

# UNIVERSAL PRIMARY EDUCATION, HUMAN RIGHTS AND THE RIGHT TO HEALTH

*An Assessment of the Policy  
and Practice in Uganda*

JULY 2015



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# ABBREVIATIONS

ABH	Advocacy for Better Health (project)
CAO	Chief Administrative Officer
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEHURD	Center for Health, Human Rights and Development
CRPD	Convention on the Rights of Persons with Disabilities
EFA	Education for All
ESIP	Education Sector Investment Plan
ESSP	Education Sector Strategic Plan
ICESCR	International Covenant on Economic, Social and Cultural Rights
LC	Local Council
MDGs	Millennium Development Goals
MoES	Ministry of Education, Science, Technology and Sports
OVC	Orphans and vulnerable children
PTA	Parents and Teachers Association
PWD	Persons with disabilities
RC	Resistance Council/Committee
SFGs	School facilities grant
SMC	School Management Committee
UBOS	Uganda Bureau of Statistics
UDHR	Universal Declaration of Human Rights
UPE	Universal Primary Education

# Executive Summary

## INTRODUCTION

The right to health is closely related to and dependent upon the realization of other human rights, including the right to education. This paper assesses the policy and practice of universal primary education (UPE) program, in the context of education as a human right; as a determinant of health; as a right that is linked to other rights; and as a public good. It is part of the USAID Advocacy for Better Health (ABH) project, which aims to promote *improved quality, availability and accessibility of health and social services in Uganda*.

This paper:

- 1) Reviews the UPE policy and its implementation, including its policy and legal framework
- 2) Identifies emerging human rights and right to health issues in the conceptualization and implementation of the UPE program
- 3) Makes policy recommendations for a human rights-based approach to universal primary education

## ANALYTICAL FRAMEWORK

In this work, we use two frameworks to analyze the extent to which Uganda's UPE program concurrently addresses the right to education:

- 1) the Unicef/UNESCO (2007) rights-based conceptual framework which postulates a holistic approach by concurrently addressing the right of access to education, the right to quality education, and respect for human rights in education.
- 2) the Katarina Tomasevski four A's Right to Education framework, which asserts that for education to be a meaningful right it must be available, accessible, acceptable and adaptable. This framework bears similarity to

that of the Right to Health, which has the four elements of availability, accessibility, acceptability and quality.

In addition, we consider education within the three-dimensional perspective as suggested by Cutler and Lleras-Muney (2010):

- 1) Poor health leads to lower levels of schooling, since poor health in childhood is linked to poor health in adulthood.
- 2) Additional factors, such as family background or individual differences, both increase schooling and improve health.
- 3) Increased education directly improves health.

## THE UPE POLICY FRAMEWORK

### a) Policy documents

- 1) Guidelines on Policy, Roles, and Stakeholders in the Implementation of Universal Primary Education (1998)
- 2) Education Sector Investment Plan (ESIP) 1989-2003
- 3) Education Sector Strategic Plan (ESSP) 2004-15
- 4) The Education (Pre-Primary, Primary And Post-Primary) Act (2008)

The key observations from the provisions of these policy documents are:

- The main strength in these policy documents and their stated objectives is that they make explicit references to “quality education”, “every child”, “accessible”, “equitable”, and other key words that address critical human rights concerns about inclusiveness, equality of opportunity, availability and accessibility, and relevance, among others.
- The gap in these key policy provisions is the lack of clarity on how policy objectives will be achieved, and the absence of provisions for ensuring key actors fulfill their allocated responsibilities, particularly the parents,

who are among other things, responsible for “providing food, clothing, shelter, medical care and transport” and for “participating in community support to the school”.

- The policy documents make specific reference to medical care for children being the responsibility of parents. However, the health of children clearly goes beyond the medical care that parents can provide the children. The UPE policy framework does not explicitly address the issue of school health.
- The UPE policy has maintained cost barriers to access to primary education, as parents are by policy required to contribute scholastic materials, school uniforms, lunch and transport. In addition, Government allowed public schools in urban centers to charge sh10,000 per pupil as payment for water, electricity and phones.<sup>1</sup>

### b) Key policy issues

#### 1) UPE funding

UPE funding comes through the national budget, from national resources as well as from external donors. The program is funded by two major grants: 1) The school facilities grant assists the most needy school communities to provide basic infrastructure; while 2) The capitation grant goes to improving equitable access to basic education and to providing schools with funds for running schools.

#### 2) Decentralized implementation

UPE is being implemented in a decentralized framework, with districts having direct oversight of the program at the implementation level.

#### 3) School feeding and nutrition

<sup>1</sup> <http://www.newvision.co.ug/news/658982-upe-underfunding-who-is-telling-the-truth.html>  
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The “Guidelines on School Feeding and Nutrition Intervention Program” require parents to contribute beans, maize and other foodstuffs in cash or kind to feed their children at school, as well as the teachers, support staff and orphans and vulnerable children (OVC).

#### **4) Provisions for inclusiveness**

According to the 1998 UPE guidelines, the fifth objective of the UPE program is to “Ensure that education is affordable by the majority of Ugandans”.

#### **5) Teacher welfare**

Policy documents do not directly address the issue of teacher welfare under the UPE program. Teacher salaries have been provided for in the national budget, but other aspects of welfare, such as housing, professional development, favorable working environment (manageable class sizes, meals while at school, etc) have been a subject of protracted negotiations between teachers and government.

#### **6) Community participation in UPE**

The UPE policy envisages community support to UPE schools, and calls upon parents to participate in such initiatives.

## **UPE LEGAL FRAMEWORK**

The right to education is guaranteed by the Universal Declaration of Human Rights (UDHR, Article 26); the International Covenant on Economic, Social and Cultural Rights (ICESCR, Articles 13 and 14); the UNESCO Convention against Discrimination in Education of 1960; and other international instruments. At the national level, the Constitution guarantees the right to education for “all persons” (Article 30 and 34).

## **KEY RECOMMENDATIONS**

- Government in general and Ministry of Education in particular need to streamline human rights, including the right to health, in UPE
- Government should honor its commitment to making UPE free and compulsory, increase and honor its budgetary allocations, and improve teacher salaries, welfare and working conditions
- Ministry of Education should come up with measures to make UPE more inclusive by minimizing cost barriers, and investing in “inclusive schools”
- Ministry of Education should publish a comprehensive UPE policy, clarifying the program’s objectives and specifying measures to achieve them
- Ministry of Education should review the school feeding policy with a view to making the feeding of UPE pupils a shared responsibility of government and parents
- The UPE policy needs to explicitly address the issue of school health by setting policy standards and guidelines and providing human and financial resources for UPE schools to provide health promotion, disease prevention and care, including emergency provisions for children.

# 1. Background

## 1.1 Introduction

The right to education is recognized in the Uganda Constitution (Article 30 and 34), and is the only socio-economic right that is substantively recognized by the country's supreme law.

The international community committed in 1990 to achieve universal primary education (UPE) for all children by the year 2000, giving birth to the Education for All (EFA) campaign.<sup>2</sup> This goal was not achieved, but was reaffirmed at another international conference<sup>3</sup> on education in 2000 with a new target date set for the year 2015. These goals were then included in the Millennium Development Goals (MDGs) in 2000, with MDG 2 being “Achieve Universal Primary Education”. In the Sustainable Development Goals framework, education is addressed under Goal 4: “*Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all*”.

In Uganda, the UPE program has its roots in the recommendations of the Kajubi Commission – Education Policy Review Commission – which reviewed the state of education between 1987-89 and recommended a set of reforms in the country's education system, including universalizing primary education. Government accepted the resulting White Paper and the UPE recommendation in 1992 (Kakuru 2003).

During the general elections of 1996, the incumbent President, Yoweri Museveni, made the introduction UPE a campaign pledge, promising free primary education for four children per family. The implementation of UPE accordingly started in January 1997. All tuition fees and Parents and Teachers Association (PTA) charges<sup>4</sup> for primary education were abolished.

<sup>2</sup> World Conference on Education for All (1990) in Jomtien, Thailand

<sup>3</sup> Dakar, Senegal, April 2000

<sup>4</sup> PTA charges were introduced during the 1970s to complement the low salaries of teachers. Collections from PTA charges were used as an incentive for teachers and also for the general running of a school. Parents and teachers of respective schools would agree on the amount, which varied from school to school

However, when the implementation of UPE started, the registration limit of four children per family proved problematic, particularly regarding the exact definition of a family. In 2002, Government dropped this restriction, and allowed all people that wanted primary education under the UPE program to do so (Overseas Development Institute, 2005).

As a result, primary school enrolment – including the probability that children start primary school on time – dramatically increased, while at the same time access inequalities relating to gender, income and location also reduced (Grogan 2008). Yet dropout rates<sup>5</sup> and grade repetition (at approx. 12% per annum)<sup>6</sup> remain high, and it is unlikely that all Ugandan children will be able to complete the full course of primary schooling by 2015 (MoFPED 2013).

## 1.2 Rationale, context and purpose

This work assesses the policy and practice of UPE in Uganda in the context of education as a human right; as a determinant of health; as a right that is linked to other rights; and as a public good.

Research has found a “very large rate of return” on education in terms of income and health (Cutler & Lleras-Muney, 2006). It has for instance, been established that one’s level of education is one of the several factors that combine to affect the health of individuals and communities. Low education levels are linked with poor health, more stress and lower self-confidence.<sup>7</sup>

On the other hand, evidence suggests that more educated people have lower morbidity from the most common acute and chronic diseases; that physical and mental functioning is also better for the better educated; that the better

<sup>5</sup> During the release of the primary seven national exams results in February 2013, it was reported that over one million pupils or about 71% who enrolled in Primary one under UPE in 2006, were no longer in school

<sup>6</sup> Mpyangu C. M., Ochen E.A., Onyango E.O., and Lubaale Y.A.M (2014): Out of school children study in Uganda. Government of Uganda and Unicef

<sup>7</sup> <http://www.who.int/hia/evidence/doh/en/>

educated are substantially less likely to be in poor health, and less likely to report anxiety or depression; that they spend fewer days in bed or not at work because of disease; and that they have fewer functional limitations (Cutler & Lleras-Muney, 2006).

In spite of these financial, health and other returns to education, individuals do not always base their education investment decisions on such returns. Indeed, individuals tend to invest at sub-optimal levels, reflecting a market failure.<sup>8</sup> Hence public investment in basic education has been justified by evidence of the positive externalities – social benefits that accrue from primary education, such as improved public health, diffusion of democratic values and practices, and more freedoms for individuals in society – that come with primary education (Boissiere 2004).

## 1.3 Study limitations

This paper is a result of a desk review of policy documents relating to UPE as a concept and as practiced. The paper is an attempt to thresh out the human rights and right to health aspects that need to be addressed to improve the UPE program. Hence there was no fieldwork involved, and we do not delve into the conceptual links between human rights and education.

<sup>8</sup> The market for education fails on various counts to guarantee an efficient allocation of resources and deliver quality education through competition



On the other hand, education is recognized as a human right by the Constitution of Uganda of 1995, the Children’s Act, the Education (Pre-Primary, Primary and Post-Primary) Act of 2008 as well as by international human rights instruments, including the Universal Declaration of Human Rights (UDHR) of 1948 and the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966, among others. And as a human right, it comes with obligations on the part of government to protect, respect and fulfill.

The rest of this report summarizes CEHURD’s review of the UPE policy and practice, exploring how a human rights based approach could improve its conceptualization and implementation to maximize the program’s contribution to the realization of the right to education, the right to health and other human rights in Uganda. In this review, education is viewed as a social service, as a right and as a stepping stone or determinant for other rights, particularly the right to health. We attempt to identify human rights strengths and gaps to inform advocacy interventions under the USAID Advocacy for Better Health (ABH) project.

The project is promoting *improved quality, availability and accessibility of health and social services in Uganda* through enhancing capacity and mobilizing citizens and civil society to become effective advocates for health and other social services, including education. The project is implemented by PATH and Initiatives, Inc. Center for Health, Human Rights and Development (CEHURD) has conducted this analysis as an implementing partner.

In particular, the work:

- 1) Reviews the UPE policy and its implementation, including its policy and legal framework
- 2) Identifies emerging human rights and right to health issues in the conceptualization and implementation of the UPE program
- 3) Makes policy recommendations for a human rights-based approach to universal primary education

In this work, we use two frameworks to analyze the extent to which Uganda’s UPE program concurrently addresses the right to education:

- 1) the Unicef/UNESCO (2007) rights-based conceptual framework which postulates a holistic approach by concurrently addressing the right of access to education, the right to quality education, and respect for human rights in education.
- 2) the Katarina Tomasevski four A’s Right to Education framework, which asserts that for education to be a meaningful right it must be available, accessible, acceptable and adaptable.

In addition, we consider education as a social determinant of health, given that education is a strong predictor of long-term health and quality of life.<sup>9</sup> Better educated people have lower morbidity rates from the most common acute and chronic diseases, independent of basic demographic and labor market factors.<sup>10</sup> Cutler and Lleras-Muney (2010) suggest three broad explanations for the association between health and education, although they recognize that these do not represent an exhaustive list.

- 1) Poor health leads to lower levels of schooling, since poor health in childhood is linked to poor health in adulthood.
- 2) Additional factors, such as family background or individual differences, both increase schooling and improve health.
- 3) Increased education directly improves health.

9 Feinstein L. (2002) *Quantitative Estimates of the Social Benefits of Learning*. Centre for Research on the Wider Benefits of Learning. <http://www.learningbenefits.net/Publications/ResReps/ResRep6.pdf#search=%22quantitative%20estimates%20of%20the%20social%20benefits%20of%20learning%22>

10 Cutler D.M. (2007): Education and health. Policy brief #9. National Poverty Center. [http://www.npc.umich.edu/publications/policy\\_briefs/brief9/policy\\_brief9.pdf](http://www.npc.umich.edu/publications/policy_briefs/brief9/policy_brief9.pdf)



# 2. Analytical Framework

## 2.1 The Unicef/UNESCO framework

This framework highlights the need for a holistic approach to education, reflecting the universality and indivisibility of all human rights.

*Three dimensions of the right to education and their central elements*

1	The right of access to education	<ul style="list-style-type: none"><li>• Education throughout all stages of childhood and beyond</li><li>• Availability and accessibility of education</li><li>• Equality of opportunity</li></ul>
2	The right to quality education	<ul style="list-style-type: none"><li>• A broad, relevant and inclusive curriculum</li><li>• Rights-based learning and assessment</li><li>• Child-friendly, safe and healthy environments</li></ul>
3	The right to respect in the learning environment	<ul style="list-style-type: none"><li>• Respect for identity</li><li>• Respect for participation rights</li><li>• Respect for integrity</li></ul>

### 1) The right of access to education

#### a) *Education throughout all stages of childhood and beyond*

A rights-based approach to education seeks to build opportunities for children to achieve their optimum capacities throughout their childhood and beyond. It requires a life-cycle approach, investing in learning and ensuring effective transitions at each stage of the child's life.

### b) *Availability and accessibility of education*

States have obligations to establish the legislative and policy framework, together with sufficient resources, to fulfill the right to education for every child. Each child must therefore be provided with an available school place or learning opportunity, together with appropriately qualified teachers and adequate and appropriate resources and equipment.<sup>28</sup> The level of provision of primary education must be consistent with the numbers of children entitled to receive it. All learning environments must be both physically and economically accessible for every child, including the most marginalized.

### c) *Equality of opportunity*

Every child has an equal right to attend school. Making schools accessible and available is an important first step in fulfilling this right but not sufficient to ensure its realization. Equality of opportunity can only be achieved by removing barriers in the community and in schools.

Even where schools exist, economic, social and cultural factors – including gender, disability, HIV status, household poverty, ethnicity, minority status, orphanhood and child labor – often interlink to keep children out of school. Governments have obligations to develop legislation, policies and support services to remove barriers in the family and community that impede children's access to school.

## 2) **The right to quality education**

The Dakar Framework for Action (2000) commits nations to the provision of primary education of good quality and to improving all aspects of educational quality. In quality, cognitive development is a primary objective of education, with the effectiveness of education measured against its success in achieving this objective. Second, education must promote creative and emotional development, supporting the objectives of peace, citizenship and security, fostering equality and passing global and local cultural values down to future generations.

### a) *A broad, relevant and inclusive curriculum*

The curriculum must enable every child to acquire the core academic curriculum and basic cognitive skills, together with essential life skills that equip children to face life challenges, make well-balanced decisions and develop a healthy lifestyle, good social relationships, critical thinking and the capacity for non-violent conflict resolution. It must develop respect for human rights and fundamental freedoms, and promote respect for different cultures and values and for the natural environment.

### b) *Rights-based learning and assessment*

Children should be recognized as active contributors to their own learning, rather than passive recipients of education. There should also be respect for the evolving and differing capacities of children, together with recognition that children do not acquire skills and knowledge at fixed or predetermined ages. Teaching and learning must involve a variety of interactive methodologies to create stimulating and participatory environments. Rather than simply transmitting knowledge, educators involved in creating or strengthening learning opportunities should facilitate participatory learning.

### c) *Child-friendly, safe and healthy environments*

The obligation to give primacy to the best interests of children and to ensure their optimum development requires that learning environments are welcoming, gender sensitive, healthy, safe and protective. Although situations of extreme poverty, emergency and conflict may often impede this, children should never be expected to attend schools where the environment is detrimental to their health and wellbeing. Schools should take measures to contribute towards children's health and well-being, taking into account the differing needs of children.

## 2) The right to respect in the learning environment

### a) *Respect for identity*

UNESCO's Convention against Discrimination in Education (1960) protects the educational rights of national minorities. Depending on the educational policy of each State, it establishes the right to use or be taught in one's own language, provided this does not exclude minorities from understanding the language and culture of the community as a whole and that it is not provided at a lower standard than the one generally provided. The Convention on the Protection and Promotion of Diversity in Cultural Expressions (2005) introduces obligations to respect cultural diversity, including through educational programs.

In addition, article 30 of the Convention on the Rights of the Child stresses the right of children to enjoy their own culture, practice their own religion and use their own language. International human rights law also requires States to respect the freedom of parents to decide the kind of education they would like for their child.

### b) *Respect for participation rights*

Article 12 of the Convention on the Rights of the Child establishes that children are entitled to express their views on all matters of concern to them and to have these given due weight in accordance with their age and maturity.

### c) *Respect for integrity*

The Convention demands not only that children are protected from all forms of violence but also that school discipline is administered in a manner consistent with the child's dignity. Physical and other forms of humiliating and abusive treatment are not only a violation of the child's right to protection from violence, but also highly counterproductive to learning.

## 2.2 The Katarina Tomasevski framework

Former UN Special Rapporteur on the Right to Education Katarina Tomasevski developed the four A's framework that asserts that for education to be a meaningful right, it must be available, accessible, acceptable and adaptable. This framework bears similarity to that of the Right to Health. The Committee on Economic, Social and Cultural Rights, in General Comment No. 14 (2000) acknowledges that "the right to the highest attainable standard of health" embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health. The Committee observes that the right to health in all its forms and at all levels contains four interrelated essential elements: 1) Health care facilities, goods and services, as well as programs, have to be available in sufficient quantity; 2) they have to be accessible to everyone physically and economically; 3) they must be respectful of medical ethics and culturally appropriate (acceptable); and must also be scientifically and medically appropriate and of good quality

In the Katarina Tomasevski framework, primary education is seen as a long-term investment with no immediate return and as a public good because it represents an institutionalized socialization of children. The framework proposes that governments, as prime duty-bearers, have to respect, protect and fulfill the right to education by making education available, accessible, acceptable and adaptable.

### 1) **Availability** –

Funded by governments, primary education should be universal, free and compulsory. There should be proper infrastructure and facilities in place with adequate books and materials for students. Buildings should meet both safety and sanitation standards, such as having clean drinking water. Active recruitment, proper training and appropriate retention methods should ensure that enough qualified staff are available at each school.

# 3. The UPE Policy Framework

## 2) Accessibility –

All children should have equal access to school services, regardless of gender, race, religion, ethnicity or socio-economic status. Efforts should be made to ensure the inclusion of marginalized groups including children of refugees, the homeless or those with disabilities. In short, there should be universal access to education, i.e. access for all. Schools must be within a reasonable distance for children within the community<sup>11</sup>, otherwise transportation should be provided to pupils, particularly those that might live in rural areas, to ensure ways to school are safe and convenient. Education should be affordable to all, with textbooks, supplies and uniforms provided to pupils at no additional costs.

## 3) Acceptability –

The quality of education provided should be free of discrimination, relevant and culturally appropriate for all students. Students should not be expected to conform to any specific religious or ideological views. Methods of teaching should be objective and unbiased and material available should reflect a wide array of ideas and beliefs. Health and safety should be emphasized within schools including the elimination of any forms of corporal punishment. Professionalism of staff and teachers should be maintained.

## 4) Adaptability –

Educational programs should be flexible and able to adjust according to societal changes and the needs of the community. Observance of religious or cultural holidays should be respected by schools in order to accommodate students, along with providing adequate care to those students with disabilities.

It should be noted that the UPE program was launched before a definitive policy document to guide its implementation was in place. To date, there is no comprehensive UPE policy document. However, over time, different bits of government documents have been published, addressing different aspects of UPE in particular, and the education system in general. The key policy documents reviewed in this section include:

- 1) Guidelines on Policy, Roles, and Stakeholders in the Implementation of Universal Primary Education (1998)
- 2) Education Sector Investment Plan (ESIP) 1989-2003
- 3) Education Sector Strategic Plan (ESSP) 2004-15
- 4) The Education (Pre-Primary, Primary And Post-Primary) Act (2008)

### 3.1 Key policy provisions

Following the launch of the program in January 1997, the Ministry of Education and Sports issued “**Guidelines on Policy, Roles, and Stakeholders in the Implementation of Universal Primary Education**” the following year (1998). According to these guidelines<sup>12</sup>, the objectives of UPE are to:

- 1) Establish, provide and maintain quality education as the basis for promoting human resource development;
- 2) Provide the facilities and resources to enable every child to enter and remain in school until the primary cycle of education is complete;
- 3) Make basic education accessible to the learner and relevant to his or her needs, as well as meeting national goals;
- 4) Make education equitable in order to eliminate disparities and inequalities;
- 5) Ensure that education is affordable by the majority of Ugandans;

<sup>11</sup> UNESCO and Unicef recommend that schools must be within safe physical reach or accessible through technology (for example, access to a ‘distance learning’ program), [http://www.unicef.org/publications/files/A\\_Human\\_Rights\\_Based\\_Approach\\_to\\_Education\\_for\\_All.pdf](http://www.unicef.org/publications/files/A_Human_Rights_Based_Approach_to_Education_for_All.pdf)

<sup>12</sup> MoES (2008): Guidelines on Policy, Roles, and Stakeholders in the Implementation of Universal Primary Education

- 6) Meet the objective of poverty eradication by equipping every individual with basic skills and knowledge.

In 1998, the Ministry also launched the **Education Sector Investment Plan (ESIP)** as the sectoral development framework for the five-year period (1989-2003). The broad objectives of this ESIP were:

- (a) Achieving equitable access to education at all levels;
- (b) Improving quality of education, particularly at the primary level;
- (c) Enhancing the management of education service delivery at all levels; and
- (d) Developing the capacity of MoES to plan, program and manage an investment portfolio that will effectively develop the education sector.

The ESIP was succeeded by the **Education Sector Strategic Plan (ESSP)** for the period 2004-15. The ESSP was meant to build on and take forward the successes of ESIP, particularly in the implementation of UPE, while addressing the weaknesses and gaps in ESIP such as providing adequate treatment of the post primary and other subsector in addition to primary. The objectives of the ESSP were:

- 1) To build an education system that is relevant to Ugandan's national development
- 2) To ensure that all children participating in the education system achieve education goals.
- 3) To maintain an effective and efficient education sector

The law covering UPE – **The Education (Pre-Primary, Primary And Post-Primary) Act** – came in place in 2008, but came with more aspects of policy. In particular, Section 4 of the Act (Policy on the provision of education and training) provides that:

- 1) Provision of education and training to the child shall be a joint responsibility of the State, the parent or guardian and other stakeholders.
- 2) Basic education shall be provided and enjoyed as a right by all persons.
- 3) Financing of education shall be through fees, grants, donations, training levies, education tax, and any other means as deemed appropriate by Government.
- 4) Religious studies shall form part of the curriculum in primary and post primary schools.

Section 5 highlights the responsibilities of Government on one hand, and those of parents and guardians on the other. The Section stipulates the responsibilities of Government and its agencies as:

- (a) the provision of learning and instructional materials structural development and teachers welfare;
- (b) setting policy for all matters concerning education and training;
- (c) setting and maintaining the national goals and broad aims of education;
- (d) providing and controlling the national curriculum;
- (e) evaluating academic standards through continuous assessment and national examinations;
- (f) registering and licensing of teachers;
- (g) recruiting, deployment and promotion of both teaching and non teaching staff;
- (h) determining the language and medium of instruction;
- (i) encouraging the development of a national language;
- (j) ensuring equitable distribution of education institutions;

- (k) regulating, establishing, and registering of educational institutions;
- (l) management, monitoring, supervising and disciplining of staff and students;
- (m) ensuring supervision of performance in both public and schools; and
- (n) development of management policies for all Government and Government aided schools and private schools.

On the other hand, the responsibilities of the parents and guardians are stipulated as:

- (a) registering their children of school going age at school;
- (b) providing parental guidance and psychosocial welfare to their children;
- (c) providing food, clothing, shelter, medical care and transport;
- (d) promoting moral, spiritual and cultural growth of the children;
- (e) participating in the promotion of discipline of their children;
- (f) participating in community support to the school; and
- (g) participating in the development and review of the curriculum.

The main strength in these policy documents and their stated objectives is that they make explicit references to “quality education”, “every child”, “accessible”, “equitable”, and other key words that address critical human rights concerns about inclusiveness, equality of opportunity, availability and accessibility, and relevance, among others. The use of human rights language in the Education Act specifically highlights the focus of government policy in pursuing education objectives using the human rights approach. The objective of “ensuring equitable distribution of education institutions” particularly speaks to non-discrimination as well as to a commitment to making education facilities available and accessible to children across the country.

The gap in these key policy provisions however, is the lack of clarity on how policy objectives will be achieved, and the absence of provisions for ensuring key actors fulfill their allocated responsibilities. For instance, parents are among other things responsible for “providing food, clothing, shelter, medical care and transport” and for “participating in community support to the school”. On these two critical sets of roles, it is not clear who will ensure that parents fulfill them and what school or government-led mechanisms will be in place to support parents and guardians to fulfill these critical roles.

The policy documents make specific reference to medical care for children being the responsibility of parents. However, the health of children clearly goes beyond the medical care that parents can provide the children. As already noted, Cutler and Lleras-Muney (2010) have suggested that poor health leads to lower levels of schooling, with poor health in childhood being linked to poor health in adulthood. In low income countries such as Uganda, this makes a strong case for linking health and education policies. School health programs need to be part and parcel of the UPE policy and practice. The UPE policy framework does not explicitly address the issue of school health.

In addition, it is evident from these policy provisions that government has by design not made primary education free. Parents are by policy required to contribute scholastic materials (exercise books, pens, mathematical sets, and other items), school uniforms, lunch, transport, and also participate in “community support” to the school. Within community support, it was envisaged that parents would voluntarily contribute building materials and labor to schools. In addition, Government allowed public schools in urban centers to charge sh10,000 per pupil as payment for water, electricity and phones.<sup>13</sup>

<sup>13</sup> <http://www.newvision.co.ug/news/658982-upe-underfunding-who-is-telling-the-truth.html>  
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Hence, the policy has maintained cost barriers to primary education, which may make it impossible to achieve universal access due inability of impoverished parents to meet the cost of maintaining their children in school. This may be a contributing factor to the high drop-out rates of UPE pupils, with Ministry of Finance<sup>14</sup> reporting that high dropout from UPE schools continues to pose a challenge to successful implementation of the policy.

#### *Primary School Completion in Uganda 2001-2013*

YEAR	FEMALE	MALE	TOTAL
2001	53.3	65.6	59.5
2002	56.4	66.4	61.4
2003	56.1	65.9	61.0
2004	53.4	61.3	57.3
2005	52.8	59.2	56.0
2007	50.1	53.8	52.0
2008	55.5	57.7	56.6
2009	56.3	57.0	56.7
2010	54.8	55.8	55.3
2011	52.5	53.7	53.1
2013	53.9	54.6	54.2

Source: UNESCO Institute for Statistics

Universal primary education involves entering school at an appropriate age, progressing through the system and completing a full cycle.<sup>15</sup> Of those students enrolled in school, millions drop out or leave school without having gained the most basic literacy and numeracy skills.<sup>16</sup> And from the table, it is clear that the dropout rates of UPE pupils are high, with between one in three and one in two children that started school over a 13 year period to 2013 dropping out of school. A study by Nakanyike and colleagues (2002) found that among others lack of school requirements contributed to and parents' inability to provide

<sup>14</sup> Ugandan Poverty Status Report (2005)

<sup>15</sup> UNESCO (website): MDG2: Achieve universal primary education <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/education-for-all/education-and-the-mdgs/goal-2/>

<sup>16</sup> <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/education-for-all/education-and-the-mdgs/goal-2/>

children with school requirements were together responsible for up to 47% of UPE school dropouts.

### **3.2 UPE funding policy**

The Katarina Tomasevski framework recommends that primary education must be funded by government, and should be universal, free and compulsory. This means that there should sufficient funding to make schools physically accessible and to finance all the elements that would ensure a good quality education.

Government of Uganda undertook to not only to pay tuition fees for all UPE pupils, but also to provide infrastructure by expanding classrooms, latrines and teachers' houses to accommodate the increased numbers; recruit and remunerate teachers; as well as instructional materials like textbooks and other scholastic materials. Funding comes through the national budget, from national resources as well as from external donors.

In 2007, Ministry of Education and Sports issued two sets of guidelines to guide local governments in managing UPE funding:

- a) **School Facilities Grants for Primary Schools: Planning and implementation guidelines for district and urban councils** – The school facilities grant assists the most needy school communities to provide basic infrastructure. The target is for every primary school to achieve a classroom-to-pupil ration of 1:55; desk to pupil ratio of 1:3; latrine pupil ratio of 1:40; and permanent accommodation for at least four teachers. The SFG is channeled to district local governments as a “conditional grant” for funding: i) New classroom construction; ii) Construction of teachers' accommodation; iii) provision of classroom furniture (pupils' desks, teachers' tables, chairs and cupboards); iv) Construction of latrines for girls, boys and children with disabilities; v) Provision of water tanks for harvesting rain water; and vi) Rehabilitation and renovation of primary school physical infrastructure.



- b) **UPE Capitation Grant: Planning and implementation guidelines for district and urban councils** – The capitation grant aims to improve equitable access to basic education by removing the burden of paying school fees from parents, and to provide schools with funds for running schools. Through the grant, government pays tuition for all pupils in government-aided schools: i) A fixed grant of Ushs 100,000 per month per school for nine months a year (totaling Ushs 900,000); and ii) A variable grant allocated per pupil enrolled in a particular school. The capitation grants are channeled to the district local governments as a conditional grant. Government initially undertook to pay tuition fees for four children per family at the rate of UShs.5, 000 per pupil per annum for classes P.1-P.3 and UShs.8,100 per child of P.4-P.7. MoES guidelines requires schools to spend these capitation grants as follows: 50% on instructional materials; 30% on co-curricular activities (sports, clubs, etc); 15% on school management (school maintenance, payment for utilities such as water and electricity); and 5% on school administration.

The MoES (2014) policy statement for FY2015/16) shows that the education sector in general and UPE in particular are underfunded, which in turn has affected the quality of education provided in UPE schools. For instance, by August 2012, there was a national classroom deficiency of 39,788. Initially School Facilities Grant (SFG) had a budget of UShs 48 billion, for classroom construction which reduced significantly to UShs 27 billion in FY 2014/15. In addition, budget performance remains poor and disbursement of funds is slow. For instance, out of an approved budget of Ushs 45.588 billion, releases by end of March 2014 amounted to UShs 23.092 billion (49%).

The National Budget Framework and Ministerial Policy Statement for Ministry of Education and Sports for FY2015/16 further indicate that an additional UShs 18.3 billion has been allocated to facilitate the increment of the unit cost per pupil in UPE from UShs 7,000 to 10,000 to re-prioritize its outputs. The latest increment however, constitutes a progressive measure, even though it is still insufficient to cater for the pertinent necessities, like feeding of pupils as well as provision of sanitary towels to the girl children.

It is however, also notable that Government has not yet fulfilled its commitment of sh7,560 per pupil (New Vision, August 22, 2014)<sup>17</sup>. The closest they came to this figure was only once in the 2012/2013 financial year when they paid sh7,046 per pupil. Statistics from the education ministry indicate that the Government, since the inception of the program, has been paying capitation fees for each pupil ranging from sh4,500 to 6,500 per year. During these years the Government sent sh4,500 to schools for each pupil, it meant that it paid sh1,500 for each pupil to keep at school per term. The civil society has described the amount allocated per pupil per term as “hardly enough to repair just one desk in a school”.

### 3.3 Decentralized implementation of the UPE program

UPE is implemented within the context of decentralization, along with primary health care and feeder roads. The decentralization process started with the enactment of the Resistance Council/ Committees (RCs) Statute in 1987, legalizing RCs and giving them powers at the village level. In 1993, the Resistance Council Statute was enacted, giving more powers and responsibilities to RCs. The decentralization policy was later enshrined in the Constitution in 1995, before being legalized by the Local Government Act in 1997.

The Act established the district level Local Council (LC V), municipality (LC IV) and sub county / division / town council (LC III) as corporate bodies of local governments and devolved to them far reaching powers and responsibilities in

<sup>17</sup> <http://www.newvision.co.ug/news/658982-upe-underfunding-who-is-telling-the-truth.html>  
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such areas as finances, legislation, political, planning and personnel matters (MoES 1999). The district local governments (LC V) are responsible for delivery of UPE, primary health care (PHC), and other basic social services. UPE funds (SFGs and capitation grants) as well as textbooks and other supplies are channeled through districts (Chief Administrative Officer or CAO).

Under Section 26, the Education (Pre-Primary, Primary And Post-Primary) Act of 2008 gives District or Municipal Councils' Standing Committees for Education the responsibility for the oversight role of all educational services decentralized to a district, municipal, town council, division and subcounty. Under the leadership of the Chief Administrative Officers (CAOs), local authorities are responsible for ensuring that all UPE funds released to them by the MoES reach schools and are not diverted to any other purposes.

The CAOs are also responsible for ensuring prompt disbursement of UPE grants to schools, proper accountability of UPE grants, the formulation of the education budget and its successful fulfillment, and adequate briefing of District Councils on the implementation of UPE. Subcounty chiefs represent the CAOs at the subcounty level. They make regular visits to schools, implement local government byelaws on UPE, keep a record of both pupils and teachers in the subcounty, submit regular reports on education to the CAOs, ensure safe water and sanitation in schools, and in schools under their jurisdiction, enforce proper use and accountability for UPE grants and public funds.

Decentralization brought the schools closer to the administrative units that oversee them and therefore is potentially more responsive to unique circumstances of the different settings in which UPE schools operate. However, districts have been allowed a very limited policy space within which to operate. The two key grants they receive from the central government for the implementation of UPE are "conditional", which limits flexibility in planning and budgeting. Following the abolition of graduated tax in 2005, districts have been left largely dependent on grants from the central government and with few options for raising revenues locally.

### 3.4 School health, feeding and nutrition

Unicef (2000) has defined quality education to include, among other things, learners who are healthy, well-nourished and ready to participate and learn, and environments that are healthy, safe, protective and gender-sensitive, and provide adequate resources and facilities. Hence, some of the aspects that may compromise the quality of education include non-availability of adequate, clean latrines, absence of water sources at school, non-provision of food to school children and their teachers, a poorly maintained school compounds, lack of first aid provisions at schools, and insufficient linkages between schools and health facilities.

Feeding and nutrition at school are important as they promote and improve physiological growth, school enrolment, classroom concentration, learning, children's in-class performance and overall cognition (MoES, n.d.). Ministry of Education and Sports recognizes that feeding at school is an essential component of a child friendly school, and that not feeding a child at school is a violation of children's rights under the United Nations Declarations on the Rights of the Child, and other international protocols and conventions to which Uganda is signatory.

In spite of the importance of feeding and nutrition in schools, government has left this responsibility to parents, choosing to restrict its roles to "contribute to policy formulation, coordination and quality assurance". In the "Guidelines on School Feeding and Nutrition Intervention Program", it is clearly pointed out that the Education (Pre-primary, Primary and Post-primary) Act, in Article 13 (sub-section 5(2c)), states that "The responsibility of parents and guardians shall include... providing food, clothing, shelter, medical care and transport..."

The "Guidelines on School Feeding and Nutrition Intervention Program" require parents to contribute beans, maize and other foodstuffs in cash or kind to feed their children at school, as well as the teachers, support staff and orphans and vulnerable children (OVC). The amount of food required to feed teachers, support staff and OVCs is supposed to be contributed equally by

each parent/guardian (except the parent/guardian of an OVC). For the poor or landless households, it may be harder to contribute anything in the first place, but definitely harder to make contributions of foodstuffs termly (thrice a year) when most parts of the country have two harvests at most, per year.

The guidelines for “parent-led” school feeding then proceed to require school management committees to generate funds for the school feeding program, mobilize the community to advance the school feeding and nutrition agenda, and to establish “School Food Committees” to, among other things, determine the quantities of food staples to collect from parents each term “with reference to recommended daily calorie allowance”, and its cash equivalents for parents who “opt” to pay in cash.

It is obvious that the responsibilities allocated to school management committees and school food committees are way beyond their capacities, and may demand too much effort and time, yet these are volunteers. In addition to the responsibilities already mentioned, School Food Committees are also required to make accountability every school term for food contributed or procured; produce monthly, termly and annual reports to School Management Committee and local government councils; keep proper inventory of food stocks; and handle complaints about quality and quantity that may arise. In addition, they are expected to supervise the daily preparation of food, and ensure proper hygiene and sanitation in the food preparation area; arrange for, and supervise the periodic health checks of kitchen workers by health inspectors and public health personnel; and arrange for, and supervise the periodic fumigation of food stores.

The school feeding guidelines further expose children to exploitation and hard physical labor by recommending the establishment of school gardens. The guidelines make it clear that such gardens are to be established for the dual purpose of producing “supplementary nutrients” while at the same time serving as “an integrated part of learning, without exploitation of the students, and with due regard to international conventions relating to child labor.” They further

state that “No child/student shall be involved in any agricultural activities for any form of discipline or punishment.” However, given that the same guidelines bar schools from stopping a child whose parent has not contributed food from attending school or denying them food, then hapless schools will be left with no option but to ensure the children generate the food from school gardens.

A school health policy developed by Ministry of Education, Science, Technology and Sports has been in place since 2011. Available data suggests that school health may still be a huge challenge in some UPE schools. An earlier baseline survey found no latrines in many schools and pupil ratios were as high as 349:1 (World Learning, 2003). A more recent (2010) Unicef survey found that only half of conventional schools included in the survey had a functional hand-washing facility.

And besides, schools are “encouraged to engage vulnerable households in sustainable livelihood programs and income generating activities”. The policy guidelines are not clear on how this is expected to be done and what activities schools may engage such households in, and where the resources will come from. The government’s decision to leave the responsibility of feeding children to parents, without empowering and resourcing schools to enforce food contributions from parents, may be leading to the violation of the rights of school children to food and compromising the quality of the learning environment in UPE schools.

### 3.5 Provisions for inclusiveness

According to the 1998 UPE guidelines, the fifth objective of the UPE program is to “Ensure that education is affordable by the majority of Ugandans”. This emphasis of “the majority” implies that exclusion of some minority groups may not matter. While there are objectives that seek to ensure equity in access to education, there are limited provisions for supporting the girl child to stay in school through the full primary cycle. There are equally few provisions for supporting children with disabilities, children living with HIV and other vulnerable children.

The UPE policy does not mention any strategy of providing separate facilities such as toilets and changing rooms for girls, implying that boys and girls may share sanitation facilities. This is a major policy gap given that girls are not adequately catered for during their monthly menstrual periods, which has been established to contribute to a larger proportion of girls (than of boys) dropping out of school (Galimaka 2008; Aduki 2013). As a result, the enrolment rates especially in upper primary and secondary school continue to be skewed in favor of the boys. UPE schools suffer from an absolute shortage of pit latrines. In 2011, the national pupil-to-stance ratio (PSR) was 4,094:1. The situation may not have changed much since then because only US\$ 593 million was spent on latrine construction in financial year 2012/13 to yield 140 latrines in 28 schools. Further, this money was spent in secondary schools and hence, the situation in primary schools could be worse than it was in 2011 considering the growth in enrolment.

Special needs education forms a very important component of the equitable delivery of education services, as it caters for children with disabilities. In 2011, about 10% of Ugandan children of school going age required special needs education, which translates into an estimated 204,352 pupils (2.4% of the enrolled number) in the primary school section alone (UBOS 2009 statistical abstract). Yet financing of special needs education remains inadequate, and the little money allocated goes to MoES, not local governments where UPE

is implemented. The special needs education was in the FY 2012/13 allocated US\$ 2.11 billion exclusively recurrent with no development budget. This allocation is 0.0005% of the education sector total budget contrary to Section 5 (J) of the 2006 PWDs Act, which stipulates that 10% of the education expenditure should be to special needs education, guidance and counseling. At the moment, Uganda only has only nine schools providing education to children with special education needs. While proposals have been made for “inclusive schools”, investments in infrastructure and human resources have not sufficiently equipped schools to cater for children with special education needs.

### 3.6 Teacher welfare

One of the fundamental human rights is the right to a just remuneration that ensures an existence worthy of human dignity. The preamble to the Constitution of the International Labor Organization identifies the provision of an adequate living wage as one of the conditions for universal and lasting peace based on social justice. Although there is no universally accepted amount that defines such remuneration, it can be described as a wage from full-time work that allows people to lead a decent life considered acceptable by society.<sup>18</sup>

Teacher welfare has been a subject of constant debate over the past three financial years characterized by several industrial actions and commitments from government. However, it is important to note that teacher welfare extends beyond salary to include aspects of housing, professional development, favorable working environment (manageable class sizes, meals while at school, etc). Increasingly, teachers have resorted to alternative income generating activities (secondary occupation) to make ends meet for their households (MoES, 2013). This consequently limits the interaction between the teachers and their students. Thus addressing teacher welfare is crucial for better educational outcomes.

<sup>18</sup> [http://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS\\_231993/lang--en/index.htm](http://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS_231993/lang--en/index.htm)

### 3.7 Community participation in UPE

Community participation is not only a human right in and of itself, but is also increasingly being recognized as essential for realizing other rights.<sup>19</sup> With active public participation, individuals become a part of collective efforts to assess needs, collaborate with others, and evaluate service delivery. Hence, development of appropriate institutions and mechanisms for structured community participation in the education system has the potential to increase awareness of community-specific education issues, disseminate knowledge, and improve accountability.

The UPE policy describes the relevant community as composed of at least three entities (MoES 1998). The first is the School Management Committee (SMC), which is a group of local opinion leaders selected to represent the government in each school. The SMC acts as a form of Board of Directors charged with monitoring the school administration with special reference to government policy. The second one is the Parent-Teacher Association (PTA) which is a community based association formed on a voluntary basis to provide a formal and organized voice representing members of the community whose children attend a particular primary school. The third, more loosely defined, is everyone else whose civic and non-civic actions could impact on the children and teachers of the school.

The roles of the community<sup>20</sup> are stated as follows:

- Contributing towards construction of schools buildings by providing local materials such as bricks, stones, sand, water and labor;
- Encouraging members to send children to school and support pupils once in school to ensure that they remain there;

<sup>19</sup> Potts, H. (2008). *Participation and the right to the highest attainable standard of health*. Colchester: Human Rights Centre, University of Essex. Retrieved 02 January 2009, from [http://www.essex.ac.uk/human\\_rights\\_centre/research/rth/projects.aspx](http://www.essex.ac.uk/human_rights_centre/research/rth/projects.aspx)

<sup>20</sup> Munene 2009

- Contributing towards the security and safety of school children and the school plant;
- Contributing ideas, time and energy towards the improvement of the teaching and learning programs;
- Providing positive discipline for school children both within and outside the school;
- Monitoring school personnel regarding the use of positive discipline measures;
- Ensuring that the resources for education held by the VCIII is used to improve the teaching and learning programs of the schools;
- Ensuring that the school makes full use of the expertise and resources of the Core Primary Teachers' Colleges, especially that of the Coordinating Centre Tutor serving the school;
- Participating in community mobilization activities that support improved pupil learning at home and at school;
- Providing safe water sources, stores, office and staffroom signposts, and recreational facilities; and
- Being actively involved in sanitation promotion programs of their school.

The UPE policy envisages community support to UPE schools, and calls upon parents to participate in such initiatives. However, besides contributing materials for construction and labor, the policy is not elaborate on how communities should participate in such initiatives and what should be included in such initiatives. The principles of participation require that beneficiaries (in this case parents and communities) are involved in planning, implementing and monitoring the services they benefit from.



# 4. UPE Legal Framework

School management committees are the statutory organs at the school level that should have represented communities in the planning, implementation and monitoring of UPE at the school level. Unfortunately, the UPE policy refers to these bodies as “*representing the government*” and not the community or parents and are certainly not accountable to schools. Their stated responsibilities include giving overall direction to the operation of the school, ensuring that schools have development plans, approving and managing school budgets, monitoring school finances, and ensuring transparency especially in use of UPE grants. Head-teachers of primary schools are, by policy, accountable for all money disbursed to schools and for school property and report directly to the District Education Officers; they are only required to “*work closely*” with the school management committees in running UPE primary schools.

## 4.1 The right to education in international law

Access to education is recognized by international and national laws as a human right. At the international level, the Universal Declaration of Human Rights (UDHR) recognizes the right to education under Article 26. The UDHR states that everyone has the right to education, hence the right applies to all individuals, although children are considered as the main beneficiaries.

### UDHR, Article 26:

- (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- (3) Parents have a prior right to choose the kind of education that shall be given to their children.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right to education under Articles 13 and 14. According to the ICESCR, the right to education includes the right to free, compulsory primary education for all; an obligation to develop secondary education accessible to all in particular by the progressive introduction of free secondary education; as well as an obligation to develop equitable access to higher education in particular by the progressive introduction of free higher education. The right to education also includes a responsibility to provide basic education for individuals who have not completed primary education. In addition to these access to education provisions, the right to education encompasses also the obligation to eliminate discrimination at all levels of the educational system, to set minimum standards and to improve quality.

The right to education also includes a responsibility to provide basic education for individuals who have not completed primary education. In addition to these access to education provisions, the right to education encompasses the obligation to rule out discrimination at all levels of the educational system, to set minimum standards and to improve the quality of education.

#### **ICESCR, Article 13**

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree 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. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
  - (a) Primary education shall be compulsory and available free to all;

...

#### **Article 14**

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

The right to education has further been reaffirmed in the UNESCO Convention against Discrimination in Education of 1960; the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 1981; and the Convention on the Rights of Persons with Disabilities (CRPD) of 2006.

At the regional level, the Treaty (art. 102) establishing the East African Community (EAC) requires Uganda and other member states to undertake concerted measures to foster cooperation in education and training by among other things, developing common programs in basic, intermediary and tertiary education and a general program for adult and continuing education in the Partner States as would promote the emergence of well trained personnel in all sectors relevant to the aims and objectives of the EAC.

#### **4.2 The right to education in the Uganda Constitution**

Under National Objectives and Directive Principles of State Policy (Objective XVIII), the Constitution states that;

- i) The State shall promote free and compulsory basic education.
- ii) The State shall take appropriate measures to afford every citizen equal opportunity to attain the highest educational standard possible.
- iii) Individuals, religious bodies and other nongovernmental organizations shall be free to found and operate educational institutions if they comply with the general educational policy of the country and maintain national standards.

Article 30 of the Constitution guarantees the right to education for “all persons”. Under Article 34, “A child is entitled to basic education which shall be the responsibility of the State and the parents of the child.”



### **4.3 The right to education in the Education (Pre-Primary, Primary And Post-Primary) Act, 2008**

The Act defines UPE as “the State funded universal primary education program where tuition fees are paid by Government where the principle of equitable access to conducive, quality, relevant and affordable education is emphasized for all children of all sexes, categories and in special circumstances.”

Under Section 9, the Act prohibits charging for education in UPE or UPPE: “No person or agency shall levy or order another person to levy any charge for purposes of education in any primary or post primary institution implementing UPE or UPPE program.” (Subsection 1).

The Act however, provides an exception in cases where the management of any school or institution implementing UPE or UPPE program collects or receives voluntary contributions or payments from parents and well wishers to contain a state of emergency or any urgent matter concerning the school. And in such cases, no pupil or student is supposed to be sent away from a school or an institution or denied access to education for failure to pay any such contribution.

As far as primary education is concerned, Section 10 of the Act stipulates that:

- (a) primary education shall be universal and compulsory for pupils aged six years and above, which shall last seven years;
- (b) all children of school going age shall enter and complete the primary education cycle of seven years; and
- (c) Government shall ensure that a child who drops out of school before completing primary education cycle attains basic education through alternative approaches to providing that education.

### **4.4 Emerging issues from the implementation of the legal framework**

While both the Constitution and the Education Act stipulate that primary education shall be free and compulsory, these requirements are yet to be achieved. Indeed, UPE is a cost sharing venture, where government meets the tuition needs, while parents meet the cost of school requirements, feeding inclusive. And with the way the UPE program has been implemented, it remains largely voluntary as parents who fail to send their children to school and those of children who drop out have not been penalized in anyway.

# 5. Conclusions and Recommendations

## 5.1 Conclusions

- The education sector in general and UPE in particular are underfunded, which in turn has affected the quality of education provided in UPE schools. The MoES (2014) policy statement for FY2015/16 shows that Government is yet to fulfill its commitment of sh7,560 per pupil.<sup>21</sup>
- Districts have been allowed a very limited policy space within which to operate. The two key grants they receive from the central government for the implementation of UPE are “conditional”, which limits flexibility in planning and budgeting.
- Government has allocated the responsibility of feeding school children to parents, and restricted its own roles to “contribute to policy formulation, coordination and quality assurance”. The *Guidelines on School Feeding and Nutrition Intervention Program* require parents to contribute beans, maize and other foodstuffs in cash or kind to feed their children at school, as well as the teachers, support staff and orphans and vulnerable children (OVC). However, there are no effective mechanisms to enforce compliance from parents; allocate responsibilities to school management committees and school food committees that are way beyond their capacities, and may demand too much effort and time, yet these are volunteers; and expose children to exploitation and hard physical labor by recommending the establishment of school gardens.
- According to the 1998 UPE guidelines, the fifth objective of the UPE program is to “Ensure that education is affordable by the majority of Ugandans”. This emphasis of “the majority” implies that exclusion of some minority groups may not matter, and may explain the absence of strong mechanisms to support vulnerable children, such as girls, children with disabilities and children living with HIV to stay in school

<sup>21</sup> New Vision, August 22, 2014 <http://www.newvision.co.ug/news/658982-upe-underfunding-who-is-telling-the-truth.html>

through the full cycle. Financing of special needs education remains inadequate, with only nine schools providing education to children with special education needs.

- Teacher welfare has been a subject of protracted negotiations between government and the teachers’ union, resulting into rounds of industrial actions and commitments from government. The policy documents do not directly address the issue of teacher welfare. Teacher salaries have been provided for in the national budget, but other aspects of welfare, such as housing, professional development, favorable working environment (manageable class sizes, meals while at school, etc) have not been addressed in policy documents.
- The UPE policy envisages community support to UPE schools, and calls upon parents to participate in such initiatives. However, besides contributing materials for construction and labor, the policy is not elaborate on how communities should participate in such initiatives and what should be included in such initiatives.
- School health has not been adequately addressed. Evidence suggests that some schools do not have adequate facilities for sanitation, clean water, waste management, first aid and compound maintenance.

## 5.2 Recommendations

- Ministry of Education need to streamline human rights in UPE by orienting local governments, school management committees, teachers and other actors to ensure the appreciate and respect human rights in the implementation of UPE. Government should fulfill its obligations to the realization of the right to education for all children
- Government should honor its commitment to making UPE free and compulsory, increase and honor its budgetary allocations, and improve teacher salaries, welfare and working conditions

# Selected References

- Ministry of Education should come up with measures to make UPE more inclusive by minimizing cost barriers, and investing in “inclusive schools” by making sufficient provision for the girl child, children with disabilities, children living with HIV, and other vulnerable children.
- Ministry of Education should publish a comprehensive UPE policy, clarifying the program’s objectives and specifying measures to achieve them, including measures to ensure that different actors fulfill their roles and responsibilities. This should include making the communities and parents more involved in planning and monitoring UPE through strengthening the representativeness of school management committee and broadening their mandate
- Ministry of Education should review the school feeding policy with a view to making the feeding of UPE pupils a shared responsibility of government and parents. Leaving the responsibility to parents, some of whom may either not appreciate or have the ability to contribute foodstuffs or money, hurts UPE and the pupils, as it does not create a conducive environment for learning.
- The UPE policy needs to explicitly address the issue of school health by setting policy standards and guidelines and providing human and financial resources for UPE schools to provide health promotion, disease prevention and care, including emergency provisions for children.

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