics over the years. Bategeka highlighted that treating UPE as a political tool has shifted the responsibility of educating children away from parents and towards the State.

According to Abdul Matovu, the head teacher, the inconsistency in the capitalisation fund has been a source of frustration. He cited an example where they needed funds for medium-term tests but could not access sufficient funds from the account, forcing them to purchase materials using their own money. This financial instability leaves them unsure whether the allocated funds are adequate or if errors have occurred, further complicating matters.

¹⁰ <http://www.newvision.co.ug/news/658982-upe-underfunding-who-is-telling-the-truth>

This news article sheds light on the loopholes within the UPE program and endeavours to explore potential solutions. By highlighting these issues, it serves as a call to action for stakeholders interested in safeguarding the right to education. Moreover, it lays the groundwork for future discussions and initiatives aimed at addressing these challenges and improving the efficacy of the program.

As reported by New Vision, Ugandans have consistently voiced their concerns regarding the state of the education sector, urging the government to take action within the next five years. Conan Busingye's¹¹ observation underscores the urgency of the situation, illustrating how the bustling streets of Kampala are inundated with children commuting to school on foot, on motorcycles, and in vehicles. This vivid depiction emphasises the pressing need for meaningful reforms and investments in education to address the challenges faced by students and educators alike.

In a nationwide opinion poll conducted, it was found that around 3.7 million Ugandan voters identified education as their primary challenge in life. This concern was particularly centred around issues such as low teacher salaries, substandard facilities, insufficient primary and secondary schools, and the considerable distances students must travel from home to school. The report also emphasized voters' worries about teacher shortages and ongoing strikes across the eastern, western, and northeastern regions of the country.

Furthermore, the West Nile region faced specific challenges, including inadequate curricula, examination malpractice, and a notably high unemployment rate. These findings underscore the widespread dissatisfaction with the state of education in Uganda and highlight the urgent need for comprehensive reforms to address these

¹¹ <http://www.newvision.co.ug>. What should Museveni deliver for education sector in the next five years?

pressing issues¹².

According to the review report from the Ministry of Education and Sports, there has been a significant increase in enrolment in the pre-primary sub-sector, rising from 289,862 pupils in 2011 to over 457,186 presently. Similarly, participation in the primary sector has grown from 8.09 million pupils to approximately 8.5 million pupils. However, these numbers do not translate into notable improvements in secondary schools.

The right to education encompasses not only access but also the attainment of quality education. This study identifies why Universal Primary Education (UPE) and Universal Secondary Education (USE) fall short of meeting the criteria for quality education as a legal right. Despite the surge in student enrolments worldwide, there remain concerns about governments' capacity to provide adequate teaching and learning facilities to accommodate these numbers.

Dr Nassali Lukwago highlighted these issues in the new manifesto, emphasizing the need for a holistic approach to address the challenges facing education systems and ensure that the right to education is upheld in its true essence.

Moses Talemwa ¹³, as reported in "UPE reports point to more problems," highlighted that Universal Primary Education (UPE) currently presents a more challenging situation compared to previous assessments. Key issues identified include the failure to provide lunch in schools, particularly impacting afternoon sessions, especially in regions like the northwest, where food insecurity persists, subsequently affecting children's performance.

¹² Ibid

¹³ www.observer.ug/85-education/education/11650upe-reports-points-to-more-problems-

Talemwa also underscored the persistent challenge of teacher absenteeism, which has contributed to fluctuating attendance and performance among school-going children. The research conducted in Rubongi Sub County provided further evidence of this issue, with children reporting frequent teacher absences, providing them with a reason to skip school. Additionally, students in selected schools emphasized how the lack of lunch affected their afternoon classes.

However, Talemwa's report primarily focused on highlighting the problems faced in Universal Primary schools without offering solutions or strategies to address these challenges. Consequently, the research failed to fulfil its purpose. To effectively tackle these issues, future studies should not only identify problems but also propose actionable solutions to overcome them, ensuring the improvement of the education system and the well-being of students.

According to Family Health International 360's research on the impact of Universal Primary Education (UPE) on education attainment, labour market participation, and health outcomes, the United Nations' second Millennium Development Goal aimed at achieving UPE by 2015. However, despite significant progress, the world fell short of this target by more than 59 million out-of-school children. Nevertheless, considerable strides have been made toward ensuring children have access to and complete primary schooling.

In sub-Saharan Africa, particularly, enrolment rates surged from 52% in 1990 to 80% in 2015¹⁴, reflecting notable achievements. Yet, the fundamental question remains unanswered: Has Universal Primary Education been successful? Surprisingly, there has been no systematic analysis of the causal impact of free primary education

¹⁴ UNESCO Institute for statistics

policies implemented across sub-Saharan Africa in the 1990s.

Fortunately, sufficient time has elapsed since the implementation of these policies, and many of the beneficiaries - who were primary-aged children at the time - are now adults in their twenties. Their current educational attainment, labour market participation, and health outcomes offer valuable insights into assessing the effects of Universal Primary Education. This examination is crucial for understanding the program's efficacy and informing future educational policies and interventions¹⁵.

¹⁵ Ibid

3CHAPTER THREE: THE LEGAL FRAMEWORK THAT PROVIDE OFF THE RIGHT TO EDUCATION.

3.1 Introduction

The right to education is a fundamental social, economic, and cultural entitlement with distinct parameters, safeguarded by states. It is intrinsically linked to and influenced by the fulfilment of other rights. This right is enshrined in numerous international and regional legal frameworks, and many nations have incorporated these provisions into their national legislation, including their respective constitutions involving numerous standard-setting instruments, including conventions, declarations, recommendations, action frameworks, and charters, have been established at both the international and regional levels to provide a structured framework for the right to education.

3.2 International provisions

3.2.1 The Universal Declaration on Human rights

The declaration stands as a cornerstone document in the evolution of human rights, having been adopted by the United Nations General Assembly. Crafted by representatives hailing from diverse legal and cultural backgrounds across the globe, it underscores the principle that "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood¹⁶.

¹⁶ Article 1 of the declaration

Article 26¹⁷ of the declaration emphasizes that everyone has the inherent right to education, it provides for the rationale pointing that all individuals possess the fundamental right to education, which must be freely accessible, particularly during the elementary and foundational stages. It also notes that this fosters a holistic development of individuals and cultivating a culture of respect for human rights and fundamental freedoms, promotes mutual understanding, tolerance, and solidarity among diverse nations, races, and religious communities, contributing to the United Nations' efforts to uphold peace.

The principles outlined in the Universal Declaration of Human Rights regarding the right to education have been condensed into two key documents: the UNESCO Convention against Discrimination in Education and the International Covenant on Economic, Social and Cultural Rights.

3.2.2 The UNESCO Convention against Discrimination in Education of 1960

It was the inaugural global treaty to acknowledge the right to education and served as the pioneering legally binding instrument to establish benchmarks for the quality of education.

Article 4¹⁸ of this treaty mandates that States Parties ensure primary education is both free and compulsory. Furthermore, it obligates them to make various forms of education, including secondary education in its diverse forms, as well as higher education, generally accessible to all based on individual capacity including

¹⁷ Article 26

¹⁸ Ibid

vulnerable¹⁹. This principle and provision of the treaty has been noted in international court for example in the case of **M.C. Mehta v. State of Tamil Nadu and Others (1996)**,²⁰ the Supreme Court of India declared that "the right to education is in co-existence with the right to life, and is therefore one of the fundamental rights". The Supreme Court ruling in India established that Article 24 of the Indian Constitution mandates the State to endeavour to offer free and compulsory education for children. This decision elevated the State's obligation to provide free and compulsory education to children to the status of a fundamental right. Consequently, a new article has been incorporated into the Constitution, acknowledging the right of children aged 6-14 to access free and compulsory education. The legal precedent set by Indian jurisprudence holds relevance for Uganda as both countries adhere to a common law tradition.

3.2.3 The International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a multilateral treaty adopted by the United Nations General Assembly in 1966. It aims to protect and promote economic, social, and cultural rights worldwide.

In the context of education, the ICESCR recognizes the right to education as a fundamental human right. **Article 13 of the ICESCR**²¹ specifically addresses the right to education, affirming that "education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms."

¹⁹ Article 5.

²⁰ India M.C. Mehta v. State of Tamil Nadu AIR 1997 SC 699

²¹ ICESCR

Additionally, the ICESCR obligates states parties to ensure free and compulsory primary education, as well as the progressive introduction of free secondary and higher education. States parties are also required to make education accessible to all on the basis of capacity, without discrimination of any kind. The ICESCR further emphasizes the importance of technical and vocational education, as well as adult education, in ensuring the full realization of the right to education for all individuals.

3.2.4 Convention of the Rights of the Child

This is an international human rights treaty adopted by the United Nations General Assembly in 1989. It outlines the civil, political, economic, social, and cultural rights of children and sets out the obligations of states parties to ensure these rights are protected and promoted. **Article 23(3)**²² of the Convention on the Rights of the Child mandates states to acknowledge the unique needs of disabled children. It requires that any assistance provided in accordance with paragraph 2 of this article should be offered free of charge whenever feasible, considering the financial resources of the child's caregivers. Furthermore, such assistance should be designed to ensure that disabled children have access to and receive education, training, healthcare services, rehabilitation services, preparation for employment, and recreational opportunities. These services should be provided in a manner that facilitates the child's fullest possible social integration and individual development, including their cultural and spiritual growth.

Regarding education, the CRC emphasizes the right of every child to access education on the basis of equal opportunity. **Article 28 of the CRC**²³ recognizes the

²² Article 23

²³ Article 28 of the CRC

right of the child to education and calls on states parties to make primary education compulsory and available free to all. Furthermore, states are required to take measures to encourage regular attendance and reduce dropout rates. Additionally, the CRC emphasizes the importance of secondary education and vocational training, aiming to ensure that children have access to education that prepares them for a productive and fulfilling life.

Moreover, the CRC underscores the importance of education in promoting the child's full development and preparing them to participate effectively in society. It also highlights the role of education in instilling respect for human rights, diversity, and the environment. Additionally, the CRC stresses the need to protect children from all forms of discrimination and violence in educational settings. Overall, the CRC serves as a crucial framework for promoting and protecting the right to education for children worldwide.

3.2.5 Convention of the Elimination of Discrimination against Women

Article 10 of the Convention ²⁴mandates states parties to undertake measures to eradicate discrimination against women, ensuring their equal rights with men in the realm of education. Specifically, it calls for the adoption of measures to provide women with equal opportunities in career and vocational guidance, access to studies, and attainment of diplomas across all educational institutions, both in rural and urban areas. This equality should be upheld across all levels of education and types of vocational training.

²⁴ Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

The convention further advocates for the eradication of gender stereotypes in education at all levels by promoting coeducation and other forms of education that contribute to this objective. This entails revising textbooks and school programs, adapting teaching methods, and providing equal opportunities for women to benefit from scholarships, study grants, and programs of continuing education, including adult and functional literacy programs. Moreover, it emphasizes the importance of ensuring equal opportunities for women to participate actively in sports and physical education.

3.2.6 Convention of Rights of Persons with Disabilities CRPD

This is an international human rights treaty adopted by the United Nations General Assembly in 2006. It aims to promote, protect, and ensure the full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities.

Regarding education, the CRPD recognizes the right of persons with disabilities to education on an equal basis with others. **Article 24 of the CRPD** specifically addresses the right to education, emphasizing the importance of inclusive education systems that accommodate the diverse needs of persons with disabilities. Key provisions of Article 24 include:

- 1 Ensuring inclusive education at all levels, including preschool, primary, secondary, tertiary, and vocational education.
- 2 Guaranteeing the right of persons with disabilities to access mainstream education within their communities.
- 3 Providing reasonable accommodations and necessary support to facilitate the effective participation of persons with disabilities in education.

- 4 Eliminating discrimination in the field of education and promoting the full development of human potential and dignity

3.2.7 African Charter of the Rights and Welfare of the Child ACRWC

is a regional human rights instrument adopted by the Organization of African Unity (now the African Union) in 1990. It aims to protect and promote the rights and welfare of children across Africa. In terms of education, the ACRWC recognizes the right of every child to education. **Article 11 of the ACRWC** ²⁵specifically addresses the right to education, emphasizing the importance of ensuring access to quality education for all children in Africa i.e. Ensuring free and compulsory education for all children, eliminating discrimination in access to education based on factors such as gender, disability, ethnicity, or socioeconomic status, promoting the development of educational facilities, materials, and programs that meet the needs of children, encouraging the participation of parents, communities, and relevant stakeholders in the planning and implementation of educational policies and programs and providing special protection and assistance to children who are unable to enjoy their right to education due to circumstances such as disability, refugee status, or conflict.

3.2.8 American Convention of Human Rights (the Pact of San José)

This is an international human rights treaty adopted by the Organization of American States (OAS) in 1969. It aims to protect and promote human rights and fundamental freedoms in the Americas. While the American Convention on Human Rights does not contain a specific article solely dedicated to the right to education, several provisions within the Convention indirectly address aspects related to

²⁵ Article 11

education. For example, **Article 13** ²⁶of the Convention guarantees the right to education in the context of other rights, such as the right to freedom of thought and expression. Additionally, **Article 26** ²⁷recognizes the right to progressive development and access to education as part of the right to enjoy the benefits of culture. Furthermore, the Inter-American Court of Human Rights, which interprets and applies the American Convention on Human Rights, has issued rulings emphasizing the importance of education as a fundamental human right and the obligation of states to ensure access to quality education for all individuals.

In the case of **Jehovah's Witnesses v. Argentina**, ²⁸the Commission found that the actions of the President constituted an abuse of the right to education, specifically the right to equality of opportunity in education. However, the Commission did not delve deeply into the content of the right to education. The abuses identified in this case encompass various components of the right to education. Firstly, there is a violation of the availability of education, as certain groups of children are denied the opportunity to exercise their right to education. Secondly, there is a breach of accessibility, as children belonging to Jehovah's Witnesses are discriminated against based on their religious beliefs. Thirdly, there is a failure to ensure acceptability, as parents are not allowed to educate their children in accordance with their religious, moral, or philosophical convictions, thereby infringing upon parental freedom. Finally, there is a lack of adaptability in the teaching process towards religious minorities, undermining the principle of adaptability in education.

3.3 National perspective

²⁶ Article 13

²⁷ Article 26

²⁸ *Jehovah's Witnesses v. Argentina 1978* <http://www.cohre.org/store/attachments/COHRE%20Legal%20Practitioners%20Dossier.pdf>

3.3.1 1995 Constitution of Uganda

objective XVIII²⁹ of the constitution stipulates that the government must advocate for free and mandatory basic education, ensuring that every citizen has an equal chance to achieve the highest possible educational level. Additionally, individuals, religious institutions, and other non-governmental organizations are permitted to establish and manage educational institutions as long as they adhere to the nation's educational policies and uphold national standards. This objective is further provided for under **Article 30**³⁰ which provides for the fundamental right to education. In addition, both governmental and non-governmental organizations have intensified efforts to uphold the right to education.

The Constitution contains additional provisions relevant to education, such as **Articles 167 and 168**³¹, which establish and delineate the functions of the Education Service Commission. Furthermore, **Article 189**³² delegates responsibilities to District Councils for functions and services not explicitly outlined in the Sixth Schedule of the Constitution.

In the case of **Dimanshe Sharon & Ors. v. Makerere University**³³, the petitioners, who practiced the Seventh Day Adventist Christian Faith, challenged Makerere University's policies scheduling lectures, mandatory tests, and examinations on the Sabbath. They argued that these policies were inconsistent with and violated several articles of the Constitution, including Articles 20, 29(1)(c), 30, and 37, which guarantee freedom of religion and the right to education. The petitioners

²⁹ 1995 constitution of Uganda

³⁰ 1995 constitution of Uganda

³¹ *ibid*

³² *ibid*

³³ Constitutional petition No. 1 of 2003

claimed that these policies imposed an unconstitutional burden on them due to their faith and undermined their constitutionally guaranteed right to education.

However, it was determined that Makerere University's rules applied fairly to all students seven days a week, and were necessary for the effective operation of the institution. The University had also made efforts to accommodate the claimants' rights to the extent possible. Additionally, it was argued that university education was not limited to Makerere University alone, and individuals had the right to access education at institutions not funded by the state.

On appeal to the Supreme Court, it was emphasized that individual rights and freedoms, including those related to religion and education, are not absolute. They must be balanced with national and public interests, particularly in the context of promoting affordable access to university education. The Court referred to Objective XVIII of the National Goals and Directive Principles of State Policy to interpret the constitution, concluding that the right to education enshrined in Article 30 must be aligned with national objectives and laws governing universities and other educational institutions.

3.3.2 Children Act

This provision establishes that the principles of welfare and children's rights outlined in the first schedule of the Act serve as guiding principles for any decisions made under the Act. According to **Paragraph 3**³⁴ of the schedule, any decision affecting a child must consider the child's educational needs among other factors. **Paragraph 4**³⁵ outlines the rights of a child, including the right to exercise all rights

³⁴ 1st schedule

³⁵ *ibid*

detailed in the United Nations Convention on the Rights of the Child and the Organization of African Unity Charter on the Rights and Welfare of the African Child, even if not explicitly stated in the Act.

The Act imposes the obligation on parents, guardians, or custodians to support the child, particularly granting the child the right to education and guidance. **Section 9** of the Act mandates both parents and the state to take necessary measures to ensure children with disabilities have access to rehabilitation facilities and equal educational opportunities.

In **Rebecca Tibetsigwa v. George Lukoda**³⁷ who had cohabited with the defendant and shared five children, alleged that the defendant failed to pay school fees for their children as they progressed to higher classes. Despite a prior peace accord signed after reporting the matter to the Uganda Human Rights Commission, wherein the defendant agreed to cover the fees, the plaintiff pursued legal action.

The Tribunal examined Article 34 of the Constitution, which mandates parents and the nation to ensure a child's right to education, along with the welfare doctrine outlined in the Children's Act. It concluded that the defendant had breached his duties, thereby violating the children's right to education. Consequently, the defendant was ordered to immediately settle the outstanding school fees. Additionally, the Tribunal awarded exemplary damages for the breach of Article 34, deeming the defendant's actions as particularly egregious due to his financial capability to fulfil his obligations.

3.3.3 The Education Act

³⁷ Complain No. UHRC/J/LOG41/2003

This primarily concerns the oversight of formal education, including the registration and licensing of teachers and related issues. While it does not contain explicit provisions guaranteeing the right to education, **Section 7(4)** authorizes the minister to initiate educational development plans such as UPE aimed at enhancing educational services nationwide.

3.3.4 Education (pre-primary, primary and post-primary) Act, 2008

This legislation forms the legal framework for education provision in Uganda, asserting that "basic education shall be provided and enjoyed as a right by all persons."

3.4 Conclusion

The legal framework governing education in Uganda is multifaceted, encompassing various international statutes, constitutional provisions, Acts of Parliament and judicial interpretations. While the Constitution guarantees the right to education as a fundamental human right, it also recognizes the need to balance individual rights with national objectives and public interests as pointed out in *Dimanshe Sharon & Ors. v. Makerere University* that underscores the importance of this balance, particularly in accommodating religious freedoms while ensuring access to affordable education for all. Thus, the legal framework reflects a commitment to promoting inclusive, quality education while addressing the diverse needs and interests of the population.

4CHAPTER FOUR: EXPLORING THIRD-PARTY ROLES IN THE IMPLEMENTATION OF UNIVERSAL PRIMARY EDUCATION (UPE) WITHIN UGANDA'S NON-LEGAL FRAMEWORK.

4.1 Introduction

Human rights extend beyond legal statutes; they encompass norms and values shaping daily societal interactions. Achieving sustainable education and rights for all children hinges on a collective understanding and ownership of education by parents, families, and community members. Education is intrinsically linked to broader societal dynamics. The actions, attitudes, and behaviours of individuals within communities significantly influence the realisation or denial of education rights

In the past three decades, non-state actors' involvement in education has surged globally, with private education emerging as a potential solution to inadequate public education provision or the underperformance of public schools, as advocated by certain education stakeholders. However, the rapid expansion of non-state education actors, particularly profit-oriented businesses, has prompted concerns from a human rights perspective, as noted by the UN Special Rapporteur on the right to education, UN human rights monitoring bodies, and the Human Rights Council³⁸. Effective fulfilment of the right to education necessitates active support and engagement from various stakeholders, including parents, extended family members, unions, teachers, religious groups, civil society organisations, and local officials. States cannot fulfil their responsibilities regarding rights-based education in isolation. Responsibility for ensuring the right to education is distributed across

³⁸ Delphine Dorsi (2016), A framework to assess the role of Non-State Actors in Education against Human rights. Reproject,

multiple levels, from the state to individual parents. It is crucial to establish clear and equitable lines of accountability. For instance, parents cannot adequately ensure their child's regular attendance at school unless the government provides schools and creates an economic environment conducive to attendance.

Furthermore, it is essential to recognise that every adult has rights and responsibilities. Parents, for example, have a duty to ensure their children's access to education³⁹, but they also have a right to educate themselves⁴⁰. Similarly, teachers are entitled to respect, fair compensation, appropriate training, and support. They cannot fulfil their obligations to children unless these rights are upheld. This holistic understanding of rights and responsibilities underscores the interconnectedness of various actors in achieving meaningful education outcomes.

As outlined in the preceding chapters, there exists a significant interplay between rights and responsibilities. While the recognition and respect for human rights are fundamental, the realization of these rights hinges upon the fulfilment of corresponding obligations. In essence, rights can only be fully realized when responsibilities are earnestly upheld. However, it is crucial to acknowledge that certain actors involved in children's lives may inadvertently act as barriers to the right to education.

Therefore, a vital aspect of adopting a rights-based approach is to engage with these actors collaboratively to address the concerns that hinder access to education. By working proactively with such stakeholders, it becomes possible to identify and overcome obstacles, thereby ensuring that all individuals can exercise their right to education without hindrance. This approach underscores the

³⁹ Article 13(3) International Covenant on Economic, Social and Cultural Rights.

⁴⁰ Article 30, The 1995 constitution of the Republic of Uganda as amended

importance of fostering cooperation and collective action to uphold and promote the principles of human rights in the realm of education.

It is imperative to harness the expertise and efforts of all stakeholders involved in addressing educational needs. Children's access to schooling is influenced by various factors, including parental recognition of their right to education, the level of parental engagement encouraged by schools, and the absence of economic pressures that might compel children to work. Moreover, children's commitment to education is shaped by the community's perception of its value, the quality and relevance of the education provided, and how they are treated within the educational environment.

Furthermore, children's educational achievements are contingent upon factors such as support received at home, the calibre of teachers, teaching methodologies employed, student engagement in the learning process, the availability of necessary resources, and the flexibility provided to ensure regular attendance. While government action is vital in supporting these factors, their effective implementation relies heavily on the active involvement of all members of the community.

As such, this chapter will focus exclusively on the roles of other duty-bearers concerning the right to education, emphasizing the collective responsibility of various stakeholders in ensuring the fulfilment of this fundamental right.

The right to education, as outlined in international treaties, encompasses both a social inclusion and a democratic dimension. Grounded in the principles of equality and non-discrimination, international law mandates states to take proactive measures to ensure the full realization of this right. Moreover, international law acknowledges the freedom of private entities to establish and manage educational

institutions, in conjunction with parents' freedom to provide their children with religious and moral education according to their beliefs, without perpetuating discrimination, segregation, or inequality.

Importantly, this freedom should not result in fee-charging private schools becoming the sole option for compulsory education, nor should it undermine the humanistic purpose of education or fall below minimum educational standards. Instead, it should be subject to adequate regulation and oversight to safeguard against potential abuses.

The role of non-state actors in education is subject to public scrutiny, guided by principles of transparency and participation, ensuring that educational policies and practices align with broader societal values and objectives.

4.1.1 The principles of non-discrimination and equality

The exercise of educational freedom must be conducted in a manner that upholds the principles of equality, non-discrimination, and inclusion⁴¹. International human rights law stipulates that educational freedom should not result in, perpetuate, or exacerbate inequalities, discrimination, or segregation⁴². It emphasizes the inclusive nature of education and imposes an obligation on states to prevent excessive inequalities in educational opportunities for specific groups within society⁴³.

⁴¹ *Brown v. Board of Education*, (1954), 347 U.S. 483

⁴² 1960 UNESCO Convention against Discrimination in Education, Article 2

⁴³ Committee on the Rights of the Child (CRC), GC 16, 34).

Furthermore, states are obligated to ensure that the provision of services, including education, by private actors does not discriminate against individuals based on discriminatory criteria. This obligation is crucial to safeguarding children's access to essential services and preventing any form of exclusion or marginalization based on discriminatory grounds.

4.1.2 The principles of transparency and participation.

The right to establish and oversee educational institutions should be subject to democratic oversight and adherence to the principles of transparency and participation inherent in human rights⁴⁴. This ensures that decisions and advancements in education, including the engagement of private education providers, are made in collaboration with and with the involvement of all relevant stakeholders.

In particular, this obligation is underscored by the Convention on the Rights of the Child (CRC), which advises that states conduct a comprehensive and transparent assessment of the political, financial, and economic implications, as well as potential impacts on consumers' rights when considering outsourcing services to non-state entities, whether for-profit or non-profit, foreign or domestic. Additionally, the CRC emphasizes the importance of national monitoring mechanisms to ensure that children, parents, and teachers have a voice in decisions about education⁴⁵.

4.1.3 The humanistic mission of education

A paper released by UNESCO underscores the humanistic value of education, even in scenarios where private actors are involved. The right to education must be

⁴⁴ Universal Declaration of Human Rights, Article 21(1); International Covenant on Civil and Political Rights, Article 25(a).

⁴⁵ Committee on the Rights of the Child (CRC), GC 16, 34).

safeguarded, as per international human rights law, directing education towards the holistic development of the individual's personality and fostering a sense of dignity, while also promoting respect for human rights and fundamental freedoms⁴⁶.

The principles embedded in educational processes, including curricula, teaching methods, and the school environment, should actively promote the enjoyment of other rights. According to the Convention on the Rights of the Child (CRC), all educational programs and practices should prioritize the best interests of the child, aiming to equip them with the skills and attitudes necessary for active and responsible participation in society. Education should not solely focus on the accumulation of knowledge or fostering competition, as excessive academic pressures can impede a child's holistic development.

Schools should cultivate a nurturing environment that allows children to flourish and grow at their own pace, promoting their well-being and nurturing their potential as they progress through their educational journey.

4.2 PARENTS AND OTHER CAREGIVERS

Parents and other caregivers play crucial roles in supporting and facilitating access to education for children. In many cultures, the extended family assumes responsibility for caring for children, especially in communities with high orphan populations. In such cases, it is incumbent upon these caregivers to uphold the rights of children and ensure their well-being.

⁴⁶ Convention on the Rights of the Child, General Comment 1, 12).

Parents are the primary influencers in a child's life and serve as ongoing educational partners. Without parental involvement, children often face significant barriers to accessing and maintaining their commitment to education⁴⁷.

Parental responsibilities include:

- Creating a conducive environment in the early years that prepares the child for school readiness and instils a value for education.
- Ensuring children are not burdened with excessive homework or other responsibilities that impede their educational progress.
- Facilitating children's readiness and punctuality for school attendance.
- Actively participating and supporting the school community through fundraising, meetings with staff, parent councils, consultations, and governance bodies.
- Providing support and assistance with their child's schoolwork and homework.
- Advocating for and protecting children's educational rights, holding schools and educational authorities accountable for fulfilling their obligations and addressing any abuses of rights.
- Ensuring children's safety and well-being, including access to nutritious meals, to enhance their ability to learn.
- Preventing children from being hindered in their education by local customs and traditions such as child marriages.

⁴⁷ <https://www.edsys.in/parents-play-role-education-children/>

By fulfilling these responsibilities, parents and caregivers play a vital role in ensuring that children have access to quality education and can thrive academically and personally.

4.3 COMMUNITIES

Children are deeply influenced by their families and communities, which shape their values, culture, and level of involvement. Local communities play a crucial role in promoting cultures that uphold the rights of every child to education⁴⁸.

For instance, in Egypt, community education schools have been established, especially in rural areas where primary schools were historically absent, particularly depriving rural girls of education opportunities. Inspired by the BRAC Bangladesh model, these schools are located in rural hamlets and aim to eliminate hidden costs such as uniform expenses. Local ownership is a key feature, allowing families to have a say in school management through local school commissions formed in each hamlet⁴⁹.

Parents may require support to alleviate home labour pressures, such as improving access to water or providing daycare for younger children, thereby enabling girls to attend school. Communities collaborate with parents, extended families, faith organizations, and other community groups to promote the benefits of education and encourage parental involvement.

⁴⁸ Ishmael Mkhabela, The role of Community in Education: A practitioner's reflection.

⁴⁹ Supra 126

Local community members can advocate for education, raise funds to improve school facilities, participate in governance bodies, support curriculum activities, maintain school environments, advocate for increased funding, adapt school buildings for children with disabilities, and combat child labour. Their active engagement elevates the status of schools and reinforces the importance of education for all children.

However, it's essential to recognize that cultures are diverse, and efforts to encourage community engagement should include poor and disadvantaged households. Unique approaches may be necessary to ensure inclusivity and promote active participation from all segments of society⁵⁰.

4.4 TEACHERS

Teachers wield significant influence over the day-to-day school experiences of children, as their commitment, enthusiasm, creativity, and skills profoundly impact the learning environment⁵¹. It is their responsibility to translate national policies into practical actions within each school and foster a culture that is inclusive and respectful of every child. However, for teachers to effectively fulfil this role, their rights must be fully acknowledged and respected.

While governments are tasked with determining the terms and conditions of teachers' employment and fostering a supportive environment for their work, there is room for additional measures to safeguard teachers' rights at the local level. School headteachers bear the responsibility of protecting teachers' rights, ensuring adequate resource allocation, addressing grievances, involving teachers in decision-

⁵⁰ Ibid

⁵¹ Mrs Srividhya Jayakumar, (2007) Human Rights Education - The role of Teachers, paper presented in Western Regional Seminar held in H.J. College of Education, Khar

making processes, and fostering respect for their contributions to the local community⁵². Headteachers should also help teachers understand their responsibilities, track their performance, and create an environment where teachers feel valued and supported. This, in turn, enhances teachers' capacity and willingness to safeguard children's rights⁵³.

Teachers' duties include:

4.4.1 Introducing practical measures for equality.

Schools bear a significant responsibility in translating inclusion initiatives into the everyday educational experience. It is imperative that all children feel welcomed, secure, and treated fairly within the school environment. Schools must foster an atmosphere of appreciation for every student, cultivating a culture that rejects any form of prejudice or discrimination, whether in admission procedures, classroom interactions, learning opportunities, access to assessments, participation in extracurricular activities, or labelling of roles.

Prejudice based on gender roles must be actively addressed, and steps should be taken to ensure the equal inclusion of girls alongside boys. Schools should establish policies that clearly articulate the values of non-discrimination and ensure that these policies are communicated effectively to teachers, parents, and students. The process of developing such policies presents an opportunity to address underlying issues, raise awareness of their importance, and cultivate skills in negotiation, active listening, and understanding diverse perspectives and experiences.

⁵² <https://unesdoc.unesco.org/ark:/48223/pf0000234820-eng> “The right to education and the teaching profession.

⁵³ Ibid

By promoting a culture of inclusion and non-discrimination, schools can create environments where every child feels valued, respected, and able to fully participate in their educational journey. This not only enhances students' academic and personal development but also contributes to the creation of a more equitable and just society.

4.4.2 *Promoting a respectful environment*

To cultivate an atmosphere of respect within schools, it is essential to establish comprehensive policies in collaboration with all stakeholders, including children. These policies should address various aspects, such as promoting non-violent conflict resolution, facilitating children's active involvement in decision-making processes, and establishing codes of conduct that regulate relationships within the school community. Schools should customize and refine these guidelines to ensure that students, parents, and teachers feel ownership of the resulting policies⁵⁴.

Inclusion entails interventions to meet the diverse needs of children. For instance, schools may need to ensure that certain classes are conducted on ground floors to accommodate wheelchair users. Additionally, schools can explore instructional models that allow for more flexible classroom participation, conduct classes at alternative locations, or coordinate varied teaching hours. To accommodate children's external responsibilities, such as agricultural or domestic work, staggered starting times can be implemented, although this should not compromise the already limited learning time available to them. Daily breaks should be provided to allow children to rest and learn effectively, particularly for those engaged in paid work or domestic chores. Flexible modular or group-based learning approaches can

⁵⁴ <https://safesupportivelearning.ed.gov/training-technical-assistance/roles/teachers>

be adapted to accommodate different learning styles and preferences among students.

4.4.3 *Encouraging local engagement*

Child-friendly schools must be adaptable to the local context while adhering to core standards and principles. Each school should have the flexibility to tailor its approach to meet the specific needs of the local community, including providing a curriculum that reflects local concerns and priorities. For instance, some schools integrate children's participation in managing the school and local environment as part of their democratic learning approach⁵⁵.

Teaching children about their rights necessitates an understanding of the reciprocal responsibilities they entail. While children have the right to be heard and have their opinions valued, they also have a corresponding obligation to listen to the views of others. This learning occurs through the nurturing environment of the school, which promotes mutual respect.

For example, rather than consistently punishing children for arriving late, schools can engage with students to discuss alternative solutions, such as adjusting the schedule or implementing flexible starting times. By involving children in decision-making processes and considering their unique circumstances, schools can create an environment that respects their rights and fosters their holistic development.

4.5 CIVIL SOCIETY ORGANIZATIONS

International, national, and local civil society organizations are pivotal actors worldwide⁵⁶, serving both as service providers and advocates for fulfilling

⁵⁵ Warren.M., Hong, S., Ruben, C.L, and Uy, P.S. (2009) Beyond the Bake Sale: A Community -Based Relational Approach to Parent Engagement in Schools.

⁵⁶ <https://educationoutloud.org/role-civil-society-ensuring-education-all> “The role of civil society in ensuring education for all”

obligations, particularly in areas where gaps in provision exist. These organizations possess extensive experience not only in identifying gaps but also in implementing strategies to address them. Hence, establishing partnerships with civil society organizations is paramount.

Moreover, the private sector is assuming an increasingly significant role in providing essential services, including education, and must fulfil its related duty-bearing obligations. In many countries, the private sector can also serve as a valuable collaborator in efforts to enhance education provision.

By engaging with civil society organizations and the private sector, governments and other stakeholders can leverage their expertise, resources, and networks to effectively address challenges and promote the realization of the right to education for all. Collaboration among diverse stakeholders is essential for creating inclusive and equitable educational opportunities for every child.

4.5.1 Collaborating in the provision of education.

Local or district officials, including traditional representatives, should collaborate with NGOs to share their insights and experiences regarding the needs of school children and ways to improve their training. They can also explore strategies for facilitating smoother transitions between the NGO and government sectors, including piloting various approaches to educate disadvantaged children⁵⁷.

⁵⁷ Supra

Consultation with children attending non-government schools is crucial, as they provide valuable insights into why these schools are effective for them and what reforms are necessary to address the realities of their lives in government schools. By engaging with children directly, policymakers can gain a deeper understanding of their experiences and perspectives, enabling them to develop more responsive and inclusive education policies and practices.

4.5.2 Mobilizing and capacity-building

Civil society organizations play a crucial role in advocating for justice and mobilizing communities, particularly those who are most marginalized and vulnerable. These organizations work to build the capacity of individuals and communities, identify opportunities for engagement with duty-bearers, and hold governments accountable for fulfilling their obligations.

On the demand side, civil society organizations engage in advocacy, lobbying, and monitoring to ensure accountability and transparency among duty-bearers. This includes tracking the implementation of government policies and initiatives and advocating for their continuity amidst administrative changes.

On the supply side, civil society organizations focus on capacity-building initiatives, including:

- Empowering families, parents, and traditional leaders through training and awareness-raising to encourage community engagement, such as social auditing and monitoring of government services.
- Enhancing the knowledge and skills of public officials through training and preparation.

- Democratizing mechanisms of social change by providing alternative forms of social relations that are empowering and participatory, thus including marginalized groups in achieving results.
- Strengthening national ownership of human rights in development partnerships, particularly in poverty reduction strategies.
- Providing technical expertise and capacity-building support to help states meet their international human rights commitments.
- Building stakeholders' capacity to claim their rights through training and support in human rights advocacy and creating opportunities for them to do so.
- Holding states accountable for their commitments to uphold the human rights of children, ensuring that international human rights treaties are upheld.

By performing these functions, civil society organizations contribute significantly to advancing justice, promoting human rights, and fostering inclusive development.

4.6 Conclusion

In conclusion, the enforcement of the right to education, as outlined in Article 13 of the International Covenant on Economic, Social and Cultural Rights, is significantly supported by the role of UN agencies, particularly through mechanisms such as the Unified National Development Assistance System (UNDAF). There is a need for concerted efforts to achieve this right, enhancing coherence and coordination among all stakeholders involved, including various components of civil society.

UNESCO, the United Nations Development Programme (UNDP), UNICEF, the International Labour Organization (ILO), and the World Bank (WB) can play pivotal roles in promoting the implementation of the right to education, leveraging their respective mandates and expertise. Collaboration with regional development banks, the International Monetary Fund (IMF), and other multilateral stakeholders within the UN system is essential in this regard⁵⁸.

Specifically, international financial institutions such as the World Bank and IMF should prioritize the protection of the right to education in their lending policies, credit arrangements, and structural adjustment programs. Additionally, the adoption of a Human Rights-based approach by UN specialized agencies, programs, and bodies will facilitate the effective implementation of the right to education, ensuring that it is upheld and respected at all levels⁵⁹.

4.7 Implementation of Universal Primary education in Uganda

Introduction

we delve into the implementation of the Universal Primary Education (UPE) program in Uganda. We begin by examining the overarching educational goals and specific objectives set forth by the UPE initiative. Through a comprehensive analysis, we aim to understand how these goals align with the broader framework of the right to education, encompassing principles such as non-discrimination, equitable access to education, and the provision of a safe and conducive learning environment.

⁵⁸ <https://unesdoc.unesco.org/ark:/48223/pf0000133113/PDF>

⁵⁹ Supra

Our exploration encompasses various dimensions of the right to education, including the fundamental principles of non-discrimination and fair access to education for all children. We delve into the core components of the UPE program, which include ensuring free primary education, expanding access to secondary and higher education, and addressing issues such as discipline and corporal punishment within educational settings.

Furthermore, we examine the contextual factors that influence the implementation of the UPE program, including socioeconomic disparities, geographical challenges, and infrastructural limitations. By contextualizing the implementation process, we aim to gain insights into the successes, challenges, and opportunities for improvement within the UPE framework.

Goals objectives of the UPE initiative

Katarina Tomasevski, the former UN Special Rapporteur on the Right to Education, introduced the framework known as the "four A's" to define the essential elements of the right to education. According to this framework, education must meet four key criteria to effectively uphold the right to education: affordability⁶⁰, accessibility⁶¹, appropriateness⁶², and adaptability⁶³. These criteria serve as benchmarks for evaluating the quality and inclusivity of educational systems worldwide.

⁶⁰ financial accessibility of education, ensuring that it is within reach of all individuals and families, regardless of their economic status.

⁶¹ physical and logistical accessibility of education, ensuring that schools and educational resources are geographically and logistically accessible to all individuals, including those living in remote or marginalized areas.

⁶² suitability of education to the cultural, linguistic, and developmental needs of learners.

⁶³ flexibility and responsiveness of education systems to evolving societal needs, technological advancements, and changing circumstances

Availability; State-sponsored primary education should be universally accessible, free, and compulsory. Adequate infrastructure and facilities, including sufficient books and supplies for students, should be provided. School buildings must meet safety and sanitation standards, including access to clean drinking water. Active recruitment, thorough preparation, and effective retention methods should ensure a sufficient number of skilled staff in each school.

Accessibility: All children, regardless of gender, race, religion, ethnicity, or socioeconomic status, should have equitable access to educational services. Special efforts should be made to include vulnerable populations such as refugee children, homeless individuals, and those with disabilities. Schools should be located within reasonable proximity to communities, or transportation should be provided, especially for rural students, to ensure safe and convenient access to education. Textbooks, materials, and uniforms should be provided to students at no additional cost to ensure accessibility for all.

Acceptability: The quality of education provided should be unbiased, relevant, and culturally sensitive for all students. Education should not promote any particular religious or ideological beliefs, and teaching approaches should be objective and impartial. Classroom environments should prioritize health and safety, with a zero-tolerance policy for all forms of corporal punishment. Professionalism among staff and teachers should be upheld at all times.

Adaptability: Educational programs should be flexible and responsive to evolving social trends and community needs. Schools should accommodate religious or cultural holidays and provide adequate support for students with disabilities. Options such as distance learning programs should be available to ensure access to

education, either physically or through technology, as recommended by UNESCO and UNICEF.

4.7.1 realization of the goals and objectives

Progressive implementation acknowledges that fulfilling certain aspects of the right to education may require a gradual approach, especially for nations with limited resources. Without sufficient funding, expertise, infrastructure, and other necessary resources, many countries would struggle to meet immediate obligations **Article 2 (1) of ICESCR**⁶⁴. This is particularly relevant considering the International Covenant on Economic, Social and Cultural Rights (ICESCR), which imposes obligations on states to ensure free education across all levels and types, including pre-primary, primary, secondary, technical and vocational, higher, and basic education. However, expecting immediate compliance from all states may be unrealistic given the varying socio-economic conditions and resource constraints they face. Therefore, progressive implementation allows countries to work towards achieving these goals over time, taking into account their unique circumstances and capabilities.

In guiding states parties on the Committee on Economic, Social and Cultural Rights regarding the enforcement of the ICESCR, it is imperative to underscore the nuanced approach of progressive implementation. This approach should not be misconstrued as an excuse for states to shirk their responsibilities; rather, it recognizes the practical challenges many nations face in fully realizing the right to education.

⁶⁴ Supra

The ICESCR sets forth specific obligations for states parties, acknowledging the diverse socio-economic contexts in which they operate. It emphasizes the need for states to take meaningful steps towards achieving universal access to education, even if progress is gradual.

Key elements of the right to education, such as free secondary education, technical and vocational training, higher education, and remedial education for those who missed primary schooling, are areas where progressive implementation is particularly relevant. However, this approach does not absolve states of their duty to continually strive for improvement in the quality and accessibility of education.

Violations occur when states fail to adopt systematic and realistic strategies to address these challenges. By prioritizing targeted interventions and allocating resources effectively, states can make tangible progress in realizing the right to education for all individuals.

Ultimately, the essence of progressive implementation lies in the commitment of states to prioritize education as a fundamental human right and to pursue it diligently, recognizing the inherent complexities and limitations they may encounter along the way.

Article 2(1) of the ICESCR places a responsibility on states to take deliberate actions to maximize the resources at their disposal, both domestically and internationally. This includes utilizing all available resources to the fullest extent possible to ensure the widespread enjoyment of the right to education, even in cases where resources may be limited. States are expected to prioritize their fundamental obligations, ensuring that their commitments to education are given the highest priority.

The Committee on Economic, Social and Cultural Rights (CESCR) emphasizes that these obligations are not subject to resource constraints and should be pursued as urgent responsibilities. Furthermore, the CESCR underscores the importance of taking special measures to address immediate commitments related to non-discrimination in education. This highlights the imperative for states to prioritize the fulfilment of their obligations under the ICESCR, particularly concerning the right to education, without allowing resource limitations to hinder progress.

In the Ugandan sense, the Ministry of Education and Sports, as mandated by the Ugandan constitution, plays a pivotal role in overseeing the implementation of the Universal Primary Education (UPE) program. Working in collaboration with local authorities, school management committees, and parents, the Ministry ensures that all activities related to education are monitored and enforced effectively. At the core of its responsibilities, the Ministry is tasked with providing technical guidance, coordinating efforts, enacting legislation, and promoting quality education and sports across Uganda. The 1998 guidelines outline the specific roles of the Ministry in relation to UPE implementation, including: Training and retraining of teachers to enhance their capabilities and effectiveness in the classroom, Ensuring the availability of educational materials such as textbooks and teachers' guides to support teaching and learning.

Contributing to the construction and maintenance of essential school facilities, including classrooms and libraries, to create conducive learning environments, Supervising, monitoring, and evaluating the implementation of UPE to assess its effectiveness and identify areas for improvement and Providing curriculum standards, monitoring frameworks, and assessment guidelines to maintain

educational quality and consistency.

In terms of financial support, the Ministry disburses two forms of UPE grants: capitation grants and grants to schools. Capitation grants are distributed based on the number of students enrolled and their education level. These grants, provided on a monthly basis, aim to support schools in meeting various expenses associated with education provision.

Guidelines issued by the Ministry govern the allocation of capitation grants, ensuring transparent and accountable use of funds. These guidelines typically allocate funds for teaching materials, co-curricular activities, school management, and administrative expenses, prioritizing the holistic development and well-being of students.

In addition, and under the guidance of Chief Administrative Officers (CAOs), local authorities are pivotal in the effective distribution of Universal Primary Education (UPE) funds provided by the Ministry of Education and Sports. These funds, designated as conditional grants, are intended to bolster educational endeavours at the grassroots level. Local authorities oversee the disbursement of UPE grants to beneficiary schools, ensuring timely allocation and transparent financial management. They are also responsible for formulating and implementing the education budget at the district level, providing regular updates to District Councils, and upholding accountability standards in resource utilization.

At the sub-county level, sub-county chiefs, acting as representatives of CAOs, play a crucial role in the implementation of UPE policies. They conduct routine visits to schools, enforce local regulations pertaining to education, and maintain accurate records of pupil and teacher demographics. Sub-county chiefs also oversee

infrastructure management, monitor the proper utilization of UPE grants, and promote accountability measures within schools. Through coordinated efforts at the local level, facilitated by CAOs and sub-county chiefs, UPE initiatives can be effectively executed, ensuring equitable access to quality education for all children across Uganda.

The above are also helped by the School management committees that play a crucial role in overseeing the effective implementation of Universal Primary Education (UPE) at the grassroots level. Working in tandem with school management committees, head-teachers are responsible for school finances and property, reporting to District Education Officers.

5 CHAPTER FIVE: THE LESSONS FROM UNIVERSAL PRIMARY EDUCATION IN OTHER AFRICAN COUNTRIES, THE REPUBLIC OF KENYA.

5.1 Introduction

This chapter also examines similar initiatives in other countries, with a focus on Kenya as a comparative case study. By juxtaposing the UPE program in Uganda with educational initiatives in Kenya, this chapter aims to provide a comprehensive analysis of primary education policies in East Africa. Through this comparative lens, we gain insights into the successes, shortcomings, and lessons learned from UPE implementation, contributing to a deeper understanding of educational development in the region.

5.2 nature of Universal Primary Education (UPE) in Kenya

The origin of Universal Primary Education (UPE) in Kenya can be traced back to various policy initiatives aimed at expanding access to primary education for all children in the country⁶⁵. One significant milestone in this regard was the introduction of Free Primary Education (FPE) in 1974⁶⁶. The FPE policy aimed to remove financial barriers to education by abolishing tuition fees for primary school students. While this policy marked a crucial step towards increasing enrolment rates, challenges persisted, including inadequate infrastructure, teacher shortages, and disparities in access across regions.

⁶⁵ Ngugi, Margaret Njeri, The implementation of the universal primary education(UPE) policy in Kenya, [The implementation of the universal primary education\(UPE\) policy in Kenya \(1974 to 2000\) \(uonbi.ac.ke\)](http://uonbi.ac.ke)

⁶⁶ Ibid

In the early 2000s, Kenya's government renewed its commitment to expanding access to primary education through the launch of the Free Primary Education (FPE) program in 2003. The Free Primary Education (FPE) program in Kenya continues to be a central component of the country's education system. Under the FPE initiative, primary education is provided free of charge, with the government covering tuition fees and some additional costs such as textbooks and instructional materials. This policy aims to remove financial barriers to education and increase access to primary schooling for all children in Kenya

The introduction of FPE in Kenya marked a significant milestone in the country's efforts to achieve universal primary education and this is the concept that Uganda borrowed to develop its UPE system. Despite facing challenges such as overcrowded classrooms, inadequate resources, and administrative bottlenecks, the FPE program contributed to a substantial increase in primary school enrolment rates. Over time, the government has continued to refine and expand its education policies to address evolving challenges and ensure equitable access to quality education for all children in Kenya.

5.3 Ugandan v Kenyan programs

Universal Primary Education (UPE) programs have been pivotal in expanding access to primary education in Kenya and Uganda, aiming to remove financial barriers and ensure that every child has the opportunity to receive schooling, these programs share several key similarities that include;

Both Kenya and Uganda have implemented policies to provide free primary education, funded by the government to cover tuition fees and essential resources. This commitment to funding has significantly increased enrolment rates and

expanded access to schooling for children in both countries.

Additionally, both nations have faced similar challenges in implementing and sustaining their UPE programs. Issues such as overcrowded classrooms, inadequate infrastructure, and shortages of qualified teachers have been persistent obstacles in both Kenya and Uganda. Despite these challenges, both countries have undertaken policy reforms aimed at addressing these issues and improving the quality of education provided.

Furthermore, the regional context of East Africa has facilitated the exchange of ideas and experiences between Kenya and Uganda regarding education policy and implementation. This regional proximity has allowed for collaboration and mutual learning, contributing to the development and refinement of UPE programs in both countries

5.4 conclusion

The experiences of Uganda and Kenya with their respective UPE programs offer valuable insights into the complexities of implementing universal education policies in diverse socio-economic and political contexts. While both countries have made significant progress in expanding access to primary education, ongoing efforts are needed to address persistent challenges and ensure that all children have access to quality schooling. By learning from each other's experiences and sharing best practices, Uganda and Kenya can continue to work towards the shared goal of providing inclusive and equitable education for all children.

6 CHAPTER SIX: CONCLUSION AND RECOMMENDATIONS

6.1 Conclusion

In conclusion, it is evident that the Universal Primary Education (UPE) program has fallen short of effectively promoting the right to education, as it does not fully align with the principles outlined in the 4As framework proposed by Katarina Tomasevski. Urgent revision of the program's frameworks is imperative to address this discrepancy and ensure that every child has access to quality education.

I therefore call upon all relevant stakeholders in education, including the government, Ministry of Education and Sports, local authorities, non-governmental organizations (NGOs), teachers, parents/guardians, and local communities, to prioritize and support the government's efforts to enhance the UPE program. By working collaboratively, we can ensure that the goals of education are achieved, leading to meaningful development outcomes.

Specifically, there is a need to focus on improving the quality of education offered in rural UPE schools, where many challenges persist. This can be achieved through regular evaluation and monitoring of these schools, coupled with targeted interventions to address existing shortcomings and improve conditions for both students and teachers.

By investing in the quality of education in rural areas and ensuring that the UPE program aligns with international standards and principles, we can pave the way for a brighter future for all children, regardless of their socio-economic background or geographical location. Together, let us commit to realizing the right to education for every child and fostering inclusive development in our communities.

6.2 Recommendations

Based on the findings of the study, several recommendations have been proposed to improve the quality of education in rural schools under the Universal Primary Education (UPE) program

Enhanced Government Oversight: It is imperative for the government to not only conduct regular visits to rural schools but also to establish a comprehensive monitoring and evaluation framework. This framework should assess various aspects such as infrastructure adequacy, teacher competency, student attendance, and academic performance. By consistently evaluating these factors, the government can identify areas for improvement and allocate resources effectively to address deficiencies.

Infrastructure Development and Modernization: Collaboration among stakeholders should extend beyond classroom construction to encompass the modernization of school infrastructure. This includes the provision of amenities such as clean water facilities, electricity, and internet connectivity. Modern infrastructure not only enhances the learning environment but also enables the integration of technology into teaching practices, fostering innovative and interactive learning experiences.

Holistic Student Support: In addition to providing nutritious meals, stakeholders should prioritize holistic student support programs that address socio-emotional and health needs. This can involve implementing counselling services, health education initiatives, and sports and recreation programs. By nurturing students' overall well-being, schools can create an environment conducive to learning and personal development.

Comprehensive Teacher Welfare Reforms: To attract and retain qualified educators, the government must undertake comprehensive reforms to improve teacher welfare. This includes revising salary structures to reflect the value of teachers' contributions, providing professional development opportunities, and establishing support mechanisms for teacher well-being. Investing in teachers is investing in the future of education, and prioritizing their welfare is essential for maintaining a high-quality teaching workforce.

Rethinking Promotion Policies: While the automatic promotion policy was initially intended to prevent dropout rates, its unintended consequences have highlighted the need for a more nuanced approach. A revised promotion policy should incorporate formative assessments, differentiated instruction, and targeted interventions for struggling students. By focusing on mastery of key concepts rather than mere progression through grades, schools can ensure that students are adequately prepared for future academic challenges.

Accessible and Abundant Learning Resources: In addition to textbooks and writing materials, schools should prioritize the provision of diverse and accessible learning resources. This includes digital educational content, STEM (Science, Technology, Engineering, and Mathematics) materials, and experiential learning tools. By embracing a variety of resources, educators can cater to diverse learning styles and foster a culture of curiosity and exploration among students.

Continuous Professional Development for Teachers: In-service training programs should be designed to not only enhance teachers' pedagogical skills but also to cultivate their capacity for innovation and adaptability. Professional development opportunities should focus on areas such as technology integration, inclusive

education practices, and culturally responsive teaching methods. By empowering teachers as lifelong learners, schools can ensure that they remain effective and impactful in their roles.

Collaborative Partnerships for Equity: Collaboration between government and non-government schools should extend beyond resource-sharing to encompass joint initiatives aimed at promoting equity and inclusion. This can involve developing inclusive education policies, conducting community outreach programs, and advocating for marginalized groups' rights. By working together, stakeholders can create a more inclusive and equitable education system that benefits all children, regardless of their background or circumstances.