

**THE CHALLENGES FACED BY CHILDREN IN THE ENJOYMENT OF THEIR  
RIGHT TO PARTICIPATE IN EDUCATION DECISION MAKING: A CASE  
STUDY OF SCHOOLS IN MUKONO DISTRICT.**

**By**

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**DECLARATION**

I declare that to the best of my knowledge this dissertation is original and has not been presented anywhere for publication. I do therefore forward this book for the award of the Masters of Arts in Human Rights of Makerere University - Kampala.

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## **DEDICATION**

This dissertation is dedicated to my parents, the late Mr. John Nelson Kimoimo and Mary Namutebi for the good foundation they gave me. I also dedicate it to my husband Dr. Willie Onyang Odwongo and my children; Patrick, Martin, Timothy, Robinah and Connie Claire Awio for the sacrifice, support, love and care they forewent and endured during the course.

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## LIST OF ACRONYMS

<b>ACHPR</b>	The African Charter on Human and Peoples' Rights
<b>ACRWC</b>	African Charter on the Rights and Welfare of the Child
<b>CAP</b>	Chapter
<b>CDWHRJP</b>	Curriculum Development Workshop on Human Rights, Justice and Peace.
<b>FGD</b>	Focus Group Discussion
<b>GA</b>	General Assembly
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICEPR</b>	International Convention on Economic Social and Cultural Rights
<b>ILO</b>	International Labor Organization
<b>ISESCO</b>	Islamic Educational, Scientific and Cultural Organization
<b>OAS</b>	Organization of American States
<b>RRR</b>	Rights, Respect & Responsibilities
<b>TOR</b>	Terms of Reference
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UHRC</b>	Uganda Human Rights Commission
<b>UN</b>	United Nations
<b>UNCRC</b>	UNITED NATIONS Convention on the Rights of the Child
<b>UNFPA</b>	UNITED NATIONS Population Fund
<b>UNICEF</b>	UNITED NATIONS CHILDREN FUND



## ABSTRACT

The study set out to identify the challenges faced by children in the enjoyment of the right to participate in education decision making. The study explored the concept of the meaning of the 'right of children to participate' in education decision making. It also sought to find whether the concept holds good for all children equally in all places and all times. It also looked at whether it is only the strong legal system that can sustain the children's enjoyment of the right to participate in decision making.

The study used two approaches; there was the use of primary sources of data and the secondary sources of data. Both quantitative and qualitative methods were used in the collection of data. Written and oral questionnaires were used in data collection and focus group discussions.

The focus of the field research was limited to decisions made on four educational areas which were; selection of school, selection of subjects selection of career, and in the involvement of children in the making of school rules. The focus of the desk research was limited to delineating the meaning of the 'right of the children to participate' in decision making and the promotion and protection legal framework from selected human rights instruments.

The study explored the three participation bases that support children's right to participate in education decision making and which make up the enabling environment for participation. These were; knowledge and awareness base, the institutional set up and the acquisition and use of negotiation and decision making skills for the participation process. The study also indicated the three correlative phases that describe the sequence of the enjoyment of the right to participate from a functional point of view. They also respond to the three categories of rights to participation in decision making: the primary, social and the substantive rights.

The main findings were that;

- The concept the 'right of the children to participate' in decision making means the use of the participatory process to empower children under a robust framework that is backed by wider social, cultural, economic and political policies where the

three categories of rights to participation work in sync and underpinned by consideration of the weighting values.

- The concept of participation did not hold good for all children, all the time and in all places.
- It is not only a strong legal system that can sustain the process of children participation in education decision making but a wider social, economic, political and cultural systems are also very important.
- There are six major categories of challenges that are faced by children in the enjoyment of their right to participate in education decision making process.
- The ‘final standard meaning of common achievement’ of children participation was determined by the UNCRC and the ACRWC and the weighting values that do vary in each society.

In order to move comprehensively to address the challenges the following recommendations were made;

The new and deeper meaning of children’s right should establish children as recognized rights holders who are entitled to receive protection and have participation rights.

There is need to sensitize all stakeholders and children to change attitudes towards children participation in all matters including education.

There is need for a review of the legal weaknesses inherent at international, regional, and domestic levels in order to plug the loopholes and to come up with policies and laws that can support children’s participation rights.

The government should build an environment that promotes information technology as a new method to facilitate the children’s right to participate in decision making.

## CHAPTER ONE

### INTRODUCTION AND BACKGROUND

#### 1.0 Introduction

Article 1 of the United Nations Convention on the Rights of the Child (UNCRC 1989), defines children as all persons less than 18 years of age, unless the legal age of majority in a country is lower. According to articles 3,7,8,12,13, 14, 15, 16,17,18,23, 28, 29, 31<sup>1</sup> of the UNCRC 1989, these children are entitled to rights of participation in decision making. In particular the children have the right to participate in decision making on all matters concerning them including education. Since it's only the children that can give true effect of their needs, they should be allowed to decide for themselves in their best interest.

Article 12 is at the core of the right of children to participate in decision making. It states that; “children must freely express their views in matters affecting them...” They must be given the opportunity to be heard either directly or through a representative or an appropriate body in any judicial and administrative proceedings affecting them”. This process is particularly important in case of disciplinary actions on children in schools. The statement in article 12 also represents the three phases that describe the sequence of the enjoyment of the right to participate from a functional point of view. These are “to speak, to participate, to have their views taken into account”.

The right to participation is one of the guiding principles<sup>2</sup> of the convention. It contains thirteen rights of children to participation. These rights support children's development socially, culturally, economically and politically. Participation is the path to other rights

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<sup>1</sup>UNCRC 1989 : Article 3: All should work towards what is best for each child

ibid article 7: right to name.

ibid article 8: right to identity and family.

ibid article 13: right to get and share information

ibid article 12: children must freely express their views in matters affecting them

ibid article 14: right to think and believe what you want and practice religion ibid 15: right to freedom of thought, conscience, religion, association and peaceful assembly

ibid article 15: right to freedom of thought, conscience, religion,, association,and peaceful assembly.

ibid article 16: Right to privacy.

ibid article 17: right to reliable information.

ibid article 18: both parents share responsibility of bringing up children.

ibid article 23: care and support for disabled children.

ibid article 28: right to education

ibid article 29: Education for development of child's personality and talents to the full

ibid article 31: right to relax and play and to join in activities.

ibid article 38:

<sup>2</sup> <http://www.ngos.net/conditions/childrights/faq.html> 1/11/2006: Frequently Asked Questions – Convention on the Rights of the child - The best interest of the child; participation- listening to the voices of children; Non discrimination & Survival and development.

and is relevant to the exercise of all other rights of protection, care and welfare within the family, school and the larger community.

In education the children's participation takes on a special dimension. Education gives children the opportunity to develop their talents and abilities to their full potential, gain confidence and self-esteem, to use their initiative and creativity; to gain life skills and take informed decisions; and to understand and experience pluralism; tolerance and democratic co-existence. In brief, the right to education means the right to experience citizenship. The children must be perceived not as mere recipients of knowledge, if they are to achieve citizenship and all it entails. Rather, as active players in the learning process. It is for this reason that the Convention puts so much emphasis on the aims of education (article 28) and on an educational system that respects the child's dignity.

The participation rights are grouped in three categories which are related and arranged in this order: primary, social and substantive participation rights, respectively. This is because the primary rights have to exist prior to social participation and to ultimately demonstrate the substantive rights. However, in practice these are intertwined and unilinear.

The primary participation rights serve to facilitate children's informed decisions, association and the building up of democracy. They provide the defense for children against those who become domineering. The social participation rights nurture children's participation skills, the democratic values, norms and citizenship during the decision making process and foster an environment for institutional building. They ensure for interactive participation, support the full development of the human personality and strengthen respect for human rights and fundamental freedoms. The substantive participation rights ensure that the children's views are heard, taken seriously and put into consideration.

Under a robust legal system backed up by a wider social and economic policies that ensure the wellbeing of families and children, these rights are translated into three participation bases. The first base provides the knowledge and awareness on the child friendly participation norms and values to targeted groups and the general community; the second base fosters institutional building of child centered/based institutions and

structures including a robust legal system and access by children; and the third base facilitates the physical participation of children, and the acquisition of negotiation and decision making skills, continually monitored and evaluated for sustainability. The three bases support the growth of an enabling environment for children's participation in decision making process on matters that affect their lives and are a prerequisite to children's participation in decision making. In the absence of these bases however the children's rights to participation in decision making is difficult to achieve.

The three bases also represent the three phases, to speak, to participate, to have their views taken into account. These three phases describe the sequence of the enjoyment of the right to participate from a functional point of view

The Uganda constitution (1995) dedicated chapter four to the provision of human rights for every body, and article 34 to the rights of children in accordance with article 42<sup>3</sup> of the UNCRC. Consequently, the Education Act Cap 127; the Children Act Chapter 59; the Penal Code Cap 120 and the Uganda Human Rights Commission (UHRC) were enacted to respond to the same call.

Despite the efforts above, most children remain excluded from the decision making process on most matters that affect their lives including education.

This study intends to identify the challenges faced by children in the enjoyment of the right to participate in education decision making in Mukono district. The focus of this study was limited to decisions made in four educational areas listed below:

- I. Selection of school;
- II. Selection of subjects or the subject combination of study;
- III. Selection of a career or profession to pursue, and
- IV. Selection or involvement of children in the making of school rule and their enforcement.

Specifically the four educational areas facilitated the three areas of the study. They supported in establishing the meaning of the right of children to participate, the levels (scope and depth) of children's participation in their educational decisions in Mukono

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<sup>3</sup> Article 42: States have the obligations to promote and protect all children's rights, UNCRC 1998

district; and identified the challenges faced by children in the exercise of the right to participation in decision-making.

The study envisages that the findings will facilitate policy makers to design appropriate policies, laws and programme for ensuring that children's rights to participation are respected, protected and fulfilled<sup>4</sup>. In a nutshell, this research was an assessment of the children participation theory and whether the practice was in tandem with the praxis of the universal perception of child participation.

### **1.1 Background to the study**

Uganda adopted the Human rights obligations and principles for all her people including children in chapter four of its Constitution (1995) as obligated by the various international and regional Human Rights instruments. Article 20<sup>5</sup> is emphatic on the entitlement of all persons to human rights. The persons do not need permission from the state to exercise and enjoy those rights. Article 34<sup>6</sup> emphasizes the rights of children and their entitlement.

The above provisions are a mirror image of human rights provisions of the Bill of rights<sup>7</sup>, the UNCRC (1989), the African Charter on Human and People's Rights (ACHPR 1981) and the African Charter on the Rights and Welfare of the Child (ACRWC, 1990) to select but a few. They confer equal entitlements and rights to both adults, children as human persons. They confer the obligations to respect, protect, and fulfill the rights thereof to the international community, nations individually, individuals groups and organs of society. These obligations are based on key human rights principles of universality and non-discrimination, inalienable; indivisibility and interdependence; accountability and participation.

Although all human persons have inherent freedom to participate in the achievement of their rights, it is an uphill task for children to exercise their rights to participate in decision making. This has been particularly difficult with participation in political and economic decisions. There are six main reasons for their exclusion. The first main reason

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<sup>4</sup> Human Rights Reference Handbook; Prepared for curriculum Development Workshop on Human Rights, Justice and Peace Kampala, Uganda 1-5 December 2003.

<sup>5</sup> The constitution of the Republic of Uganda 1995: Article 20: Irrespective of age or status, all persons are entitled to human rights and they do not need permission from the state to exercise and enjoy those rights.

<sup>6</sup> *ibid* article 34: Rights of children.

<sup>7</sup> UNDHR 1948; ICCPR 1966; CESC 1976

began with the Bill of Rights. Its provisions on rights to children to participate in decision making were implicit and it gave the mandate over educational matters to parents and guardians. Under the UDHR and ICESCR prior rights to choose the kind of education to give their children and the type of schools to join are given to parents<sup>8</sup>. Although this stance was overridden by the UNCRC<sup>9</sup> the substantive decision making powers are still with the parents and the guardians in the family, school and the community.

The second main reason is legal. There are inappropriate, inadequate and some of them wrong policies which do not consider children's participation as a priority. The legal mandate for children participation all over the world has been criticized as weak and ineffectual<sup>10</sup>. There has been a revelation that legal and policy provisions that promote children's involvement in decision making were limited in scope and depth in the domestic arena. This has been mainly due to the weaknesses in the international human rights instruments and the varied traditional and cultural ideological framework of the societies under which it operates.

The third main reason is social. The social set up of many communities has become a barrier for children participation. The social structure of these societies has put children at the bottom of the social systems. In many African societies, children participation is seen in terms of fulfilling duties and responsibilities of obedience, respect for parents, superiors, and elders at all the times. This means that children become indebted to the parents to work for the cohesion of the family. This has made children to lose out on their way to meaningful participation.

The fourth main reason is economical. Participation is very successful in a conducive economic environment where there are options. A situation that is poverty riddled can not support children's enjoyment of participation because it is always the powerful that control the resources and therefore will subdue the weak children to do what the powerful want. In such a situation children participation can not take place. The economic problem also hinders the process of making laws and the sensitization of the communities about

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<sup>8</sup> UNDHR 1948: Article 26(3) and ICESCR article 13(3)

<sup>9</sup> UNCRC 1998: article 12: children must freely express their views in matters affecting them

<sup>10</sup>Paul Nixon: American Humane: Seen but not heard? children and young people's participation in family group decision making: concepts and practice issues pg 22

participation. This can be shown by the difference between rich communities and the poor ones. In rich communities participation is at a higher degree than in the poor ones<sup>11</sup>.

The fifth main reason is cultural - The differing traditional and cultural ideological framework under which the rights are operating have given varied conception, perception and interpretation to the rights standards (primary, social and substantive participation Rights and weighting values) within the 'final standard meaning'. The stance is that participation holds different meanings for different groups. This lack of shared understandings and agreed definitions has made it harder for participation to be put in practice.

The sixth main reason is political. The state has the obligation of ensuring that children's participation are respected and applied in practice. This is not the case in many countries because of the lack of political will to commit resources and legal base for the implementation of the policies towards children participation in decision making. In Uganda the paper work has been laid but very little has been done to put child participation on the political agenda.

The above explain why the present education system in Uganda limits the children's opportunity to participate in education decisions. They ignore the implied recommendations in article 29 to adopt child-centered approach to teaching and learning in education. They also override the *consensus ad idem* reached by the proponents of the UNCRC by the principle of participation. The availability of the three participation bases in schools will enable children to develop democratic values, principles and self-esteem that are essential for learning and decision making through life.

According to the United Nations Family Planning Association Report<sup>12</sup>, children must be prepared in order to achieve the level of competence where their right to education begins to matter. This means that the child has a right to choose what education he or she shall receive, when, where, how and from whom to receive it; and indeed, whether to receive an education at all.

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<sup>11</sup> [Http://www.epi.org/content.cfm:Enriching](http://www.epi.org/content.cfm:Enriching) children, enriching the nation public investment in high quality pre-kindergatten.2004.

<sup>12</sup> United Nations Family Planning Association Report, 2000.



De Waal and Temba (2002) warned that the consequence of *not* letting children voice their opinion is for them to turn to criminality or militarism. According to him, the child needs experience and it is better to get it in situations which are not dangerous or have far reaching consequences<sup>13</sup>. He recommends a total paradigm shift, where the adult's mindset is changed to begin to question the relevance and appropriateness of the cherished traditionally held beliefs, but which bar children from participation.

## **1.2 Statement of the Problem**

Although article 34 in the Uganda Constitution 1995, grants children the rights, it is deficient on fostering the rights of children to participation in decision making processes. There have been no explicit policies, laws, spaces and structures and skills developed to facilitate the participation rights in education decision making which render the participation environment weak and disabling. This weakness has hindered the growth of the participation bases without which the children's participation process in decision making cannot foster.

The deficiencies were also carried over in the present national legal systems related to children, viz the Children's Act Cap 59; the Local Government Act ..., the Education Act Cap 127; the Penal Code Cap 120 and the Human Rights body (UHRC). These documents lack substantive provisions for promoting and protecting the right of children to participate in decision making.

The limitations above are multifaceted further by different traditional and cultural ideological frameworks under which the right of children to participate in decision making is operating. The adults hold exclusionary premises, paternalistic and prejudicial points of views about children's autonomous rights. These hamper the development of common criteria of conceptualization, definition and interpretation of the right of children to participate in decision making. This has resulted in differing interpretation of the rights standards and weighting values and has limited the meaning to a contextual one where participation begins to hold different meanings for different groups.

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<sup>13</sup> Målfrid Grude Flekkøy and Kaufman: *The Participation Rights of the Child: Rights and Responsibilities in Family and Society*, 1997.

## **Scope of the study**

The study looks at the challenges faced by children in the enjoyment of the right to participate in education decision making. These are examined from four main perspectives: Who selects the schools; the subjects of study; the career or profession to pursue, and the school rules. The research is carried out in primary and secondary schools, and the surrounding communities in Mukono district. The study also examined 12 selected human rights instruments to establish the meaning of the right to participate in education decision making and its legal frameworks at the various levels.

A total sample of 176 respondents including; students, pupils, head teachers, parents and local councilors were interviewed. Mukono district was selected as a representative of the cosmopolitan area of Uganda with adequate rate of school development. The research was specifically carried out in the villages of Mpoma, Kisowera and Mukono municipality. The composition of the district shows a fairly equal representation of both urban and rural settings in Uganda.

### **1.4 Aim of the study**

This study intends to identify the challenges faced by children in the enjoyment of the right to participate in education decision making.

### **1.5 Specific objectives.**

I. To trace for the meaning of the “children’s right to participate” concept in education decision making and its legal promotion and protection framework.

II To examine the level (scope and depth) of children’s right to participate in education decision making in Uganda.

III. To establish the challenges faced by children in the enjoyment of their right to participate in education decision making.

## 1.6 Hypotheses

I Human rights instruments provided a standard meaning to the concept “children’s right to participate” in education decision making and the legal provisions to promote and protect it.

II. The right of children to participate in education decision making is a static concept that holds good for all children equally, in all places, and at all times.

III. It is only a robust legal system that can sustain the efforts aimed at getting the children to enjoy the right to participate in decision making in general and education matters in particular.

IV. The Children’s Right to participate in education decision-making is challenged by legal, social, economic, political and cultural barriers.

## 1.7 Definition of key Terms

The following key terms are defined as used in this study:

**Accountability:** In this study the meaning used will be answerability for all duty bearers.

**Being ‘given a voice:** Having the opportunity to be heard by the decision-makers and to influence decisions as legitimate contributors.

**Child:** Article 1 of UNCRC (1989), the holder of Child rights - every human being below the age of 18 years. While the convention specifies the upper age limit for childhood as 18 years, it recognizes that majority may be obtained at an earlier age under the law.

**Decision-making:** As defined by Robert (1998), it is the art of identifying and choosing alternatives based on values and preferences of the decision-maker. It is therefore the process of sufficiently reducing ambiguity and doubt about alternatives to allow a reasonable choice to be made. Robert identified three basic kinds of decisions and these include:

- a) **Decisions whether:** this is Yes/No, Either/Or decisions that must be made before we proceed with the selection of an alternative
- b) **Decisions which:** these decisions which involve a choice of one or more alternatives from among a set of possibilities, the choice being based on how well each alternative measure up to a set of pre-qualified criteria

- c) **Contingent decisions:** these are decisions that have been made but put on hold until some condition is met.

**Education:** Refers to the act of providing knowledge, skill and desirable qualities to human persons<sup>14</sup>.

**Human rights:** entitlements.

**Inalienable:** every human being is born with rights which cannot be taken away

**Indivisibility and interdependence:** failure to realize some rights makes it more difficult to achieve others.

**Level of children's participation:** refers to the scope and depth of children's engagement in initiatives, organization and institutions.

**Participation:** The process through which stakeholders influence and share control over priority setting, policy-making, resource allocations and access to public goods and services. Participation is arguably divided into categories: negative and positive:

- a) **Positive Participation:** Conveys principles relating to voluntarism defined as: an on going process of children's active involvement in decisions that affect their lives.
- b) **Negative Participation:** Includes the involvement of children in armed conflict and in exploitative labor.

**Participation bases:** These are three: the knowledge and awareness base, the institutional set up and the acquisition of the negotiation and decision making skills for the participation process.

**Participation rights:** Participation rights are arguably divided into three categories; the primary, social, and the substantive rights.

**Rights:** Simply stated, a claim of an individual which is recognized by the society and the state.

**Scope of children's participation:** the range of mechanisms available to enable the participation of children.

**Standard:** A measure serving as a basis or example or principle to which others conform, or should conform or by which the accuracy or quality others is judged.

**Non-discrimination:**

**Universality:** all rights for all people, everywhere and all the time

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<sup>14</sup> Human Rights Reference Handbook; Prepared for curriculum Development Workshop on Human Rights, Justice and Peace Kampala, Uganda 1-5 December 2003

## CHAPTER TWO

### LITERATURE REVIEW

#### 2.0 Introduction

This literature review was based on four main themes for the study. The first theme traced for the meaning of the ‘right of children to participate’ in education decision making, and the legal provisions that promote and protect it.

This was done by reviewing selected human rights instruments at international, regional, and national levels. They included the UDHR 1948; ICCPR 1966; ICESCR 1976 and the UNCRC 1989 at the international level; the ACHPR 1981 and ACRWC 1990 at the regional level and the Constitution of the Republic of Uganda 1995; the Education Act Cap 127; the Children Act Chapter 59; the Local Government Act Cap 243; the Penal Code Cap 120 and the Uganda Human Rights Commission (UHRC) at the national or local level. The international level provided the international perspective while the regional and local levels provided the regional/African and national/local level perspectives respectively on the right of children to participate in education decision making.

The second theme examined the level (scope and depth) of the right of children to participate in education decision making. This was engagement of children in initiatives, organization and institutions including the mechanisms available to enable the participation of children at the international and national levels. The Hart’s ladder of participation<sup>15</sup> and his proposed ‘requirements of true participation’<sup>16</sup> were used to define the level of their participation.

The third theme established the challenges faced by children in the enjoyment of their right to participate in education decision making. This was done by identifying the challenges, ascertaining their extent, the root causes and the effects on the right of children to participate in education decision making. They were also weighted using the weighting value of x2 of each number of subjects that fitted into each designed category.

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<sup>15</sup> Appendix A: Harts ladder of participation: Adopted from Hart, R (1992). Children’s Participation From Tokenism to Citizenship.

<sup>16</sup> i. The children understand the intentions of the project  
ii. They know who made the decisions concerning their involvement and why  
iii. They have a meaningful (rather than decorative) role  
iv. They volunteer for the project *after* the project was made clear to them

## **2.1 To trace for the meaning of the “children’s right to participate” concept in education decision making and its legal promotion and protection framework.**

### **2.1.1 The mandate to promote and protect Human Rights**

The concept of human rights was based on the belief that, whoever or wherever we are, we had rights simply because we are human beings. These rights, despite the diversity and differences in culture, identity, community, gender, or race, cannot be denied. The children are therefore rights holders in their own right as human beings.

According to *Resolution 217 a (III) of 10 December 1948) of the General Assembly*, the UDHR (1948) was proclaimed the first “common standard of achievement for all peoples and all nations...”<sup>17</sup>They form the international customary law which binds all governments and are applicable to all human population as a whole. To attest the mandate for promoting and protecting these rights, numerous Human Rights instruments were designed including UDHR 1948; ICCPR 1966; ICESCR 1976, the UNCRC 1989; ACHPR 1981 and ACRWC 1990.

Henry Shue (1980) defined the obligations to promote and protect the human rights of all human population typologically in a ‘tripartite typology of obligation’. According to him every basic right had three types of correlative obligations. These were: ‘to avoid depriving, ‘to protect from deprivation’ and ‘to aid the deprived’. These have been redefined into simpler words ‘to respect’, ‘to protect, and ‘to fulfill’<sup>18</sup> whereby the last one may be divided into obligations of facilitating and providing.

In 1993 the Vienna Declaration and Programme of Action (VDPA) proclaimed that ‘the promotion and protection of all human rights is ‘a legitimate concern of the international community... and of nations individually’<sup>19</sup>. Consequently the dissemination and enforcement of rights standards became a responsibility of the entire world community and all nations individually. This gave the world community two distinctive roles. The first was to concern itself with how a state treated its own subjects in this day and age. The second was for all states to follow the superior international standards which had been established by common the consent and practice. These were to be used for

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<sup>17</sup> Preamble UDHR (1948) (*Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948*)

<sup>18</sup> University for Peace: Human Rights Reference Handbook; Prepared for curriculum Development Workshop on Human Rights, Justice and Peace Kampala, Uganda 1-5 December 2003, pg 18

<sup>19</sup> University for Peace: Human Rights Reference Handbook; Prepared for curriculum Development Workshop on Human Rights, Justice and Peace Kampala, Uganda 1-5 December 2003, pg 18

appraising domestic laws, and the actual conduct of these states within their own territories in the exercise of their internal jurisdiction.

In the same vein, the Right and Responsibility of Individuals, Groups and Organs of Society on Universally Recognized Human Rights and Fundamental Freedoms were declared by United Nations of the 85<sup>th</sup> plenary<sup>20</sup> (1998). The declaration compelled all the governments, agencies and organizations of the United Nations system to intensify efforts to disseminate the declaration and to promote universal respect and understanding<sup>21</sup> of these rights and freedoms. In addition, it was agreed that any “expressions of concern’ by the world community ‘at violations of ... rights in the domestic affairs of any state... should not be considered as interference’<sup>22</sup>.

The mandate to promote and protect the rights of children and the specific rights of children to participate in decision making including education were specifically articulated by the UNCRC (1989) at the international level, the ACRWC (1990) at the African regional level and the Constitution of Uganda (1995) at the National level. These mandates were embedded in same legal provisions within the respective documents.

### **2.1.2 The children’s participation rights Framework at the various levels.**

The meaning of the right of children to participate in decision making was traced through the following instruments; the UDHR 1948; ICCPR 1966; ICESCR 1976 and the UNCRC 1989 at the international level; ACHPR 1981 and ACRWC 1990 at the regional/African level and the Constitution of the Republic of Uganda 1995; the Education Act Cap 127; the Children Act Chapter 59; the local government Act Cap.243, the Penal Code Cap 120 and the Uganda Human Rights Commission (UHRC) at the national level.

#### **2.1.2.1 The Universal Declaration of Human rights (1948) (UDHR)**

The UDHR (1948) was the first comprehensive agreement among nations on the specific rights and freedoms of ‘all human beings. According to resolution 217 of the General Assembly, the UDHR (1948) is the “common standard of achievement” for all peoples

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<sup>20</sup> Resolution 53/144 of General Assembly of the United Nations of the 85<sup>th</sup> plenary -held on 9<sup>th</sup> December 1998

<sup>21</sup> [www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.RES.53.144.En?Open\\_Document](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/A.RES.53.144.En?Open_Document): Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

<sup>22</sup> University for Peace: Human Rights Reference Handbook; Prepared for curriculum Development Workshop on Human Rights, Justice and Peace Kampala, Uganda 1-5 December 2003, pg 18

and all nations”<sup>23</sup>. It formed the customary international law which bound all governments and was applicable to the human population as a whole including children.

Within the UDHR, the meaning of the right of children to participate in decision making in general and in education matters in particular were traced in the following articles including 1, 2, 7,12,18,19,20,24,26 and 27. The same articles provided the mandate for the promotion and protection of these rights. These rights have been categorized as ‘primary<sup>24</sup> and social participation rights’<sup>25</sup>. Both categories of rights are fundamental to the children’s enjoyment of their right to participate in education decision making as described below.

The primary participation rights serve to facilitate children’s informed decisions, association and the building up of democracy. They provide the defense for children against those who become domineering. The social participation rights nurture children’s participation skills, the democratic values, norms and citizenship during the decision making process and foster an environment for institutional building. They ensure for interactive participation, support the full development of the human personality and strengthen respect for human rights and fundamental freedoms.

Despite the provision of the primary and the social participation rights, the rights that ensure that the children’s views are heard, taken seriously and put into consideration were missing. These are called substantive participation rights which should be part and parcel of the primary and social participation rights package. Without these substantive participation rights the primary and social participation rights will not sufficiently support the growth of an enabling environment for children’s participation in decision making process on matters that affect their lives.

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<sup>23</sup> Preamble UDHR (1948) (*Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948*)

<sup>24</sup> The Primary participation rights:-  
ibid Article 1: equal human rights  
ibid Article 2 : Non discrimination  
ibid Article 7 : Equality before the law  
ibid Article 12: Right to privacy  
ibid Article 18: right to freedom of thought, conscience and religion  
ibid Article 19: right to freedom of opinion and expression  
ibid Article 20: right to freedom of peaceful assembly and association.

<sup>25</sup> The Social participation rights:  
ibid Article 24: right to (play) rest and leisure  
ibid Article 26: right to education  
ibid Article 27 :right freely to participate in the cultural life of the community



An enabling environment will consist of three bases; the first will be the knowledge and awareness base on child friendly participation norms and values; the second will be the child - based institutional building including a robust legal system and accessibility base and the third will be the practical participation base where the children will engage their negotiation and decision making skills to make weighted decisions. The three bases are a prerequisite to children's participation in decision making. The three bases usually correspond with the three phases of participation which are to speak, to participate and to have the children's views taken into account. These three phases describe the sequence of the enjoyment of the right to participate from a functional point of view.

Other limitations with the UDHR are that article 26(3) gave the final decisions on the educational matters to the parents. They had the prior right to choose the kind of education for their children. In any case, the primary and social participation rights which the UDHR provided were not specific to children but were directed to all 'human persons'. This ambiguity fails to envisage the children as subjects of rights who are able to form and express opinions.

In order to monitor the implementation of the rights provided, the UDHR assigned the General assembly the responsibility of ensuring that every individual and every organ of society, strives to teach educate and to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of member States themselves and among the peoples of territories under their jurisdiction.

### **The International Covenant on Civil and Political Rights 1966 (ICCPR)**

To the meaning of right of children to participate in decision making, the ICCPR added the civil and political rights including the rights to self-determination, to nationality and a name...<sup>26</sup> in articles 1 and 24<sup>27</sup>. According Gros H. Espiell 2000 the right to self-determination<sup>28</sup> is important to decision making process for three reasons. First, it mandates 'every person' to exercise his or her right to make choices in respect of their life...' Second, it guarantees 'every person' the right to participate in the democratic

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<sup>26</sup> ibid article 24: nationality and name & protection of child as a minor.

<sup>27</sup> Articles 1: All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development (ICCPR 1966)

<sup>28</sup> United Nations Geneva August 2000: Understanding Self-Determination: The Basics Presentation to First International Conference on the Right to Self-Determination United Nations Geneva August 2000.

process of governance to influence their future politically, socially and culturally. Last, it is an erga omnes principle<sup>29</sup> and therefore entitles every one to command respect from others and the government, during any interactions under any circumstances. Similarly, the right to nationality and name are a prerequisite to political rights during community participation for both adults and children. They allow for political ‘voices’ into the affairs that concern them in their society.

However the restrictive measure in article 19(3) which many African states have been known to use is another predicament to the right of children to participate in decision making process. Similarly, the provision requiring the protection of children as minors in article 24 is bound to be used as an excuse to prevent children from participating in decision making under the cover of protecting them from the rigors of decision making.

For monitoring and evaluation of the ICCPR performance, the Human Rights Committee was assigned (article 29) the overall responsibility of receiving reports from States Parties to the present Covenant member states on a yearly basis or whenever the Committee so requests. These will be on the measures adopted to give effect to the rights recognized in the ICCPR and on the progress made in the enjoyment of those rights. Any action to be taken will be transmitted to the Secretary-General of the United Nations who after consultation with the Committee, will transmit to the specialized agencies concerned the issues that fall within their field of competence (article 40).

### **2.1.2.3 International Convention on Economic, Social and Cultural Rights (ICESCR 1976)**

The ICESCR (1976) added the social, economic and cultural dimensions to the meaning of the right of children to participate in education decision making as human persons in articles 10 (3) and 13 (1 and 2)<sup>30</sup>.

However article 13(3)<sup>31</sup> echoed article 26(3) of the UDHR by categorically denying the children the opportunity to enjoy their right to participate in education matters. The children are left victims of manipulation when all powers to decide on education matters

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<sup>29</sup> ibid

<sup>30</sup> ICESCR: articles 10(3): provision of special measures of protection from discrimination, exploitation on economic and social conditions.

ibid: article 13(1): Right to education and fundamental freedoms

ibid: article 13(2): Right to appropriate and accessible education

<sup>31</sup> ICESCR: article 13(3): The parents or legal guardians must choose the schools for the children.

are left to parents or legal guardians. The Bill of rights<sup>32</sup> was also silent on the weighting values which are known to influence the weight of children decisions/views. These are; childhood, age, maturity, ability, competence, and the best interest of the child. It is the failure to include these considerations that compounds the difficulty of getting the adults to see children as subjects of rights capable of intervening as partners in the process of social change and in the building up of democracy.

A Committee on Economic, Social and Cultural Rights (CESCR) in Article 17 was established for monitoring of the progress of the covenant. The states are obliged to make periodic reports to the committee within one year on the instrument implementation which ends up in the plenary of the GA of UN. The assessment and evaluation of the progress stimulate responses by the UN to errant states in Human Rights observance, promotion and protection article (article 21).

From the above, the decision making powers on education matters are legally put in the hands of the parents and the state. Without substantive participation rights, it becomes hard for children to share in decision making process.

#### **2.1.2.4 The United Nations Convention for Rights of Children (UNCRC 1989)**

The most significant step on the meaning of the children's right to participate in education decision making came with the UNCRC (1989) in thirteen of its articles. The participation rights are harmoniously packaged to include the three categories of these rights; the primary<sup>33</sup>, the social<sup>34</sup> and the substantive<sup>35</sup>. The UNCRC also provided the weighting values which according to Flekkøy, M. G. and N.H. Kaufman (1997)<sup>36</sup> influence the quality and weight of the decisions made by the children. These are childhood, age, maturity, ability, competence, and the best interest of the child.

This package of participation rights formed the 'first standard meaning of common achievement' for the right of children to participate in decision making for all peoples and all nations.

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<sup>32</sup> UDHR, ICCPR & ICESCR 1976

<sup>33</sup> UNCRC 1989: articles: 7, 8, 13, 14, 15, 16, 17, 18, op.cit. pg 10.

<sup>34</sup> Articles 23, 28, 29 and 31. Op.cit pg 10.

<sup>35</sup> ibid article 12: children must freely express their views in matters affecting them

<sup>36</sup> Flekkøy, M. G. and N.H. Kaufman (1997) *The Participation Rights of the Child: Rights and Responsibilities in Family and Society*. London: Jessica Kingsley Publishers.

Based on the ‘first standard meaning of common achievement,’ the following offer reasons for a special case for children to participate in decision making on matters that affect their lives (2006)<sup>37</sup>.

(1). Children's views are rarely heard and considered in the political process. However much as they generally do not vote and do not otherwise take part in political processes their views on many important issues while at home, school and in local communities and even in governments must be listened to and taken seriously.

(2). Children are individuals and have equal status with adults as members of the human family. They are neither the possessions of parents nor of the state, nor are they mere people-in-the-making. The governments and other stakeholders are morally obliged to recognize the full spectrum of human rights for all children. This is a large portion of the world's population, which indeed, must be considered and involved when decisions are made.

(3). The healthy development of children is crucial to the future well-being of any society and issues such as disease, malnutrition and poverty – that threaten the future of children and societies worldwide must be combated with children’s involvement;

(4) The children start life as totally dependent beings and must rely on adults for the nurture and guidance they need to grow towards independence; such nurture is ideally found in adults of children's families and when missing the society must fill the gap;

(5) The actions of government impact on children more strongly than any other group in society and practically every area of government policy (for example, education, public health and so on) affect children to some degree directly or indirectly. Where government policy-making fails to take children and their views into account, it threatens their future.

(6) Many changes in society are having a disproportionate and often negative impact on children and these changes include transformation of the family structure, globalization, shifting employment patterns and a shrinking social welfare nets in many countries. The

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<sup>37</sup> <http://www.ngos.net/conditions/childsrighths/faq.html> 1/11/2006: Convention on the Rights of the child Frequently Asked Questions

impact of those changes can be particularly devastating to children and it is only them that would give the true effect;

(7) That the costs to society of failing its children are huge and the way in which children develop determines whether they will make a net contribution or pose a huge cost to society over the course of their lives;

(8) The global trend of urbanization has taken a severe toll on especially children, who are nearly half of the urban population in the developing world living in poverty. The plight of children often worsens when families relocate from the countryside to large cities. Parents and children lose support systems with the break-up of extended families resulting in the presence of children on the street scavenging, begging, hawking and soliciting.

The case above, brought out three fundamental facts: First, that children's participation rights are not special rights, but rather the fundamental rights that are inherent to the human dignity of all people regardless of age; Second, that children's participation rights "are no longer perceived as an option or as a question of favor or kindness to children or as an expression of charity"<sup>38</sup>; and Last, that governments are obliged to bring their legislation, policy and practice in conformity with the standards in the convention, transform the standards into reality for all children and abstain from any action that may preclude the enjoyment of those participation rights in particular and the other human rights in general or violate them.

### **2.1.3 The Regional Human rights Framework**

The development of the regional African human rights framework however, began the reflections that there were limitations with the 'first standard meaning of common achievement' for the right of children to participate in decision making. It was realized that the meaning needed to be brought into sync with the African perspective. Secondly, there was already evidence that both the rights standards (primary, social and the substantive participation rights) and the weighting values hold varied meanings in the different milieus of the world. These two reflections began to bring to light that participation holds different meanings for different groups. According to Adams (2003)

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<sup>38</sup> <http://www.ngos.net/conditions/childsrights/faq.html> 1/11/2006: Convention on the Rights of the child Frequently Asked Questions

this lack of shared understanding and agreed definitions make it harder to put into practice.

### **2.1.3.1 The African Charter on Human and Peoples' Rights-ACHPR (1981)**

The ACHPR<sup>39</sup> developed at the African regional level provided similar participation rights to the meaning of children's right to participate in decision making process. These included; the primary<sup>40</sup>, social<sup>41</sup> and substantive<sup>42</sup> participation rights to any 'person' in the following articles, 2, 3(1 & 2), 8, 9, (1 & 2), 10, 11, 13, 17, 27, 28 and 29. The ACHPR added the African dimensions articulated in Articles 13, 17, 27, 28, 29 during implementation.

Articles 27, 28 and 29 provided for children's duties towards their family, society and fellow beings. This is because rights and duties are intrinsically connected. Article 17(3) advocated for promotion and protection of important African morals and traditional values recognized by the community. This emphasized the element of responsibility and culture in decision making. This is important because it is the value paradigm in a society which determines the weight of any decision.

Allotting duties and responsibilities to children signals danger to children wellbeing. It makes them duty bound to perform exploitative tasks at times, in the name of fulfilling duties in the home, the community and school. It is important therefore that the conditions that subject children to forced labor are not promoted. Similarly, article 17(3) need to be promoted with caution as it may negatively become a major basis for promoting values that result in a wide range of abuses.

In part two of the Charter a commission and an African Court on Human Rights were provided to operate as an individual complaint mechanism. However, the access to the two structures by children is doubtful because it is already difficult for the adults.

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<sup>39</sup>African [Banjul] Charter on Human and Peoples' Rights is an OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982).

<sup>40</sup>ACHPR (1981) articles 2: right to enjoyment rights and freedoms

ibid articles 3(1): right to be equal before the law

ibid articles 3(2):Right to equal protection of the law

ibid articles 8: Freedom of religion and conscience

ibid articles 9(1): Right to receive information

ibid articles 9(2): right to express and disseminate opinions

ibid articles 10: Right to free association

ibid articles 11: Right to assemble freely with others

<sup>41</sup>ibid article 17: right to education

ibid article 27, 28 and 29: duty to family, society and fellow beings.

<sup>42</sup>ibid article 13: right of every citizen to participate freely in the government of his country

ibid article 17(3) promoting important African values.

According Mutua (1998) the Commission was a “façade,<sup>43</sup> a ‘yoke that African leaders have put around our necks’.

### **2.1.5 (b) African Charter on the Rights and Welfare of the Child (1990 ACRWC)**

The ACRWC<sup>44</sup> provisions also complemented the UNCRC by responding to the sentiments, experiences and the socio-cultural and economic realities of the African setting. It is modeled along the UNCRC and the two instruments share key principles, have similar participation articles and the rationales for the right of children to participate in education decision making.

The new addition to the meaning is in article 2<sup>45</sup> which discourages customs that are inconsistent with the rights, duties and obligations. This is a major move towards setting the African child free from the cultural barriers and in line with the provisions in article 1(3)<sup>46</sup>. The charter also provided similar provisions on the primary<sup>47</sup> social<sup>48</sup> and substantive<sup>49</sup> participation rights like the UNCRC. It further emphasized the elements of duties and responsibilities of the child (article 31) to the family and community and the importance of the African culture introduced earlier.

The incorporation of duties and responsibilities of a child (article 31) to the ‘first standard meaning of common achievement’ produced the ‘final standard meaning of common achievement’ for the ‘right of children to participate’ in decision making including education. This was laced with the sentiments, experiences and the socio-cultural and economic realities of the African setting. It includes a set of rights standards: - the primary, social and substantive participation rights. It also includes the weighting values<sup>50</sup>.

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<sup>43</sup> Mutwa Ondinkalu & Chidi Anselmo: A preliminary Assessment, transnational law and contemporary problems vol. 8 p 367 (1998).

<sup>44</sup> African Charter on the Rights and Welfare of the Child-an OAU Doc. CAB/LEG/24.9/49 (1990) of November 29 1999

<sup>45</sup> ACRWC Article 2: Any custom, tradition, cultural or religious practices that are inconsistent with the rights, duties and obligations contained in the charter should, be... discouraged.

<sup>46</sup> ACRWC 1990: Article 1: the member states to recognize and undertake the necessary steps in accordance with their constitutional process and within the provision of the Charter to adopt such legislation or other measures as may be necessary to give effect to the provisions...

<sup>47</sup> ACRWC 1990: Article 17: rights to access information.

ibid Article 7: right to expression/communication.

ibid Article 9: freedom of thought, conscience and religion.

ibid Article 10: respect for child’s private life.

ibid Article 8: right of association.

ibid Article 6: right to an identity, nationality, name & family relations

ibid Article 12: right to rest, leisure, play.

ibid Article 11: participation right of the child with mental or physical disability; right to education

<sup>48</sup> ACRWC Article 31: Duties and responsibilities of the child

<sup>49</sup> ACRWC Article 4(2): right to participation.

ibid Article 4 (1): best interest of the child.

<sup>50</sup> Childhood, age, maturity, ability, competence, and the best interest of the child.

### **2.1.6 The National Human Rights Legal Framework**

The ratification<sup>51</sup> of the ICCRP, ICESPR, ACHPR, UNCRC, and ACRWC Human rights treaties meant that Uganda was obliged to implement and to uphold the rights of children to participate in decision making on all matters including education. It also meant that Uganda was accountable to the international community and her people internally for any violation, breach or failure to respect and fulfill any of the children's rights within its territory.

The adoption of the 'final standard meaning of common achievement' for children's right to participate in decision making for all nations began with the Constitution of the Republic of Uganda 1995. Under this legal framework subsequent enactments to domesticate the meaning were made. These included the Education Act Cap 127; the Children Act Chapter 59; the Local government Act Cap.243, the Penal Code Cap 120 and the Uganda Human Rights Commission (UHRC) as detailed below.

### **2.1.6 The Constitution of the Republic of Uganda 1995.**

The Constitution of the Republic of Uganda Chapter 4 provided for the human rights of all individuals in Uganda. Within the Constitution, the meaning of the children's right to participate in education decisions was adopted in the eight articles. These were article 29<sup>52</sup>, which reflected the primary participation rights for 'every body' and articles 30, 34, 36, 37, 38, 43 and 44 which provided for the social participation rights<sup>53</sup>. Only article 34 provides rights specific to children. However, it does not contain the rights of children to participate in education decisions. In particular, there are no provisions for the substantive participation rights for children. This gap is exploited by the parents'/guardians who continue to make educational decisions for their children often without their consent. Albeit, the weaknesses above, article 34 provided a legal framework for subsequent policies and laws on children rights.

### **2.1.6 The Education Act Cap 127 (1970)**

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<sup>51</sup> The ICCRP was ratified on 21 June 1995; the ICESPR was ratified on 21 January 1987; the ACHPR was ratified on 10 May 1986; the UNCRC was ratified on 17 August 1990; the ACRWC, was ratified on 17 August 1994.

<sup>52</sup> The Constitution for the Republic of Uganda 1995: Article 29: ...every individual to access information, to freedom of association and to formulation of opinions free from influence and coercion.

<sup>53</sup> Article 30: All persons have a right to education

Article 34: exclusion order.

Article 36: Search and production order.

Article 37: removal of a child under emergency protection.

Article 38: Offence to remove a child from a place of safety without authority.

Article 43: Conditions for foster care placements.

Article 44: Jurisdiction.



The Education Act Cap 127<sup>54</sup> was an outcome of article 30 of the constitution of Uganda 1995 and a replica of article 28 of the UNCRC. It was developed to guide the regulation of the education and administrative systems in schools. However, while the relevant sections 2<sup>55</sup> and 3<sup>56</sup> of the Act specified the participation rights of partners in education; the teachers and inspectors, the premises for the children's participation were not included. In this regard, the Act neither contributed nor complied with the 'final standard meaning of common achievement of the right of children to participate in education decision making. Similarly, it did not promote or protect the participation rights of children in the administration of education decisions.

### **2.1.6 The Children Act Chapter 59**

In the children Act 59, some semblance to the meaning, the promotion and protection of the children's right to participate in education decisions was reflected in three core principles<sup>57</sup>, the guidelines,<sup>58</sup> protection of the child from harmful customary practices and the provisions of a child representative<sup>59</sup> in each local council.

The participation principles compel all persons, the state, courts, and local authorities involved in decisions concerning children to consider their wishes, feelings, and the physical, emotional and educational needs, and the likely effects of any changes in the children. It is therefore arguable that in decision making other than the legal, the best interest of the child is paramount and children should participate in the processes. Thus the idea of representation of children in the local council by the secretary for Women must have been tagged to the best interest of the child.

Section 7 supports the elimination of harmful customary practices to the children's health. According to De Waal and Temba's (2000), refusing children to participate in decision making is a harmful practice. It deforms the child emotionally and mentally and

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<sup>54</sup> The Education Act Cap 127, July 17<sup>th</sup> 1970.

<sup>55</sup> *ibid*: Teachers/ head teachers to control and manage the schools.

<sup>56</sup> *ibid*: The inspectors of schools to inspect premises and control of teachers.

<sup>57</sup> *ibid*: Core principles: participation of children in decisions that affect them; the best interest of the child and survival and development of the child

<sup>58</sup> The Children Act Chapter 59: To safeguard and promote welfare of children.

The secretary of children shall be assisted by officials of the local government in exercise of her duties

Local government shall mediate in situations of child right infringement.

Power given to local government to protect property of children.

Local government to keep register of disabled children.

Assistance for the accommodation of children

Tracing of lost children.

<sup>59</sup> The children act chapter 59 section 7: protection of the child from harmful customary practices to their health.

may resort to criminality<sup>60</sup> and militarism in order for a child to express his or her views. However, this provision may be misrepresented to exclude children from taking part in the decision making process. Section 14<sup>61</sup> emphasized the legal dimension of the meaning. This means the engagement of children in conflict with the law on matters regarding the handling and the completion of their cases. In a situation of dispute requiring legal action against the parents, the principle can be invoked to protect them.

The Act does not include the exclusion of children from participation in decisions among the cases of child abuse to be reported to local governments or as a criminal charge against a parent. Most of the cases to be handled in these courts are on child neglect and physical torture or mental suffering. In this case mental torture would arise from denial to participate in decision making. The Act provides no remedy for a child if they disagree with the parent on decisions of educational matters.

#### **2.1.6 The Local Government Act Cap. 243.**

The Local government Act Cap 243, Section 8 of the third schedule provides for a decentralized frame work<sup>62</sup> to facilitate participation and the representation of all groups in the local councils. The provisions indicate that Children will also participate in the local councils through the children's representatives. This means that the children's representative i.e Secretary for children, must consult, inform the children and take action based on their views.

#### **2.1.6 The Uganda Human Rights Commission 1997 (UHRC)**

The UHRC<sup>63</sup> is an independent constitutional body established to promote and protect human rights of every body in Uganda. Its function is to empower the public by giving them basic knowledge about their rights. It is responsible for investigating violations of human rights and is an additional organ available for citizens to complement the work of the judiciary for appropriate redress where a violation is proven.

Under the UHRC the right of the children to participate in education decision making is reflected in the type of cases frequently handled by the commission. According to one of its annual report (2001), of the total 2,342<sup>64</sup> complaint cases reported<sup>65</sup>, only 55 (2.3%)

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<sup>60</sup> De Waal and Temba (2002): in Afua Twum-Danso: *Africa: a hostile environment for child participation?* 2000

<sup>61</sup> The Children Act Chapter 59: Section 14: court has jurisdiction to hear criminal charges against a parent.

<sup>62</sup> *Local government Act Cap 243, Section 8: ??????????????????*

<sup>63</sup> Uganda Human Rights Commission established under article 51(1) of the Constitution of the Republic of Uganda (1995) and by the *Uganda Human Rights Commission Act No.4 of 1997*.

<sup>64</sup> Uganda Human Rights Commission -Annual report January 2001- September 2002 p.2-3

cases were related to children's rights to participate in education matters. These were specifically the denial of school fees. It is the social participation right (right to education) that is being fulfilled and protected here.

In conclusion, from the different international and regional instruments above the 'Final standard meaning of common achievement' for the right of children to participate in decision making for all nations was formed. This means the implementation and upholding of the primary, the social and the substantive participation rights of the children in education decision making. It also means the inclusion of the weighting values operating under a legal framework backed up by wider social, cultural, economic and political policies to ensure the well being of families and children and their active participation in the family, schools and community.

While the standards (primary, social and substantive participation Rights and weighting values) for the meaning and legal frameworks were laid down, however, the conception, perception and interpretation of these standards have varied. This is due to the different traditional and cultural ideological framework under which they are operating and explains why participation holds different meanings for different groups. In essence the right of children to participate in education decision making is not a static concept that holds good for all children equally, in all places, and at all times.

## **2.2 The participation level of the right of children in education decision making.**

This section reviewed the participation level of the right of children to participate in education decision making. It looked at the scope and depth of children's engagement in initiatives, organization and institutions including the mechanisms available to enable the participation of children in decision making process. The scope and depth of children's engagement were determined by considering the decisions that have been made, consciously or unconsciously, how "freely" children can express their views and the extent of their "opportunity to be heard" using the Harts Ladder of participation and his

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<sup>65</sup> Total 771 cases reported on violation of individual participation rights to Uganda Human Rights Commission:  
307 cases of adults denied liberty rights;  
192 cases of adults denied rights to fair hearing;  
195 cases of adults denied rights to privacy;  
2 cases of adults denied rights to freedom of worship;  
16 cases of adults denied rights to fair treatment;  
55 cases of children denied rights to education  
4 cases of adults denied rights to vote

proposed ‘requirements of true participation’<sup>66</sup>. These describe the three phases of participation i.e, to speak, to participate and to have their views taken into account. These three phases describe the sequence of the enjoyment of the right to participate from a functional point of view.

### **Participation in School Planning Body**

There has been evidence to show that children generally have little say in school planning body on education matters that affect them because the adults have usurped the participation process. According to Sharon Rafferty’s study<sup>67</sup>, the children’s participation in the school planning body were non-existence while that of the parents/adults was high. She reported that;

*“As a former parent and a member of the school board, I have been informed, consulted and involved in a whole range of issues...”*

Her conclusions were that the school partnership with parents is always strong on the agenda contrary to that of children ...and “although the real consumers in the educational process are children; they appear to have little recognition”<sup>68</sup>. This exclusion of children emanates from the fact that adults have the attitude that children cannot be consulted on such matters because they are “just children”.

### **Selection of new school**

John Dolan<sup>69</sup> in his report on selection of a new school indicated that parents choose the schools for their children without considering their opinion. He observed that,

*“Immediately a child is ready to join a new school, the parent takes him or her to the nearest local school without considering the opinion of that child”*<sup>70</sup>

He contends that, the reason why parents do this is because they “have the power and resources to make the decisions<sup>71</sup> where as the children don’t have. In any case it is

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<sup>66</sup> I. The children understand the intentions of the project  
ii. They know who made the decisions concerning their involvement and why  
iii. They have a meaningful (rather than decorative) role  
iv. They volunteer for the project *after* the project was made clear to them

<sup>67</sup> Sharon Rafferty: *Giving Children A Voice - What Next?(1996)*

<sup>68</sup> *ibid.*

<sup>69</sup> John Dolan: School Choice -Telematic European Learning Materials for Inclusive Education project, 2000.

<sup>70</sup> *ibid.*

<sup>71</sup> [www.vobs.at/gassner/11/5choice.htm](http://www.vobs.at/gassner/11/5choice.htm): Who chooses which school for a particular child?

clearly stated in the human rights instruments that it is the duty of parents and the state to provide education for the children.<sup>72</sup>

### **Exercising citizenship.**

The Twum – Danso et al report (2000)<sup>73</sup> showed the extent to which children are denied opportunities to practice citizenship. In his report he showed that 50% of children below 18 years have been a wasted source of real contribution as citizens within their communities. They have not been engaged in dialogue to promote respect for them as social actors with a role to play in society and in the exercise of rights. According to Afua Twum–Danso this high percentage of children that are denied the rights to participate in decision making on matters that affect their lives is of real concern and needed mitigation.

### **Expression of grievances**

John Elemu<sup>74</sup> reported on strikes as the new found method students use to express their grievances in education decisions. He reported that a total of forty strikes, the highest ever by children in various schools took place in Uganda in 2005 alone, the worst being the incident in Nabumali High School.

De Waal and Temba (2000) condemned the strikes because they are a negative participation. Both argued that, when young people are denied the prospect of effective participation, they often turn to this type of criminality or militarism<sup>75</sup>. Flekkøy and Kaufman (1997) further warned that, ‘it is better for children to get the right experience in situations that are not dangerous’<sup>76</sup>.

### **School girl marriages**

The practice of marrying off young school girls has had negative implications for the participation of, especially the girl child. This practice has compounded the already high schoolgirl drop out rate that is every where. During the– Ndimugezi Nomukobere talk show on Central Broadcasting Service Radio Station (Uganda) it was reported that for

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<sup>72</sup> Article 26 (3) UDHR Article 28; CRC Article 11(3a); ACRWC and Article 34 (2); Constitution of the Republic of Uganda 1995.

<sup>73</sup> Afua Twum–Danso and K. Temba and A. de Waal: Africa: A hostile environment for child participation? (2000).

<sup>74</sup> John Elemu: School strikes: New Vision, January 3<sup>rd</sup>. 2005 Uganda.

<sup>75</sup> Op cit

<sup>76</sup> Flekkøy, M. G. and N.H. Kaufman (1997) The Participation Rights of the Child: Rights and Responsibilities in Family and Society. London: Jessica Kingsley Publishers.

every a hundred girls that enroll in primary schools each year, it is only 11% that complete the primary school level<sup>77</sup>.

### **Poverty**

Behind the above skewed form of girl child participation however is poverty as the driving force in the face of limited opportunities and resources. Some parents justify the giving away of their young daughters to protect them from getting ‘spoilt’. This is in effect a misinterpretation of the best interest of the child.

On this, one ABEK official said,

*‘in the villages you find that a very old man can admire a young lady of say 17 or 18 once he says I want to marry that lady the parents just give her away without her consent because the family needs the animals. At times they engage in commercial sex’.*

### **Inappropriate awareness approaches.**

This general lack of acceptability of child participation in the community is partly related to inappropriate awareness approaches to children’s right to participation which gave little attention to children responsibilities. In Uganda, the level of acceptance of children participation in the community is about 30%<sup>78</sup>. This is partly because the advocates of child participation did not properly explain the whole concept and its benefits to the community. When you mention child rights they say, ‘now the people who make our children big headed have come again’. They emphasized the children’s rights and neglected children’s obligations. It is clear from the above that for as long as children remain invisible and muted such practices will persist. The main reason for this is their subordinate position in society.

Since the World Summit for Children in 1990, it became apparent that children and young peoples’ participation was beneficial to children, their families, community, the school, development workers and the nation for democracy. There are now some interesting initiatives taking place in many European and African countries and Uganda in particular to indicate that children are being involved in decision making processes.

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<sup>77</sup> Radio CBS Talk – Ndimugezi Nomukobere @ 8a.m -10 am – 29/12/07

<sup>78</sup> Baseline survey report on status of child participation in Uganda, final draft October 2006.

### **The case for the disabled children.**

Of late, the participation situation of disabled children in their education matters is taking root. The methods of learning have become participatory through the use of gestures, the Braille system, therapeutic and special needs toys, adaptive equipment and tools. These are also used as a means of expressing their views. For a long time, the use of the multi media has been enabled through extensive examination of the participation of disabled children in activities and interventions.

However according to Robbins<sup>79</sup> there has been a wide variation in the extent to which disabled children were being involved about their care with many authorities reporting that work to consult and involve disabled children was at an early stage. Also, the focus remained on gathering views of parents even where the practice for consultation is good. The disabled children and young people particularly those with complex needs are left out<sup>80</sup> (2006).

### **The phenomenon of the HIV/AIDS**

The phenomenon of HIV and AIDS has clearly brought out cases of communities recognizing the need to engage their children and young people in the fight against HIV and AIDS in their childhood stages. Twum Danso has supported this as he noted that;

*“The devastating impact of HIV and AIDS has arguably facilitated this process. As young people are largely affected by the pandemic, the numerous awareness campaigns have led to the establishment of many children’s clubs, particularly within Schools”<sup>81</sup>.*

Research on HIV/AIDS is also becoming increasingly child-focused and children have been actively involved in research as providers and collectors of data. This means children are now being brought up to have a stake in planning and looking for strategies together with adults. It has also clearly brought out cases of children that exercise decision making responsibilities of heading families albeit at an early age. These have had to take decisions on behalf of their siblings.

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<sup>79</sup> Robbins D(2001)Transforming children services: An evaluation of Local Quality protects Program QP Year 3,London:Department of Health

<sup>80</sup> SPRU participation of disabled children and young people in decision making relating to social care 2006

<sup>81</sup>Van Beers 2002 - Pushing the Participation Agenda – Experiences from. Africa<sup>7</sup>

### **Single parenthood**

The phenomenon of single parenthood has brought out cases of children participation in decision making in education. The children who live with single parents have become independents and active individuals, with duties to perform. In some cases they are required to work to perform duties which should have been done by another parent such as making decisions on schools that they should go to and topping up the family income. Although this focus on duties makes the need for participation more crucial as one grows up, the responsibility should be in within the capacity of the child. Care must be taken to ensure that the responsibilities are not excessive under the guise of participation and that the participatory activities do not undermine other responsibilities, such as school work.

### **The non-denominational private boarding primary and secondary schools**

The busy parents usually send their children to boarding schools. This has had implications for the participation of these children in the education decision making process. Most of these parents discuss with their children which school they want to go to and how often they should visit them. This is partly due to the parents' busy schedule and the little time they have for their children. The children's actions are also influenced by their Peers. This is especially true in non-denominational schools which are liberal in their outlook.

### **Education in a foreign country for children of rich parents.**

Another interesting phenomenon which has influenced Participation of children in decision making in education matters involves rich parents who send their children to foreign countries in search of better education. Most of the children sent out to study have the opportunity to learn to exercise intricate education decisions without the influence of their parents. The environment they are staying in is such that they have the opportunity and space to speak, participate and to have their views taken into account.

### **School leadership**

The Ugandan schools have been concerned with the idea of leadership as a way of involving children in the administration of schools and at the same time preparing them for leadership thereafter. Joel Runnels<sup>82</sup> reported that in his school, prefects are chosen through prefects' election campaign and after winning the majority vote in the whole

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<sup>82</sup> Latest News: [www.kisoro.org/trust.htm](http://www.kisoro.org/trust.htm) 2006.



school (2006). This practice has given the children the opportunity to participate in the supervision of the activities in schools and learn the practice of campaigning during elections which is good and a positive initiative in education decision making.

According to Kristi S. Lekies<sup>83</sup>, “.....kids can do so much more than we give them credit for”. In his report he noted that;

*‘I guess I never had really thought about the possibility of having the kids to be at that level in the planning processes. This has enhanced the implementation of the children’s participation in decision making.*

From the above, there is evidence to show that children are beginning to enjoy the right to participate in decision making in educational matters. This is at the first phase level - ‘to speak’ and it is in terms of children engagement in initiatives at school. There are also indications that children are beginning to have opportunities to discuss educational matters in the family with parents. However their engagement in educational organizations and institutions (which represent the second and third phases) is still barred by the cultural, social, economic, political and legal challenges.

Based on Hart’s ladder of participation<sup>84</sup> and his proposed ‘requirements of true participation therefore, the overall indicative participation level of the children’s participation in decision making in their educational matters was non-participation (exclusion). This level is occasioned with intermittent initiatives of positive or meaningful participation at level five<sup>85</sup> of Harts ladder of participation. However, Harts research<sup>86</sup> revealed that the participation of children in decision-making process on most issues was not widespread and genuine. In most cases, children are used by adults to give the appearance of participation without the substance. In conclusion, true participation by young people is relatively uncommon in the world and Uganda in particular.

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<sup>83</sup> Kristi S. Lekies - Garden- Based Learning Projects’ <http://hort.cornell.edu/edu/gbl/groundwork> 2006

<sup>84</sup> Appendix A: Harts ladder of participation: Adopted from Hart, R (1992). Children’s Participation From Tokenism to Citizenship.

<sup>85</sup> Harts ladder: Consulted and informed

<sup>86</sup> Op.cit. pg 40.

### **2.3 To trace for the meaning of the “children’s right to participate” concept in education decision making and its legal promotion and protection framework.**

The third theme established the challenges faced by children in the enjoyment of their right to participate in education decision making. This was done by identifying the challenges, ascertaining their extent, the root causes and the effects on the right of children to participate in education decision making. The challenges were also weighted using the weighting value of x2 of each number of subjects that fit into each designed category.

Harts research<sup>87</sup> revealed that the participation of children in decision-making process on most issues was not widespread and genuine. This is due to a wide range of challenges which have impeded the implementation process and attenuated the children from the enjoyment of their rights to participate in education decision making.

Only ten main challenges have been discussed here. These are; the varied interpretation and meaning of children’s right to participate in decision making; the varied conceptions and perceptions of the weighting values of children’s views and decisions; the conflict between the parental rights and the rights of children to participate in decision making; the parental/adults exclusionary premises and prejudicial point of views on the right of children to participate in decision making process; disharmony between the rights to participate in decision making and the right to education; the colonial legacy; the education decisions and their financial implications; the inappropriate structures and approaches to children’s rights; poverty; the state obligations towards children and the inappropriate legal framework.

### **2.3 The varied interpretation and meaning of children’s right to participate in decision making.**

Due to different traditions and cultural ideological frameworks under which the right of children to participate in education decision making is operating, participation holds different meanings for different groups (Adams 2003). These consist of the traditions, culture, norms and values of any society or community whose related perception of children’s participation in decision making may either be positive, negative or

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<sup>87</sup> Op .cit. pg 40.

derogatory. This means that the meaning and form that the right of children to participate in decision making takes is derived from the perceptions which that particular society holds. Thus, the meaning has become contextual such that, in one society it is regarded as 'positive' and in another negative or exclusionary.

According to Michael Gose (2002), the African traditions and culture view the participation of children in terms of fulfilling duties and responsibilities of obedience, respect for parents, superiors and elders at all times...<sup>88</sup>. This means that children become indebted to the parents and work for the cohesion of the family. This duty to obey, even in cases where the parents are abusive, may result in 'a lifetime of unquestioning obedience and loyalty' in compensation<sup>89</sup>. The negativity of this form of participation is articulated by Ncube's statement that "the harder the labor the better prepared for life the child becomes in the future"<sup>90</sup>. This form of participation is not far from child labour.

According to Lansdown, (1995:22-24; Verhellen, 1997:27), Flekkoy and Kaufman, and R. Hart 1992)<sup>91</sup>, some cases of child labor are interpreted as participation and are common among countries that are economically deprived. These cases include; child prostitution, the military, street vending and the exploitation of small children in industries. According to article 32<sup>92</sup> of the UNCRC child labor is neither acceptable nor regarded as an opportunity for the child to participate and develop useful skills.

According to Afua Twim - Danso, participation in armed conflict and in any exploitative labor, due to coercion or the need for survival is negative participation. Positive participation of children on the other hand, is that which conveys principles that relate to children voluntarily engaging in a process that is meaningful. According to him, the participation of children,

*'...should be an on going process of... active involvement in decisions that affect their lives...the genuine participation that gives children the power to shape both the process and the outcome. Children's participation in this*

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<sup>88</sup> The African Charter on the Rights and Welfare of the Child: an assessment of the legal value of its substantive provisions by means of a direct comparison top the convention on the rights of the child. -Michael Gose 2002

<sup>89</sup> W. Ncube: The African Cultural Fingerprint?pg 22

<sup>90</sup> Op.cit pg 42.

<sup>91</sup> JOURNAL ISSUE 7 2003/2004 Jim Lurie 2003- IUC Journal of Social Work theory and Practice -Tension between protection and participation rights. (The opinions of Lansdown, (1995:22-24; Verhellen, 1997:27), Flekkoy and Kaufman, and R. Hart 1992)

<sup>92</sup> Article 32: The government should protect young people from work that is dangerous or might harm their health or their education.

*case involves the exercising of one's rights for the best interest of one's self*.<sup>93</sup>

This was echoed by Roger Hart when he said:

*“Children need to be involved in meaningful projects with adults. It is unrealistic to expect children to suddenly become responsible, participating adult citizens at the age of 16, 18 or 21 without prior exposure to the skills and responsibilities. An understanding of democratic participation, together with the confidence and competence to participate can only be acquired gradually through practice; it cannot be taught as an abstraction”*<sup>94</sup>.

Thus it is the lack of shared understanding and agreed definitions that have made it harder to put the concept into practice.

### **2.3 (b) The varied conceptions and perceptions of the weighting values of children, their views and decisions.**

The main weighting values of the children's right to participate are six<sup>95</sup>. They include childhood, age, maturity, ability, competency and the best interest of the child. However, different societies conceive each one of them differently. This has led to varied definitions of each weighting values and to varied meanings of the concept in the different societies.

The perception attached to the weighting values shapes the environmental outcome for participation. This may either be enabling or disabling for the right of children to participate in decision making. Childhood and maturity for example, are defined differently under the law and the traditional and cultural ideological frameworks. In societies where law takes precedent, childhood is defined according to age or the time someone has lived on earth. According to the UNCRC (1989) a child is any person below the age of 18 years unless defined earlier.

At the domestic arena, the age of criminal liability is 12 years in Uganda. However the children's statute defines the child as anybody below the age of 18 years. This means that

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<sup>93</sup> Op cit. pg 36.

<sup>94</sup> Op cit. pg 40.

<sup>95</sup> Six participation parameters: childhood, age, maturity, ability, competency and the best interest of the child, Flekkøy, M. G. and N.H. Kaufman (1997)

children between 12 and 17 years inclusive are answerable for any criminal acts they commit and thus be subjected to penalty sentences which may amount to abuse of child rights. In societies where the traditional/cultural values take precedent, the definitions of childhood and maturity attach little importance to age. On this Ncube (1998) had this to say,

*“In the African cultural context, the determination of childhood has little to do with age but with the physical capacity to perform acts that are normally reserved for adults (e.g. initiation ceremonies or marriage)”. After an individual achieves the prescribed test of maturity he or she is considered mature and qualifies to participate in decision-making processes”.*

The ‘best interest of the child’ principle is equally controversial<sup>96</sup>. It is an amorphous concept from which it is difficult to flesh out common criteria relating to questions of ‘when to serve it’ and ‘how to serve it’ during the decision making process. However, it is a useful weighting value when responding to issues of child participation with regard to whose interest it is serving.

The ‘competency debate’<sup>97</sup>(1992) complicated the legitimate use of the ‘competence value’. According to Flekkøy and Kaufman (1992), the argument on competence is legitimate only when it is not used as a rationalization for unreasonably limiting children’s participation rights. They rejected the double standards where children had to demonstrate their competence before their participation whereas the adults did not have to prove their competence.

The impact of these conceptual variations on the weighting values has been the development of controversial interpretation of the ‘rights standards’ identified under the ‘final standards of common achievement’ This has made it harder children’s participation in decision making in most of the matters that concern them to hold good for all children equally, in all places, and at all times. Thus the controversial perceptions of the weighting values currently at work are inclined towards prohibiting children from participating in the decision making process.

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<sup>96</sup> [evaluation of the best interest of the child](http://strnieriinitalia.com/briguglio/immigrazione-e-asilo/2002/apriete/rozzi-interesse-minore-en.html) by Elena, Rozzi , Save the children Italy-<http://strnieriinitalia.com/briguglio/immigrazione-e-asilo/2002/apriete/rozzi-interesse-minore-en.html>

<sup>97</sup> JOURNAL ISSUE 7 2003/2004 Jim Lurie 2003- IUC Journal of Social Work theory and Practice -Tension between protection and participation rights (The opinions of Lansdown, (1995:22-24; Verhellen, 1997:27), Flekkoy and Kaufman, and R. Hart 1992)

### 2.3 (c) Conflict between parental rights and Children's participation rights

The rights of parents or legal guardians' over children include the duty to provide care, appropriate direction and guidance in the exercise of the rights of children in a manner consistent with their evolving capacities<sup>98</sup>. The right of children to participate in decision making process includes guarantees to be heard on all matters which affect them, and to have their opinions taken seriously<sup>99</sup>

According to the study in Bergen<sup>100</sup> (Norway1995), conflict between parental and children rights to participate in decision making process arose when it came to practical application of both rights in the real world. The study shows that the children are rarely contacted on the grounds of protecting them from having to talk about difficult situations<sup>101</sup>. The parents and guardians believe that too much responsibility and too much participation can be harmful to children. The children need to be protected from participating in difficult decision-making situations or from feeling pressure to express their views on painful or controversial matters.

But Boyden <sup>102</sup> (1997) does not subscribe to this kind of thinking. For him children must be consulted. He said,

*“If children are old enough to collect fodder and fuel, look after siblings and work for waged labour they are certainly old enough to consult about decisions which affect their development”*

A distinction of the two rights becomes necessary. According to a Norwegian White Paper<sup>103</sup> (1995) for the Children's Ombudsman, the protection rights focus on child's innocence and vulnerability and the need for protection against various potential dangers. They are passive rights which are exercised by adults in the best interests of the child. The participation rights on the other hand, focus on a child as an independent and active individual, with own status in legal matters. They are active rights exercised by children acting on their own behalf with real influence in decision-making process.

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<sup>98</sup> UNCRC: Article 5: To provide, in a manner *consistent with the evolving capacities of the child*, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

<sup>99</sup> *ibid*: Article 12 States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

<sup>100</sup> Christiansen, Havnen, and Havik: Norwegian child protection setting 1998

<sup>101</sup> *Op.cit.*44.

<sup>102</sup> *quoted in Boyden 1997 p222 which book?*

<sup>103</sup> Norwegian White Paper (1995:26)

The above model places children's rights in a developmental context where different rights have different importance at different ages. Thus the younger the child, the greater the need for their protection, and the participation rights increase in importance as the child ages and matures. However in the real world the protection rights of the parent take precedent over the participation rights of the children. This is because their participation is interpreted as a state of intrusion into the jurisdiction of the family head and a threat to parental authority.

According to Lansdown (1995), it is the 'inaccurate perceptions of childhood and an exaggerated sense of children's vulnerability which often undermine their right to participate. This practice ends in a "self-confirming cycle" where, the predominance of the protective rights inhibits the development of appropriate recognition of children's real capacity for participation...'<sup>104</sup>

Tucker, (2002) on the other hand argued differently on parents' involvement in children's education. According to him, the single greatest determinant of a child's educational attainment is the parental involvement. Without this key ingredient, children simply cannot do well'<sup>105</sup>.

It has been difficult therefore for parents to appropriately balance their involvement in their children's decisions with their duty to provide care, appropriate direction and guidance on matters that affect their children.

### **2.3 (d) Parental/adults exclusionary premises and prejudicial point of views.**

The parents/adults exclusionary premises and prejudicial point of views on children's participation in decision making on all matters that affect their lives emanate from the existing society's social, cultural political and legal structures. According to Cox (1996) and Qvortrup (1994), most traditional and cultural set up relegate children to the world of the mute<sup>106</sup>. They are regarded as chattels, the property of their parents and looked down upon as 'human beings in the making', 'to be seen but not heard' and whose lack of autonomy is natural.

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<sup>104</sup> Op.cit pg 44

<sup>105</sup> [www.keepmedia.com/showItemDetails.do?item\\_id](http://www.keepmedia.com/showItemDetails.do?item_id) – Educational progress can't happen without help of children.

<sup>106</sup> Op.cit.pg 44

Similarly, E. Mabusela (2003) argued that within that set up, the forms of family relationship that exist, 'are stratified and role expectations are clearly defined'<sup>107</sup>. Thus in some communities there are structures that do not allow children to speak among adults without permission, and if they did it could bring disgrace on the parents and is therefore punishable. Due to this skewed structural set up of the society, the children's potential for participation is under-valued and ignored. In addition the children lack political and economic resources which are the sources of power.

During the 1990 World Summit for the children however, Kofi Annan opened the participation chapter for the children to participate in matters that affect them. During the summit he said:

*"...The children's presence transformed the atmosphere of the United Nations and our usually measured and diplomatic discussions; they introduced their passions, questions, fears, challenges, enthusiasm and optimism. They brought us their ideas, hopes and dreams. They gave life to the values of the convention on the rights of the child. And they contributed something only they could know: the experience of being young in the 21<sup>st</sup> century, in a time when HIV/AIDS continues to grow at a devastating rate; at a time when unprecedent wealth co-exists with extreme poverty; in a time when rights of children, while almost universally recognized are abused systematically and daily through out the world"*<sup>108</sup>.

This speech reflects the practical meaning to the three phases of participation i.e., to speak, to participate and to have the children's views taken into account. It flagged the signal to enhance the facilitation of children's enjoyment of the right to participate in decision making process on all matters that concern them. It meant that children are to be perceived not as mere recipients of knowledge, but rather as active players in the development of their nations.

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<sup>107</sup>[http://www.sahrc.org.za/approaches\\_to\\_child\\_participatio.htm](http://www.sahrc.org.za/approaches_to_child_participatio.htm) E. Mabusela: 'Approaches to Child Participation'. Accessed on 24 July 2003-

<sup>108</sup> Kofi Annan, UN Secretary General: World Summit for Children, 1990



### **2.3 Disharmony between the right of children to participate and the right to education.**

The aims of education and the system that respects the child's human dignity<sup>109</sup> were articulated by the UNCRC 1989 and emphasized by subsequent children's conventions (ACRWC). According to the Curriculum Development Workshop on Human Rights, Justice and Peace (2003, CDWHRJP), education gives children the opportunity to develop their talents and abilities to full potential in many ways: 1. gaining confidence and self-esteem; 2. developing their initiative and creativity; 3. gaining life skills and take informed decisions. It is at this stage that the right to education begins to mean the right to citizenship. During this process, the children's participation takes on a special dimension where they are perceived not as mere recipients of knowledge, but rather as active players in the learning process in order to achieve citizenship and all it entails<sup>110</sup>.

In practice however, there is no sync between the right to education and the right to participation in decision making. During implementation the two rights ran in opposite directions such that the methods used are mostly directive or teacher centered approaches. The education system does not facilitate the promotion of self-reliance and active participation of children which are essential conditions for learning and decision making through life.

### **2.1 (f) The Colonial bequests and participation in education**

According to Katarina Tomasevki (1999)<sup>111</sup> Uganda's education system reflects a history of affiliation to three main religions of the Catholic, Anglican and Islam. Similarly the children attend schools that are affiliated to their religion and to which their parents have connections. For example, if the nearest local primary school is affiliated to an Anglican Church but the child is a catholic, the parent will opt to take the child to a catholic school which may be far away. This is rooted in the colonial legacy which the colonialists helped to build. While religion is a determinant factor parents use in choosing schools and subjects of study for their children, it is a challenge to the right of children to participate in decision making because the parents do not solicit for the children's views about the choice of the school or subjects.

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<sup>109</sup> UNCRC: article 28: You have a right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this.

<sup>110</sup> University for Peace: Human Rights Reference Handbook; Prepared for curriculum Development Workshop on Human Rights, Justice and Peace Kampala, Uganda 1-5 December 2003, pg 18

<sup>111</sup> Katarina Tomasevki, (1999): Report submitted by Special Rapporteur On the right to education Addendum mission to Uganda 26 June-2 July 1999, ECONOMIC, SOCIAL AND CULTURAL RIGHTS-E/CN.4/2000/6/Add.1

### **2.3 (g) The education decisions and the financial implications.**

It is obvious that quality education decisions have financial implications. The low income levels of most families however cannot allow the children to freely choose schools and subjects with high financial implications. Most often the parents are obliged to choose schools and subjects that fit in with their income. In Uganda most parents have limited resources and could hardly afford to pay school fees and provide other scholastic requirements. It is therefore common for the parents to decide the schools and subjects for their children based on their financial ability regardless of children's preferences.

#### **Poverty and child participation.**

Participation in decision making assumes availability of several options that children can choose from. In the face of poverty these children have few or no options at all. The same scenario applies to parents/adults such that when a rich man approaches them for their minor daughters' hand in marriage, they don't refuse. An official with ABEK (Alternative Basic Education for Karamoja Uganda); ably remarked

*'Back in the villages you find a very old man can admire a lady of say 17 or 18 years once he says he wants to marry that girl "the parents' just give her away without her consent because the family needs the animals.*

#### **Inappropriate approaches and structures to children's rights**

The initial campaigns/awareness approaches to introduce and promote children's rights in Uganda were inappropriately applied. This was first reflected when facilitators were sent out to sensitize the communities before they were trained. Then during the community sensitization, they tended to emphasize children's rights and gave little attention to their responsibilities. This painted a bad picture in the eyes of many people particularly parents and teachers. Therefore the idea that children should participate in decision making found an already biased environment towards children's rights.

#### **The states' obligations on the right of children to participate in decision making.**

Under the terms of the UNCRC the state has the ultimate responsibility for ensuring that children's rights are implemented even if it has delegated the responsibility and the practical work to organizations at regional or local level including private schools or hospitals. The state therefore has the onus of making appropriate legal frame works and structures to facilitate the children's participation in the decision making process.

On the ground however there is little that has been done in designing the appropriate legal frameworks, approaches and structures to facilitate children's right to participate in decision making are inappropriate.

### **The inappropriate legal framework.**

The lack of a common meaning for the concept the 'right of children to participate in decision making' and the varied conceptions and perceptions of the weighting values for children decisions, due to the varied traditions and cultural ideological frameworks have partly contributed to the design of an inappropriate legal framework. This has been compounded by poverty, which limits the children's access to health care, education and housing. These two factors play to block the children's "rights to active participation". However, fighting for the children's right cannot be simply achieved through a legal framework that overlooks the economic, social, cultural and political barriers to children's involvement. What is needed in this situation is an effective legal framework that has the backing of wider social and economic policies that ensure the well being of families and children.

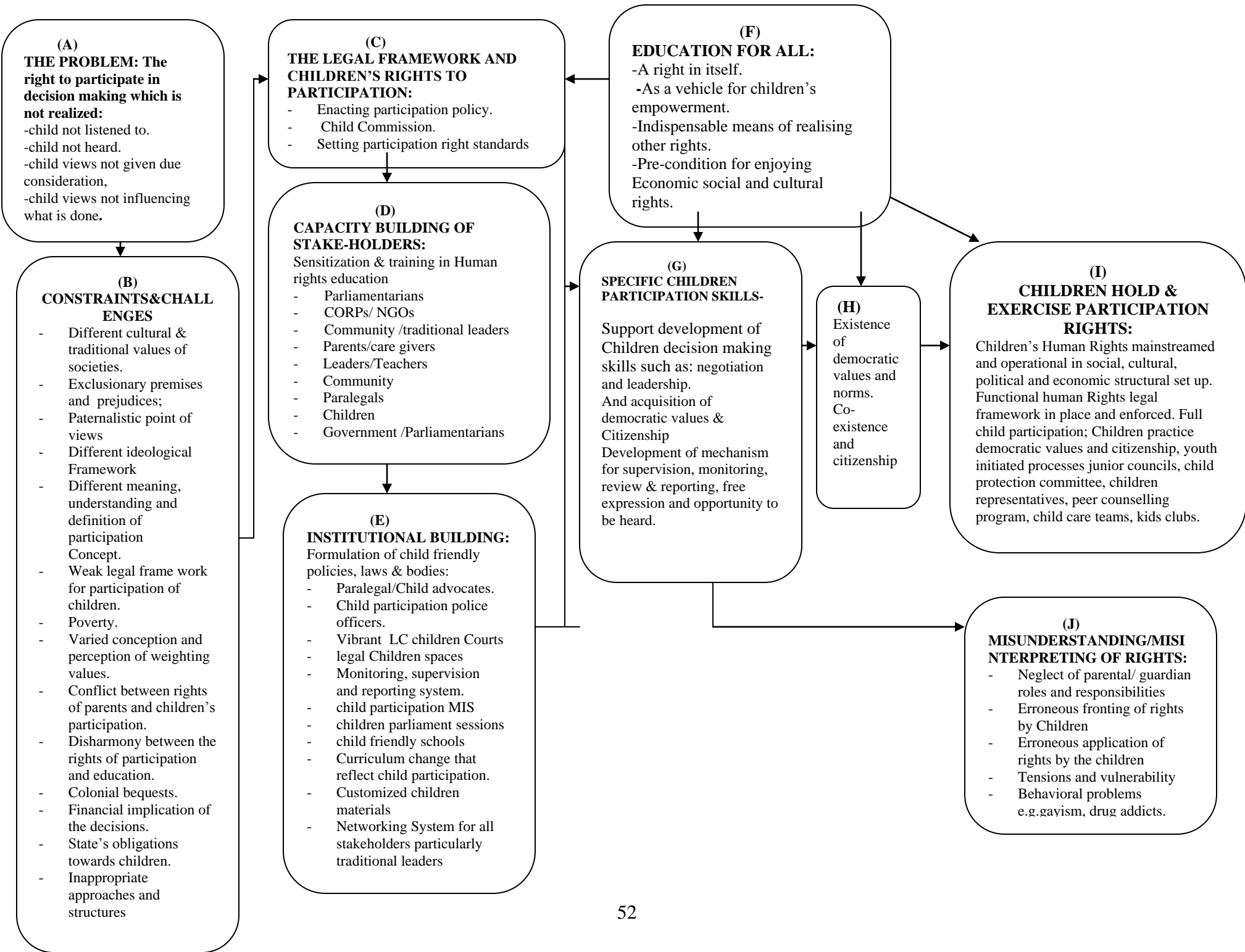
### **2.4 Conceptual framework.**

The conceptual framework includes the following variables: the dependent, the independent, the implementation, the bridging, and the constraint and latent variables.

The dependent variable is box I and represents the main aim of getting children to enjoy their right to participate in education decision making. There are four independent variables in boxes C, D, E, F and G. These represent the main strategies for fostering the aim of getting children to enjoy their right to participate in decision making. They also contain the implementation variables of specific activities to be carried out under each strategy. The bridging variable is box H, located between boxes F and I. It represents communication, the child friendly democratic values and norms translated into positive practices of co-existence and citizenship.

The constraint variables are boxes A & B, which impact as challenges to children's enjoyment of their right to participate in decision making on matters that affect them including education. Until they are eliminated the aim in box I cannot be attained. The latent variable is box J that reflects the possible negative effects of children's

participation. These include misunderstandings and misinterpretations of rights, children vulnerability, tensions, behavioral problems, discrimination, and derision, physical safety and emotional wellbeing. Care will be taken during implementation to address these issues which may lead to latent variables.



**A: The problem:**

The conceptual framework commences with the identification of the problem in box (A) which is the failure of getting children to enjoy their right to participate in education decision making. It is the right that is not realized. This problem is a constraint variable which reflects the existing situation caused by the constraints in box B. These constraints impact as challenges on the right of children to enjoy participation in education decision making on educational matters

**B: Constraints to participation in decision making:**

Box (B) represents the constraining variables to the realization of having children to enjoy their right to participate in education decision making. These include: different cultural and traditional values of societies, exclusionary premises and prejudices; paternalistic point of views; varied meaning, understanding and definition of participation concept; different tradition and cultural ideological framework; weak legal frame work for facilitating participation of children in decision making; poverty; varied conception and perception of weighting values; conflict between rights of parents and the children's right to participation; disharmony between the rights of participation and education; colonial legacy; financial implication of the decisions; State's obligations towards children and inappropriate approaches and structures. These challenge the children's right to participate in decision making on educational matters.

**C: Legal and Policy framework.**

Box (C) represents the independent variable. It is the precursor for providing the enabling environment for the relevant interventions to realize the aim of getting children to enjoy their right to participate in education decision making in Box I. The child Commission is a legal organ to facilitate clear conceptualization, perception and implementation and monitoring of the right of children to participate in education decision making. It is also responsible for articulating strategies for operationalising and mainstreaming the participation right of children in all development sectors and with special emphasis on education sector. The legal formulation of the strategies in boxes D, E, and F is conceptualized by the Commission.

#### **D: Capacity building Interventions**

Box D represents an independent variable of capacity building strategy for education and awareness creation on Human rights education including children rights for all stakeholders to address the constraints in (B). This would involve the definition of approaches and development of strategies and content for creating awareness, first to people who go the community, second, to the communities, specifically the traditional leaders and lastly the children. The community facilitators will include; the parliamentarians' paralegals and community resource persons and NGOs to facilitate the grass root implementation. The community members will include; the parents, guardians, local and religious leaders, the school authorities, and children. The purpose is to eliminate the traditional and exclusionary premises and paternalistic points of view these adults hold against children's participation in decision making.

Strategy D maps out the implementation variables. These are activities delineated for implementation to eliminate the challenges that hinder children from participating in decision making process. The following activities are carried out: the assessment and analysis of stakeholders' knowledge and practices in Human rights promotion and protection to identify the gaps and the sensitization and training of stake holders in Human rights education based on the gaps identified. This establishes the awareness and knowledge base and prepares the stakeholders including children to embark on establishing and implementation of institutional building strategy.

#### **E: Institutional building interventions:**

Box (E) represents an independent variable of institutional building strategy which synergizes with the capacity building initiatives in box D and policy enactments in box C. It involves setting up systems, structures and creation of an enabling environment (existence of participation bases) in which children freely speak, participate and to have their views taken into account.

Strategy (E) also maps out the implementation variables. These are activities delineated to create the appropriate legal, political, social, cultural and economic environment to foster the right of children to participate in all matters including education decision making. The

activities carried out include: the formulation of child friendly policies, laws, bodies/spaces, paralegal and child advocates support system, strengthened local council courts and mechanisms for monitoring, supervision and reporting to parliament and networking with all stakeholders particularly traditional leaders.

It is of paramount importance to work closely with traditional leaders. This will ensure that they are well-informed and supportive of child participation efforts, as their support is critical to community-buy-in. It is necessary to discuss societal values that suppress children's voices, and to engage them in community meetings to talk about what child participation is going to look like in community structures.

**F: The right to Education.**

Box F represents an independent variable for empowering the children with knowledge, skills, and the attainment of values which are necessary for children to participate in decision making. It is a right in itself and is an indispensable means of realizing other rights. The right to education is also a pre-condition for enjoying many economic, social and cultural rights and a vehicle for empowerment and vital for safe guarding children from exploitation. The main activities will include; school curriculum changes and include child participation guides, customizing children materials, school assemblies, school speech/open day's prayer gatherings, cultural and youth and parents/child counselling sessions, workshops/ conferences, and the use of child to child approach.

**G: Specific children's participation skills, Values and norms.**

Box (G) represents an independent variable for special skills to enable children participate in decision making process in matters affecting their lives including education. The skills acquired include negotiation and leadership, self-esteem, a sense of self worth, assertiveness, and confidence they help children at risk to recognize danger signs and, as much as possible to take preventive action.

Under strategy G the child commission involves children in the supervision, monitoring, and reporting on the participation process.



### **H: Existence of Democratic Co-existence and Citizenship**

Box (H) represents a bridging variable. It is located between the independent variables G, E, and F and the goal I. It contains the values and norms for democratic co-existence and citizenship for both the children and adults. These sustain the participation process in decision making for children in their educational matters. There is a total paradigm shift, and change of adult's mindset such that they begin to question the relevance and appropriateness of the cherished traditionally held beliefs.

### **I: Children hold and practice rights to participation in decision making in education**

Box (I) represents the dependent variable which reflects the goal where children hold and practice their right to participation in all matters that affect them including education. The participation bases are all in place and the participation norms and values are fully mainstreamed and entrenched in the social, cultural, political and economic fibers of the society. The relevant fora for advocating and for enjoyment of right to participate in education decision making are in place. These include; youth initiated processes, junior councils, child protection committee, children representatives, peer counselling program, child care teams and kids clubs among others. The children are speaking, participating and their views are being taken into account.

### **J: Unintended - misunderstanding and misinterpretation of rights:**

Box (J) is the unintended or latent variable. It represents the unintended but negative factors which may arise from the interventions. They may include the parents misunderstanding of children's participation rights and negligence of their responsibilities and duties of protecting and providing for their children. Similarly the children may misinterpret the implications of their rights and instead disregard the advice their parents and guardians make in their best interest. It is recommended that during implementation care is taken to safeguard against the unintended out come.

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.0 Introduction**

This chapter outlines the methodology used in research design, population and sample selection in the area. It also gives data collection techniques including the questionnaire, in-depth interviews and focus group discussions for primary data. A desk review of human rights instruments, Internet surfing, magazines, newspapers, reports and publications, public records, statistics, census reports, text books and journals were used for secondary sources of data.

The research survey was carried out using social survey tools, and the analysis was made using the Statistical Package for Social Scientists (SPSS) to provide the descriptive statistics presented in the tables. The chi-square test is used to test the hypotheses from which conclusions were made. The problems encountered during the study are highlighted below.

#### **3.1 Research Design**

The research design was based on a sample which was selected using the random method. This study used a survey design with both qualitative and quantitative methodologies of data collection. Quantitative methods led to empirical data collected through quantifying certain phenomena that were related to the objectives such as the number of children who participated in decision making against those who did not. Qualitative methods were used to obtain data through in-depth interviews, focus group discussions and structured questionnaires. Examples include: - the degree of children's participation, reasons for involving them and the problems associated with participation.

#### **3.2 Study area and target population**

The area of study was secondary and primary schools in Mukono district. Mukono district is located 20 km east of Kampala. It comprises of four counties of Buikwe, Buvuma islands, Mukono and Nakifuma. It is situated along the Kampala-Jinja highway that links Uganda to its eastern neighbour, Kenya.

Mukono District has an estimated population of over 800,000 people, according to 2002 housing and population census results. Most of the residents are traders, small-scale entrepreneurs, employees of the public service and Non Governmental Organizations (NGOs). The district is a cosmopolitan with diverse cultures with several secondary and primary schools. It was therefore deemed suitable for the study.

### 3.3 Sample size and selection

This study covers 176 respondents selected from six schools and four local communities in Mukono district. Using random sampling, a cluster in each school was selected proportionate to the location of the county. The schools included; three primary schools (Nsanja, Joy, and Abate primary schools) and three secondary schools (Ntinda View College, Mpoma secondary school and Mukono Town Academy). This selection was intended to explore the urban and rural perspectives on the right of children to participate in education decision making in order to get a balanced view.

In the selected schools, 25 students were chosen using simple random sampling from class lists making a total of 150 respondents for the structured interviews. The head teachers from each school were selected as key informants for interviews, while the parents and local leaders were chosen for focus group discussions. Table 3.1 shows a summary of respondents who participated in the study.

**Table 3.1: Category and number of respondents who participated in the study**

Category of respondent	Number of respondents
Parents	20 (15 women & 5 men)
Head teachers	6 (4 women 2 men)
Students/Pupils	150 (113 girls and 37 boys)
<b>Total</b>	<b>176</b>

*Source: Researcher's sampling scheme*

### 3.4 Data collection techniques

Both primary and secondary data were collected to form both the qualitative and quantitative aspects.

### **3.4.1 Primary data**

The primary data was collected using three major data collection techniques which were; structured questionnaires, in depth interviews and Focus Group Discussions (FGDs).

#### **3.4.1(i) Structured Questionnaires**

The interview method was aided by use of questionnaires (See: Appendix B), which were administered to the 150 students/pupils. The questions were both closed and open-ended questions. These were intended to capture issues such as; the extent to which parents give children freedom to choose schools, reasons for not involving children in decision making, as well as the challenges they face in an effort to enjoy their right to participate in decision making generally and in education matters in particular.

In the questionnaires and research guides, care was taken to exclude specific questions on policies and laws. This was due to lack of capacity to handle legal issues by the respondents and the researcher.

#### **3.4.1 (ii) In-depth Interviews**

Interview guides were designed and administered to the head teachers of the selected primary and secondary schools in Mukono district. These were intended to get additional comparative data from the questionnaires. This tool was administered to the key informants because they directly interact with students/pupils in choosing schools for the next level.

#### **3.4.1 (iii) Focus Group Discussions (FGDs)**

Parents and community leaders were mobilized for group discussions through local councilors. Five FGDs were conducted to compare with the data generated from the questionnaires. These were; Kakira, Kisowera, Kojja, Lugazi and Mukono town groups. The FGDs were a complement of 4 - 6 people. The researcher in consultation with the supervisor used a Focus Group Discussion guide. The principal researcher moderated the discussions and recorded the deliberations. The FGDs helped to generate data about the extent to which parents influence children's career, choice of schools and subjects.

### 3.4.2 Secondary Sources

The main sources of secondary data included the following: - internet surfing, magazines, newspapers, reports and publications, public records, census reports, textbooks and human rights instruments. The information from the above sources was used to enrich the primary data.

### 3.5 Data Analysis

Data collected was analyzed using a computerized programme of Statistical Package for Social Scientists (SPSS). Further analysis was done on variables like the degree and the level of children's participation in decision making. The weighting of the challenges was done qualitatively using distinctive terms "paramount" and "primary" to qualify the extent of the challenges. The Chi-square was used for testing of hypotheses while the descriptive approach was used for qualitative forms of data. Data analyzed was presented using tables and other appropriate statistical diagrams as well as photographs. Quotations relevant to the study subject were incorporated verbatim to depict the raw ideas in their original form.

### 3.6 Validity and reliability of instruments.

The reliability of the questionnaire was established by conducting a pilot study of 20 respondents in selected schools. This was done to validate some of the questions that were used in the questionnaire and afterwards they were amended in the main study. The reliability of the instruments was done in order to measure the proportion of the variability in the responses to the survey as a result of differences in the respondents. This was done using Cronbach's Alpha formulae below:

$$\alpha = \frac{k \text{Cov/Var}}{1 + (k - 1) \text{Cov/Var}}$$

Where:

- K** is the number of items on the survey
- Cov** is the average inter - item correlation
- Var** is the average item variance

Using SPSS software, it was revealed that Alpha ( $\alpha$ ) = 0.5105 meaning that the variables that were taken to measure the challenges facing the rights of children to participate in decision making were well correlated and therefore suitable to fit the purpose.

### **3.7 Problems encountered**

A number of problems were encountered, first, the study was dealing with a contentious issue and the teachers viewed the researcher as a person instigating rebellious tendencies in children and hence her intentions were doubted. They also feared that the findings might be used to tarnish the image of the schools that gave negative responses. This was reflected by resistance in two schools, Kojja Senior Secondary School and Ntenjeru primary where the researcher was initially denied access to respondents. Furthermore, the parents were hostile to the idea of child participation in general citing bad influence from peer pressure, disrespect and disobedience. The researcher however, implored to the participants and received cooperation from respondents in Mpoma, Lugazi, Ntinda View College, Joy, Nsanja Primary School and Mukono Town Academy.

Secondly, the study involved children of various ages, (ranging from 08 years to 18 years) of both sexes and varied cultures and backgrounds. The respondents were hesitant and shy to open-up in the beginning. This was especially evident with the orphans in Joy primary school. The researcher therefore employed pro gender data and peer friendly collection techniques. For example, boys and girls were made to sit separately which made respondents comfortable. In Lugazi, prefects and non-prefects were interviewed separately.

Finally, it was hard to contact some targeted respondents because they were engaged in other commitments to meet the socio-economic needs. Therefore, the researcher had to make several visits.

## CHAPTER FOUR

### FINDINGS AND INTERPRETATION

#### 4.0 Introduction

This chapter presents the research findings and interpretation of the study. It is guided by a set of objectives of the study.

The questionnaires and FGD interview guides focused on the implementation of the right of children to participate in choosing schools, subjects of study, career and in design and enforcement of rules at school. The literature review conceptualized the ‘final standard meaning of common achievement’ of the right of children to participate in education decision making, its legal framework, the three participation bases and the phases describing the sequence of the enjoyment of the right to participate in decision making.

#### 4.1 Background and characteristics of respondents

The data on socio-economic characteristics of the respondents was presented in order to give a status of the study respondents. These characteristics included the structure of respondents in terms of gender, age and type of school. Table 4.1 presents the percentage distribution of respondents by nature.

##### 4.1.1 Type of respondents in the study

Respondents for structured questionnaires were selected from both primary and secondary schools shown in table 4.1 below:

**Table 4.1: Type of respondents in the survey**

Type	Frequency	Percentage (%)
Secondary School Students	100	66.7
Primary School Pupils	50	33.3
<b>Total</b>	<b>150</b>	<b>100.0</b>

*Source: Field research findings*

According to table (4.1), 66.7% of the respondents interviewed were secondary school students while 33.3% were primary school pupils. The majority of respondents were secondary school students. The objective was to bring out age, capacity, competence and understanding of questions.

#### 4.1.2 Gender composition

Table (4.2) reveals the gender composition. 76.7% of the respondents interviewed were females while 23.3% were males. There were more females than males because the number of females in the schools and the villages was bigger.

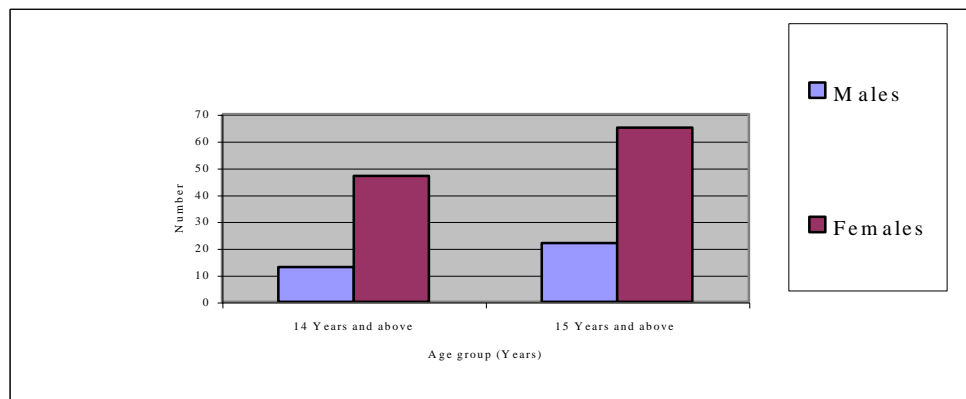
**Table 4.2: Gender distribution of respondents**

Sex	Frequency	Percentage (%)
Female/girls	115	76.7
Male/Boys	35	23.3
<b>Total</b>	<b>150</b>	<b>100.0</b>

*Source: Field research findings*

Although the respondents were selected with a target of one to one, the overall gender ratio of females to males was three to one. The ratio in schools is represented in Figure 2 below.

**Figure 2: Gender consideration of respondents by age group.**



*Source: Data derived from the research findings.*



The study findings revealed that the ratio of females to males interviewed was high. The above ratio was attributed to the population characteristics in schools, for instance, in Mukono Town Academy, in a class of senior three students there were only 18 boys out of a total of 57 students.

**Age distribution of respondents:**

**Table 4.3: Age distribution of respondents**

<b>Age group</b>	<b>Frequency</b>	<b>Percentage (%)</b>
15 Years and above	87	58
14 Years & below	60	40
Non response	3	2.0
<b>Total</b>	<b>150</b>	<b>100.0</b>

*Source: Field research findings*

In reference to age, the respondents reflected a representation of 58% of 15 years and above and 40% of the category of children below 14 years as shown in figure 2 above.

**4.2 To trace for the meaning of the “children’s right to participate” concept in education decision making and its legal promotion and protection framework.**

The information below represented the findings on the first objective of the study. The findings were from the desk review of selected Human rights instruments and complemented the field findings. The instruments included the UDHR 1948; ICCPR 1966; ICESCR 1976 and the UNCRC 1989 at the international level; the ACHPR 1981 and ACRWC 1990 at the regional level and the Constitution of the Republic of Uganda 1995; the Education Act Cap 127; the Children Act Chapter 59; the Local Government Act Cap 243; the Penal Code Cap 120 and the Uganda Human Rights Commission (UHRC) at the national or local level.

It was revealed that the UNCRC and ACRWC provided the ‘final standard meaning of common achievement’ for the concept and its corresponding mandate to promote and protect it. Both aspects are imbedded in the same articles. Standard meaning contained three categories of children’s participation rights. These were the **primary, social and the**

substantive participation rights in the following articles: 7, 8, 12, 13, 14, 15, 16, 17, 18, 23, 28, 29, and 31(UNCRC) and 31(ACRWC). Also included are the weighting values namely childhood, age, maturity, ability, competence and the best interest of the child.

The review findings indicated that the rights of children to participate in their decisions begin to function only when the participation bases<sup>112</sup> have been established and are working. These form the enabling environment to support the three-phase participation process and sequence of the enjoyment of the right to participate in decision making. These are to speak, participate, and to have the children's views taken into account.

It was revealed that there was little growth in the participation bases in the field. The little growth was in the awareness and knowledge base. The growth of both the institutional building base and acquisition and application of negotiation and decision making skills base was not insignificant. Based on findings from three specific areas presented below, it was revealed that the children had a high awareness and knowledge base:

#### **4.2 (i) Knowledge of respondents on the process of decision-making.**

The findings on respondents' knowledge about the process of decision-making revealed that children had adequate knowledge of the process of decision making on education matters (70.7%, in Table 4.6). They mentioned methods such as; "discussions and consultation" which are steps through which decisions are arrived at to confirm this finding.

#### **4.2 (ii) Knowledge of respondents on the right 'to choose a school.**

The findings revealed that, children had a relatively good knowledge on the right to select schools of their choice (66.7%, Table 4.4). The children were in agreement that they knew that they had a right to 'participate' in this exercise. The 33% of respondents however, indicated that they don't practice the right, because it belonged to their parents. They reported that their parents had the right over them and therefore were responsible for making decisions on their behalf.

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<sup>112</sup> 1. awareness and knowledge base  
2. institutional building and access to services base,  
3. Acquisition and application of negotiation and decision making skills.

**Table 4.4 Choice of schools**

Response	Frequency	Percentage (%)
Yes	100	66.7
No	50	33.3
<b>Total</b>	<b>150</b>	<b>100.0</b>

*Source: Data interpreted from the research findings.*

#### 4.2 (iii) The level of awareness based on education level

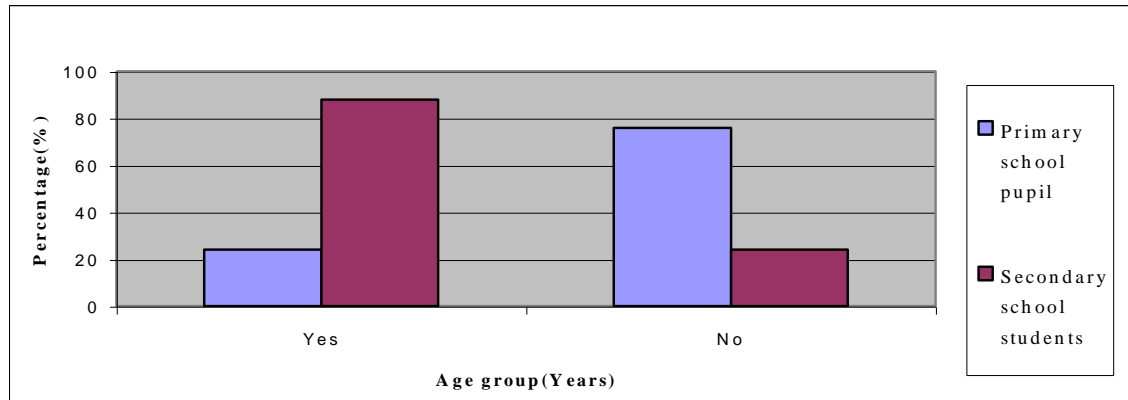
The findings revealed that there was a higher degree of awareness among children in secondary schools (88%, Table 4.5 and figure 4) on their rights to choose schools of their choice than with children in the primary schools (24%, Table 4.5 and figure 4). A high percentage of the primary school children did not know that they had a right to participate in selecting schools of their choice (76%, Table 4.5 and figure 4). This was also confirmed by responses of children in Nsanja primary school whose parents decided for them which schools to join. The awareness of children in secondary schools was high because of the access to information and interactive initiatives on children rights among others.

**Table 4.5: Awareness of rights by children to choose own schools by level of education**

Level of education	Do you think you have a right to participate in the choice of schools you want to join?		
	Yes	No	Total
Secondary School Students	88 (88.0%)	12 (12.0%)	<b>100</b> <b>(66.7%)</b>
Primary School Pupils	12 (24.0%)	38 (76.0%)	<b>50</b> <b>(33.3%)</b>
<b>Total</b>	<b>100</b>	<b>50</b>	<b>150</b>

*Source: Field research findings*

**Figure 4: Comparisons of children’s rights by level of education**



**Source:** *Data from research findings*

Further findings on the awareness levels indicated that the awareness and knowledge base for adults on children’s right to participate in decision making in education was low. This was discerned from responses of all three FGDs of Kisowera (Obukkadde Magezi), Kakira and Kojja. At home it was revealed that there was heavy handedness of parents over children education decisions.

#### **Adults’ awareness on Human rights**

The findings from the FGD indicated that they knew of rights that promote values in people to respect others as human beings. Further more, they indicated that some of these rights such as; right to life, shelter, clothing, health and education were intrinsic in our traditional cultures. Despite the positive stance, the general acceptance of children’s rights especially the rights to participation was guardedly negative.

Further findings indicated that the conception and interpretation of both the rights standards and the weighting values in the standard meaning were varied and were shaped by social, cultural, economical, political and legal environment under which they were operating. This makes the standard meaning to vary from group to group and children participation to mean different things to different groups.

The UN convention sought to set an agenda on children’s rights, it provided no robust mechanism to ensure these rights were implemented or upheld by the national governments. In the field, it was revealed that the Uganda policies and laws on children’s

rights are limited in scope and depth and are not backed up by wider social and economic policies that ensure the wellbeing of families. These limitations have impeded the provision, promotion and protection of a full spectrum of the participation rights in the standard meaning.

The social participation rights (the right to education) as opposed to primary and substantive participation rights were distinctively implemented and upheld by the government. The Universal Primary Education Program 1997 (UPE) provided the right to education (for the primary pupils. The Universal Secondary Education program 2006 (USE) provided the right of education for the secondary students'. It was revealed that both programmes have inadequate facilitation i.e. participation institutions and opportunities for primary and substantive participation rights, to build a vibrant enabling environment (participation bases) for children to 'express their views freely', (speak) to be heard' (participate) and to have their views given 'due weight' (views taken into account).

Finally the standard meaning of the concept the 'right of children to participate' in education decision making was delineated from selected Human rights instruments and with it, its inherent weaknesses. The full spectrum of the participation rights are contained in the 'final standard meaning of common achievement' for all peoples and nations to implement and to uphold. The legal frame work for its promotion and protection and the corresponding participation bases are also weak.

#### **4.3.0 Level of Children participation in education decision-making**

The information below represents the findings on the second objective of the study. It examined the level (scope and depth) of the respondent's practices and involvement in the decision making process on education matters in the following specific areas of study.

##### **4.3.1 Choice of schools.**

The summary results in Table 4.6 were children's responses to the question; "*Did your parent consult you before bringing you to this school?*"

**Table 4.6: Interpretation by level of education**

Level of education	Did your parents/guardians seek your opinion before bringing you to this school?		
	Yes	No	Total
Secondary school students	68 (70.1%)	29 (29.9%)	97
Primary school pupils	36 (72.0%)	14 (28.0%)	50
<b>Total</b>	<b>104 (70.7%)</b>	<b>43 (29.3%)</b>	<b>147</b>

*Source: Field research findings*

The study revealed that, the majority of children (70.1%) were consulted by their parents on the choice of school. Parents' consultations were slightly more with the primary school children (72. %) than with the secondary school children (70.1%). This level of participation is positive and at rang five of Harts ladder where the children "are being consulted and informed"<sup>113</sup>.

The evidence from FGDs indicated however that a majority of parents influenced the selection of schools for their children from advice of friends and their experiences of studying in the same schools or their fore fathers. This is a legacy from the colonial era. These parents admitted that they did not find it vital to involve their children in education decision making process (**Figure 5: Kisowera FGD**).

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<sup>113</sup> Appendix A: Harts ladder of participation.

**Figure 5: Parents of Kisowera in FGDs about child rights to participation**



*Source: Photograph taken during FGD at Kisowera with parents*

Through the FGDs, parents indicated that the whole idea of children’s participation in decision-making was an interference with the natural course, where parents have been bringing up their children. A cross- section of them argued that they invested time to search for good schools for their children. One of the parents from Kakira FGD said:

*“As parents, we like our children more than you. You should only help us in disciplining and facilitating them to learn. The problem with you (policy makers) is that when one person in the village refuses to give her/his children food you generalize that parents in Mukono deny their young ones food. If I produced the kid and took care of that kid how can I deny that kid food when it is grown up? It is you (policy makers) that make them disobedient”*

#### **4.3.2 Choice of subjects.**

During the Kisowera FGD it was revealed that participation in choosing subjects of study as a right in education matters was not properly appreciated. The children said it was practically impossible for them to choose their own subjects of study either in primary or in secondary school levels because the major subjects of study were provided for by a government policy. The children also revealed that even at the advanced level of education,

teachers and parents continued to decide for them the choices over their preferred subjects of study.

The parents said that they consulted teachers and relatives for guidance to choose subjects of study for their children when need arose. According to them, it was in the interest of parents and ultimately the government for children to succeed in life. Also the Lugazi FGD, the majority of the parents revealed that teachers' decisions take centre stage in education decision-making which left no opportunity for the children to express their views on the subjects of their choice.

#### 4.3.2 Provision of opportunities for participation.

In the Kisowera FGD the findings indicated that in most matters, the parents denied children the opportunities to participate in decision making. This stance was based on the old adage that "*Obukkadde Magezi*", which means that decision-making, was directly proportional to age. This argument was complemented by two responses from Kakira and Kojja FGDs. The respondent in Kakira said;

*"Children do not take part in paying school fees, let the owner of the money decide".*

The Kojja parent added;

*"If the state wants to implement such things like, letting children decide for themselves, then it should take them from us, otherwise, under my roof my law operates".*

#### 4.3.4 Children's participation in making school rules and regulations.

The results in Table 4.7 were children's responses to the question; "*Did the school authorities seek your views in making school rules and regulations?*" Their responses to this question are given in the table below.

**Table 4.7: Responses on school rules and regulations for ages < 14 and > 15 years.**

<b>Response</b>	<b>Frequency</b>	<b>Percentage (%)</b>
No	103	68.7



Yes	45	30
Non responses	2	1.3
<b>Total</b>	<b>150</b>	<b>100</b>

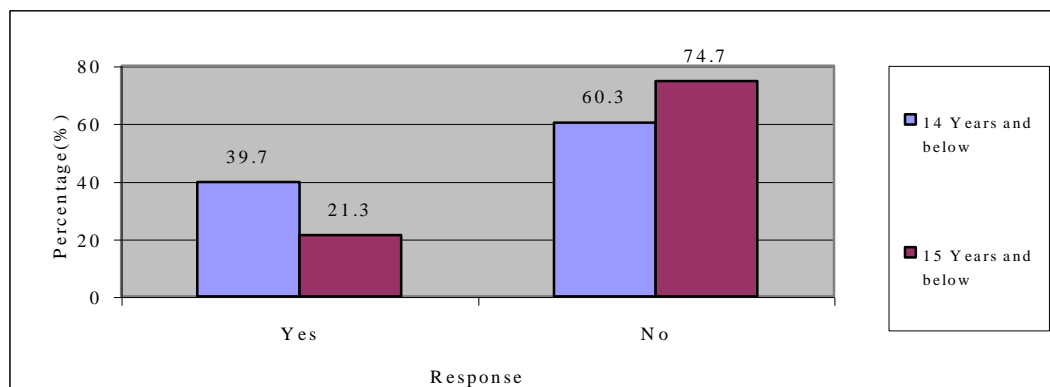
*Source: Field research findings*

The study revealed that the majority of children (68.7%, Table 4.7) were not consulted in making school rules and regulations. However, most of the children interviewed indicated that they were not interested in participating in the process of making school rules and regulations. Other children had reservations with sitting on the same table with teachers to discuss school rules and regulations. One of the boys in Abate argued:

*“Do you expect a student to respect a teacher after they have both been on the same table discussing the same law?”*

According to the children in Mpoma secondary school, some of the school rules and regulations are cultural such as children not speaking up to elders. However, from the participation rights point of view such beliefs were an impediment to children’s participation.

**Figure 6: Responses on school rules and regulations below 14 and above 15 years.**



*Source: Data from research findings*

The graph above indicated that in general children of all ages were not really consulted, (14 years and below (60.3%) and (15 years and above (74.7%) compared to those who were consulted 39.7% and 21.3% respectively probably due to the legal antinodes that surrounds it.

A teacher at Abate primary school argued that, to involve children every year is time wasting and therefore they introduced a system where students fit in or else leave the school. However, a head teacher of Ntinda view School reported that, they had put in place a method that allowed students to participate in making school rules and regulations in a democratic way.

Another finding was that some teachers welcomed the idea of having the children’s participation in decisions that affect their education. For example; the teachers at Joy primary school indicated that they supported the idea of children taking part in their education decisions when she said:

*“That is all what we train them for. The only problem is that children want to carry forward the methods employed at home to school, otherwise when they are here they have no option but to participate in taking decisions or else they will be blamed for the mistakes there in.”*

The majority of teachers at Joy supported this argument, but noted that the decision making skills were not equidistant among all the children.

#### **4.3.5 The Strikes in schools and decision making**

The results in Table 4.8 were children’s responses to the question; *“Do you think rampant strikes in schools are due to denial of children to participate in school decision making?”*

Their responses to this question were given in the table below.

**Table 4.8: Strikes in schools and decision making**

<b>Response</b>	<b>Frequency</b>	<b>Percentage (%)</b>
Yes	102	68
No	43	28.7
Non response	5	3.3
<b>Total</b>	<b>150</b>	<b>100</b>

**Source:** *Field research findings*

The findings in the above table indicated that the majority of the children (68 %, Table 4.8) believed that when children are denied involvement in school management it results in

strikes. The same argument was confirmed by Mukono Town Academy student respondents during the brain storming sessions.

From the above, there was very little substantive evidence to indicate that the factors relevant for fostering the right of children to participate in decision making were evolving significantly. The environment for the right of children to participate in decision making was mostly disabling due to the crippling social, economic, cultural, political and legal challenges. These were the exclusionary premises and prejudicial points of view held by adults (Kisowera FGD) poverty (Kakira FGD), inappropriate approaches and structures to children's participation in schools and at home (Mpoma school), the colonial legacy (Kojja FGD), little political will and inappropriate legal framework (National instruments) among others.

However, according to the desk review findings, in Uganda and other European and African countries there are some interesting initiatives taking place to indicate a build up of adult interest to get children involved in decision making processes. This became apparent since the World Summit for Children in 1990. It was revealed that the children and young peoples' participation was beneficial to children, their families, community, the school, development workers and the nation for democracy.

#### **4.4.0 Challenges facing child participation in decision - making process.**

The information below represents the findings on the third objective of the study. It identified the challenges faced by children in the enjoyment of the right to participate in education decision making. These challenges were established from the review findings of selected human rights instruments and the field research with children, teachers and the parents.

The challenges identified include: the varied interpretation of children's right to participate in decision making; the varied conceptions and perceptions of the rights standards and the weighting values of children's decisions; Conflicts between parental rights and the right of children to participate; the parental/adults exclusionary premises and prejudicial point of views; Disharmony between the right of children to participate and the right to education.;

the colonial legacy; inappropriate approaches and structures; poverty; the disabling environment for decision making, the rigid state policy and the inappropriate legal framework.

#### **4.4.1 The varied interpretation of children's right to participate in decision making.**

The responses from the FGDs revealed that the 'standard' meaning captured on the right of children to participate in education decision making was at variance with that of Mukono district. They revealed that the parents from different societal back grounds saw children's right to participate in decision making process differently. The right of children to participate in decision making with the Kojja FGD meant that one has to become an adult first by performing acts that are normally reserved for adults, such as initiation ceremonies. To the parents, this was the main avenue to adulthood and the right to participate in decision making.

The right of children to participate in decision making with the Kakira FGD meant that only those with the resources were to participate. For example, one parent remarked that since children do not take part in paying school fees they should let the owners of the money decide.

The students from Nsanja regarded participation in decision making to be a parents' and the teachers' prerogatives without their interference. They said that as children they had to keep their part of not talking back to adults. They also thought that it was disrespectful for children to sit with teachers on the same table to discuss a law. For teachers, it meant taking decisions and responsibilities on behalf of children, which go with the common belief that they were the authority of knowledge.

#### **The parental/adults exclusionary premises and prejudicial point of views.**

The parents interviewed in the Kisowera FGD revealed that children had little capacity to make decisions on matters affecting their lives. They attributed the poor performance of children to talking in class and trying to pick arguments with their teachers. They also revealed that the family and the traditional social stratifications demanded that children do

not talk before their parents because if this happened it would bring disgrace on the parents and was punishable.

Some parents interviewed revealed their willingness to promote their children's right to participate in education decision making if this was the right course to take for children to better their well-being. In return, the parents expected their children to respect them including their decisions.

### **Conflict between parental rights and the right of children to participate.**

The responses from FGD in Lugazi indicated that there was conflict between parents' rights and the right of children to participate in decision making. One aspect the parents argued about was that of giving away their under age young daughters in marriage. The parents said that this was done in their best interest of protecting them from getting spoilt before they are sexually active. These decisions conflicted with the definition of children, their right to speak, to participate and to have their views taken into account.

### **Varied conceptions and perceptions of weighting values of children's decisions/views.**

The conceptions and perceptions of the weighting values are controversial and therefore varied. In Mukono, the findings indicated that age was the most controversial. As a place of many different tribes, whose traditional and cultural ideological frameworks were also different, the perception of age was shaped differently. The Moslem respondents in the Kojja FGD believed that a child as young as 14, 15 or 17 is a mature person for marriage. The Christian section of the group believed otherwise. For them a child was mature for marriage only if she was above 18 years. The visits to the four villages of FGDs therefore revealed that there were difficulties in harmonizing the varying conceptions and perceptions of childhood, age and best interest of the child.

### **The colonial legacy.**

The respondents in all the FGDs gave similar opinions over which schools they sent their children. Most of the parents reported that they preferred taking their children to schools where they had studied or to schools which were inclined to their faith. The children's choice of schools was not considered.

### **Disharmony between the right of children to participate and the right to education.**

The Children interviewed revealed that during their learning, teachers exerted excessive authority over them. They said that this was based on the belief that the teacher knows- it - all. They also reported that they were coerced to leave the decision making powers to teachers and parents to select for them schools, subject combination and the school rules. The children indicated that this created resentment in a lot of children because it blocked them from expressing their views on issues of school management and on student's discipline. They said this was the cause of strikes.

The findings further revealed that the state have dictated the subjects to be undertaken by students as matter of policy. The policy required a mandatory study of science subjects by all students in lower secondary schools. The children were not allowed the choice of opting out to subjects of their preference and competencies and in line with their preferred careers. One student in Mpoma School said:

*"If the government cannot get jobs for all of us why should it dictate subjects for us?"*

Another in Lugazi commented:

*"It is my future, and I have to lead it the way I want".*

### **Poverty and the financial implications of decisions**

The parents of Kisowera revealed that children had no resources to facilitate the decisions they make. They argued that, to participate in the decision-making process one has to have the financial muscles to accompany the decisions made. One respondent in Kisowera village shouted in anger that,

*"Don't you think parents will give up the financial support they have been giving the children if you make them decide on their education?"*

The children at Mpoma recognized their parents' limitation and said:

*"Our parents are still ignorant about such developments and implementing them in schools and homes will create friction between parents and their children".*

#### **4.4.4 Disabling Decision making environment**

The parents and teachers in the rural setup were reluctant to allow children to participate in education decision-making process. This was revealed by a majority of the children in Nsanja primary school. The children said they had little say when it came to taking decisions on education matters.

In the urban set-up of Mpoma and Ntinda View College schools, it was demonstrated that the children could freely express their views. Similarly, the teachers in Mukono Town Academy and Joy primary school were in favor of children's participation in decision making. One teacher in Mukono Town Academy said:

*"...Every child's development is unique. Their environment, including their social class and economic conditions, cultural norms as well as local or family conditions and expectations, influences how children grow and learn. A child's competency reflects the opportunities for participation-or the lack of them that they have had in earlier stages of life. In a negative and positive sense, each phase of childhood builds on one before."*

Further findings revealed that Child peer pressure and adolescent excitement contributed to both a disabling and enabling environment. It became disabling when children got excited and easily influenced by friends without relevant skills on decisions they made. Their focus was mainly on competing with fellow peer members and losing focus. The parents argued that when children get excited they developed feelings of social equality with parents. One parent in Kojja said,

*"When you keep consulting the children, they will think you are incapable of making independent decisions: they will start thinking that they are equal..."*

#### **4.4.3 Limited bargaining power of children.**

It was revealed by the Children of Mpoma secondary school that if they tried to express their views to parents/guardian they would spoil their chances of support from parents. This fear of losing support made them to accept all decisions including those in education. They said that constraints in resources hindered them from bargaining with their parents.

### **Inappropriate approaches and structures.**

The responses from almost all three FGDs revealed that children's right to participate in decision making was not a bad idea but the way it was promoted. One of the aspects of confusion was on corporal punishment. The parents were given orders not to apply corporal punishment to discipline children. The parents claimed this was the only effective method known to them of disciplining children. Another aspect of confusion was the promotion of children's rights without correlating them with their duties and responsibilities. It is from here that most misunderstandings arose. One parent at Kojja gave an example that if a child did not spend the night at home it became his or her right to do so and the parent should not question, to him that was impossible.

### **The inappropriate legal framework.**

The findings from Kojja brought out a case of inappropriate laws and policies where one LC 1 gave an example of one 17 year old boy who was taken to police for impregnating a girl. Despite being a child, the boy was sentenced as an adult. In this FGD, the moment the child rights were mentioned one parent remarked that once again the people who made their children big headed had come again. This indicated also that the community did not understand what is meant by the right of the children to participate in decision making process.

In conclusion, the challenges faced by children in the enjoyment of their right to participate in decision making in education matters process are formidable and needed a paradigm shift of adults mindset and to begin questioning the relevance and appropriateness of the cherished traditionally held beliefs, but which bar the resourceful ideas of children in decisions that are made. Children have to be appreciated as individuals in their own rights and as active players in decisions that contribute to their well being.



## CHAPTER FIVE

### ANALYSIS AND DISCUSSION

#### 5.0 Introduction

This chapter presents the analysis and discussion of the findings of the study in relation to the three objectives of the study. This was meant to bring out the challenges that truncated the process of getting children to speak, to participate and to have their views taken into account. In other words the children's enjoyment of the right to participate in education decision making.

#### 5.1 Discussion of results

**To trace for the meaning of the 'right of children to participate' concept in education decision making and its legal promotion and protection framework.**

The UNCRC and ACHPR provided the final spectrum of the meaning of the concept 'the right of children to participate' in education decision making and its promotion and protection legal framework. These are contained in the "Final standard meaning of common achievement" for all peoples and Nation.

The "final and standard meaning is consisted of three categories of participation rights: - the primary<sup>114</sup>, the social<sup>115</sup> and the substantive<sup>116</sup> participation rights. It also included the weighting values that give weight to the decisions/views the children made. These are childhood, age, maturity, ability, competence, and the best interest of the child.

The finding that these rights of children to participate in decision making begin to function only when there were participation bases was a significant one. The three categories of

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<sup>114</sup>UNCRC 1989: Articles 7 & 8: right to a name, identity and family.

ibid article 13: right to get and share information

ibid article 14: right to think and believe what you want and practice religion

ibid article 15: right to freedom of thought, conscience, religion, association and peaceful assembly

ibid Article 16: the right to privacy.

ibid article 17: right to reliable information

ibid article 18: Both parents share responsibility for bringing up children

<sup>115</sup>ibid article 23: care and support for disabled children

ibid article 28: right to education

ibid article 29: Education for development of child's personality and talents to the full

ibid article 31: right to relax and play and to join in activities

<sup>121</sup>ibid article 12: children must freely express their views in matters affecting them.

participation rights and the weighting values formed the implementation framework. Thus all actions relating to engaging children in initiatives, organization and institution responded to each of the rights in each category of the framework. They were these actions that formed the three participation bases namely, the awareness and knowledge base, the institutional building and access to services base and the application of negotiation and decision making skills and the decisions.

The three bases formed the enabling environment for the right of children to participate in decision making. They worked by supporting each category of rights to foster the actions in the first base drive, the implementation of the primary participation rights; the second base drove the implementation of social participation rights and the third based drove the substantive participation rights. These worked in unison to configure the three participation phases and frequency to the enjoyment of the right to participate in decision making. These are to speak, participate, and to have the children's views taken into account.

The findings reported that some growth in the participation bases was contributed by the provision of education for all at both the primary and secondary levels of education. This was the knowledge and awareness base. The report showed that there was a high knowledge and awareness base at the secondary school level; 66.7%, (Table 4.4), 88 % (Table 4.5), 70.1 % (4.6) respectively rather than at the primary school level 33 % (4.4), 24 % (4.5), 36(4.6) respectively.

This implied two things; first, that there have been deliberate efforts to promote the children's participation rights in education in secondary schools in Mukono. This was reflected in Mpoma secondary school where children reported that they had in place a method that allowed students to make school rules and regulations in a democratic way'. Secondly, the weighting values of age, maturity, competency, and ability became more practical with students in secondary schools unlike with pupils in primary schools. This confirmed the relevancy of the weighting values in facilitating and weighting the participation process and decisions in education.

An enabling environment has to have three participation bases. But Mukono schools had only one base among the children but none among the parents. This was an indication that as a first step the base was poorly rooted. Usually, the first step in building an enabling environment is the sensitization of adults about children's rights duties and responsibilities and to provide them with technical skills in order for them to effectively engage children in initiatives, organizations and institutions. The second step entails building the capacity of the young people to ensure that they are able to participate meaningfully in finding solutions to problems affecting them and their wider communities.

While it is prudent to say that the UNCRC (1989) and the ACRWC (1990) provided the 'final and standard meaning of the concept, each of the following selected human rights instruments made significant additions to it. These were the UDHR (1948); ICCPR (1966); ICESCR (1976) UNCRC (1989); ACHPR (1981); ACRWC (1990); the Constitution of the Republic of Uganda (1995); the Education Act Cap 127; the Children Act Chapter 59; the Penal Code Cap 120 and the Uganda Human Rights Commission (UHRC). These played to give the final standard meaning of achievement.

The finding that the conception and interpretation of both the rights standards and the weighting values were varied and therefore not static was another important finding. This situation resulted into three things: first that their meanings were shaped by social, cultural, economical, political and legal environment under which they were operating. Secondly, because of that, the standard meaning varies from group to group and thirdly that the right of children to participate in decision making meant different things to different groups.

These variations in the meaning began with the contradictions in the Bill of rights in its provisions on education. Articles 26(3) in UDHR and 13(3) in ICESCR for example contradicted the process of decision making for children which both Articles 12 (UNCRC) and 4(2) (ACRWC) advocated for on selecting the type of education they wanted. Thus, much of the present day practices on educational matters are following these two provisions.

As the “common standard of achievement” for all peoples and all nations”<sup>117</sup> the UDHR lacked specificity to children rights and its use of the generalized language lent ambiguity and vagueness to subsequent treaties. The UNCRC for example used the same general language in Article 1 where the actual age of the child was not emphatically set. It has been an uphill task therefore to harmonize articles 1 and 12 with the object of the UNCRC.

On the other hand, the different traditional and cultural ideological framework under which the rights are operating give varied conception, perception and interpretation to the rights standards (primary, social and substantive participation Rights and weighting values) within the ‘final standard meaning’. The outcome of this was that participation holds different meanings for different groups, this lack of shared understandings and agreed definitions have made it harder for national government to put in practice.

The Controversial criteria for defining the weighting values mentioned earlier have equally influenced the meaning and level of participation in decisions made. Thus determining childhood and maturity with age was a challenge and the literature provided no clear formula for making this determination. For example, age has been applied inconsistently in several of children’s policies and laws in Uganda.

In article 34(5) of the constitution (1995), protection from social and economic exploitations/employment was given to a child under the age of sixteen years; the Education Act Cap 127 defined the child as someone below 12 years; the juvenile in children’s Act 59 was defined as someone between 7-12 years; the Divorce Act Cap 249 defines a minor as a person less than 18 years of age; the Affiliation Act terminates child adoption at 16 years and the Adoption law in the children’s Act 59 as amended defined a person less than one year as an infant. This inconsistency has led to fluid definitions of the child person and the use of different measures and standards.

The final standards meaning of common achievement therefore is not common to all societies, neither is the concept of the right of children to participate in education decision making static that holds good for all children equally, in all places, and at all times.

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<sup>117</sup> Preamble UDHR (1948) (*Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948*)

The finding that there was lack of robust mechanism to ensure that national governments implement and uphold the rights of children was replicated in Mukono and Uganda in general. Both research methods revealed that the legal and policy provisions that promoted the participation rights of children in decision making were limited in scope and depth. Similarly, the wider social and economic policies that ensure the wellbeing of families and children were lacking. This limitation, from the outset was a central weakness of the UNCRC and was inherited by national states in their domestic arena.

The current children policies, laws and human rights bodies viz: the Uganda constitution (1995); the Uganda education Act 1970; the Uganda Children's Act Chapter 59; and the Uganda human rights commission merely innuendos the right of children to participate in decision making.. Consequently the enforcement has been correspondingly inconsistent.

Thus the greater percentage of parents in Kisowera FGD (70%), for example admitted that they did not find it vital to involve children in education decision-making.

Another parent further argued that they should be the ones to decide and not the children.

He said;

*“Since children do not take part in paying school fees, let the owner of the money decide”. Another in Kisowera said, “If the state wants to implement such things like, letting children to decide for themselves, then it should take them from us if not, under my roof my law operates”.*

The above situation suggests two main requirements. First, the review of existing legal systems and policy with a child body subset to facilitate the promotion of children's rights and a special focus on the participation rights, in all sectors including education. This should respond to the legal gaps in terms of clarity, specificity, efficacy and implementation of children's participation rights. In addition, the development of the national child participation guide to create the right environment for children and young people's participation should be developed.

The meaning of the concept “children's right to participate” in decision making was an important aspect to the overall rights of the child. From the analysis of the legal provisions

in the human rights instruments viz the UNCRC 1989 and ACRWC 1990, it means the process of empowering children under a working framework where the three participation bases and the categories of participation rights work in sync and underpinned by consideration of the weighting values. This empowering process will involve the sequence of three phases of: - To speak, to participate and to have children's views taken into account.

However, due to the global changes in society which have disproportionate impact on children and the shrinking welfare nets in many societies, the participation concept demands for a new and deeper meaning which is not curtailed by weaknesses in policies and laws and should establish a new social contract in which children are right holders, who not only receive protection but also have participation rights in all matters affecting them.

## **5.2 The level of children's participation in decision making**

The level of children participation in decision making process in educational matters was established by discussing and analyzing the level (scope and depth) of children involvement in education decision making. The scope considered three aspects: the capacity of children to form viewpoints, the matter that is affecting the child" and the" due weight" given to the view point. In determining the depth, the Harts model was considered using the metaphor of a ladder.

### **Choice of school**

The revelation that the majority of the children, 70.7% (Table 4.6) were consulted by their parents on the choice of the school and the indication that the consultations were higher with pupils at the primary school (72%) showed that there was a registered participation of children in decision making on education matters. This finding deviates from the child participation literature on the African tradition that the parents do not allow young children to talk before them. It was also not in agreement with the responses from children of Nsanja primary school who confirmed that their parents decided for them which schools to go to. This could be attributed to the fact that, children usually choose schools that are nearer to their homes and the fact that all their siblings have gone to the same school. On

the other hand, the high degree of awareness by children in secondary schools could have been due to factors, such as having had access to information, and interactive.

Furthermore, the parents of Kisowera FGD (**Figure 5**) admitted that they did not find it vital to involve their children in education decisions. The FGD of Kakira indicated that the whole idea of children's participation in decision-making is an interference with the natural course, where parents have been bringing up their children. A section of parents argued that they invest time to search for good schools for their children. These events above showed that the environment was disabling for children participation.

### **Choice of subjects**

The finding on the selection of the subjects and careers revealed that there was no participation initiative in this area. The subjects were set by government as a matter of policy and on the basis that the state has the ultimate responsibility to ensure that children's rights are respected and applied in practice. What this means however is that children are perceived as recipients of knowledge and not as active players in the learning process. The revelation by parents in Kisowera FGD that they made consultation with relatives for guidance on the choice of subjects for their children when the need arose further condones the above view. Similarly, the adage that "*Obukadde magezi*", which implies decision-making is directly proportional to age, emphasized the exclusion of children.

### **Responses on school rules and regulations.**

The revelation that the majority of the children, 68.7% (Table 4.7) were not consulted by their teachers on school rules and regulations showed that there was little participation of children in decision making on education matters. This finding suggested that since the students were not used to participating in decision making they were not excited about taking part in making school rules and regulations. The findings were also in agreement with what one teacher in Abate primary school said that to involve children every year was a waste of time.

Making pupils to engage in participation at an early was also another challenge. Participation encourages participation, when children are introduced to participation early

in years, the subsequent years would not see participation as a waste of time. According to Woolf (2000)<sup>118</sup> the capacity of the child to form view points on the matter that affects that child, should be applicable to all children irrespective of age, class and education level. In fact even children in early infancy have been found to express preferences (Hart 2002). This is because the individuality of each child has to be taken into account.

### **Responses on school strikes.**

The findings that 68.3% (Table 4.8) of students were not consulted revealed that the occurrence of strikes was a result of their not being involved in the management of schools. While all students did not see strikes as the best means of expressing themselves, they indicated this as an after effect of not being given the chance to participate in the decision making process in matters that affect their education.

According to De Waal and Temba (2002), this was a negative form of participation and therefore not true participation. It was also not in line with the four requirements<sup>119</sup> which Hart listed down for true participation nor were they learning any constructive skills. In other words the strikes were a representation of the non-participation level. It showed the extent to which the children will go with their demands in order to be part of the decision makers in education. De Waal and Temba (2002) added:

*“When young people are denied effective participation, they often turn to criminality or militarism”.*

Most adults however continued to ignore these consequences, and this reflected the fact that the parents had not appreciated the advantages of children’s participation. Hart and Landsdown explained it well: for adults who themselves have never felt empowered, it is

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<sup>118</sup> Woolf Mitchell ‘ See But Still Not Heard?: The child’s right to participate’

1. <sup>119</sup> The children understand the intentions of the project
2. They know who made the decisions concerning their involvement and why
3. They have a meaningful (rather than decorative) role
4. They volunteer for the project *after* the project was made clear to them.

<sup>119</sup> Uganda -New vision of January 3<sup>rd</sup> 2005.



hard to accept the importance of empowering children<sup>120</sup> In Abate primary school, a teacher disclosed that involving children in systems of making rules and regulations every year, 'is time wasting and the school had to establish a system of order that students have to fit in or else abandon the school. According to Eremu<sup>121, 122</sup> however (2005) there is need to design new participatory strategies to tame this new found method which students use to air their grievances.

In Joy and Abate Primary school it was revealed that some teachers advocated for allowing children to take part in decisions that affect their education. One teacher at Joy primary school reported that his school trains children to participate in taking decisions. This acceptance to involve children is a good step in the right direction.

The idea of rights in schools however should not be a sudden eruption but should be introduced systematically and in collaboration with parents, teachers, religious leader's local authorities, the security organs and policy makers. According to Afua Twim - Danso:

*'Participation should be an on going process of children's active involvement in decisions that affect their lives...the genuine participation that gives children the power to shape both the process and the outcome. Children's participation in this case involves the exercising of one's rights for the best interest of one's self'.<sup>123</sup>*

According to Hart,

*"Children need to be involved in meaningful projects with adults. It is unrealistic to expect children to suddenly become responsible, participating adult citizens at the age of 16, 18 or 21 without prior exposure to the skills and responsibilities involved. An understanding of democratic participation, together with the confidence and competence to participate can only be acquired gradually through practice; it cannot be taught as an abstraction"<sup>124</sup>.*

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<sup>120</sup> Hart and Landsdown .2002 p10. Towards a Theory of children's participation.

<sup>121</sup> John Eremu: School strikes: New Vision, January 3<sup>rd</sup>. 2005 Uganda.

<sup>123</sup> Op. cit. pg 36.

<sup>124</sup> Roger Hart, 1992

To ascertain the participation level above, three aspects are considered: the capacity of the children, both secondary and primary to form viewpoints (“Capable of forming a view point”), what the children want (“the matter affecting the children”) and how the parents weight the view points of the children (“due weight”).

According to the UNCRC, a child who simply expresses his or her view point is not truly participating until his view point is given consideration. The question always is whether the child’s view point was given consideration (Hart 2002). Determining what sort of consideration qualifies as “due weight in accordance with the age and maturity of the child” is a challenge and the literature provides no clear formula of making this determination. In general however, giving “due weight” means progressively increasing the weight given to a child viewpoint (ibid). Figures in Table 4.4 are reflection participation however it is hard to say that these high figures are a reflection of the actual level of children’s participation on their choice of schools.

In the case of strikes (Table 4.8) on the other hand considerations of the three aspects did not even arise.

While the Harts Ladder put the level of children participation in choosing schools at rung five, i.e. “consulted and informed” the overwhelming evidence from the FGDs of Kisowera, Kakira and the responses of children of Nsanja primary school and Mpoma secondary school that parents did not find it vital to involve their children in education decisions showed otherwise.

The Harts’ four requirements of true participation<sup>125</sup>, indicated that level of children’s engagement in decision making in educational matters was not true participation. The consultation of the young children in figure 4.4 was a non-participation which involved; manipulation, decoration and tokenism. The strikes in Table 4.8 were negative participation because it did not lead to constructive decisions neither did it build decision making skills.

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<sup>125</sup> Op cit. pg 87.

## **Challenges to Children's right to participation in education decision making.**

### **1. The varied interpretations of children's right to participate in decision making.**

The revelation made by the FGD in Kojja was that it was only the persons who performed acts that are normally reserved for adults that participate in decision making was an important indication on how parents interpret the participation of children in decision making. This was in line with the literature review reported by Michael Gose, that the traditional African culture views participation of children in terms of fulfilling duties and responsibilities of obedience and respect for parents and elders at all times.

This was further reinforced by the student respondents who said that, participation meant that children keep their position as children and that they could not respect a teacher after sitting together and discussing a law that would govern them. This submission by the students suggested that both the parents and the students had limited understanding of what children participation actually was and the lack of skills and knowledge on how to involve children within institutions or local governments.

### **The parental exclusionary premises and prejudicial point of views.**

The parents in the Kisowera FGD revealed that their children had little capacity to influence decisions. The natural set up of families is such that children belong to the lowest social strata of the family and therefore obliged to obey and follow the decisions of those at the top and who are older. The tradition and cultural values on the other hand relegated children to the world of the mute, where they are regarded as chattels, the property of their parents or guardians and without the right to participate in decision-making.

Similarly, although the religious values did not feature significantly as a determinant to decision making, parents used it to make education decisions for their children. Most of the time parents were inclined to take their children to schools where they are religiously affiliated. This was a legacy from the colonial era and was contrary to the principle of child participation.

However, a process of ‘un-muting’ the child seemed to be gathering pace. In another FGD in Kakira the parents claimed that they were willing to allow their children to participate in decision making processes. But the fact that many parents still hold firmly onto their traditional values and family setup slows down the participation process.

### **Inappropriate approaches and strategies.**

The findings from three of the FGDs indicated that many parents would acquiesce to their children participation in decision making process if pressed to do so. However, the challenges highlighted in the literature review echoed with what was found in the discussions. The earlier process of advocating for children participation rights in Mukono caused the same confusion and misunderstanding as reported in the literature reviews. The approaches and strategies used to introduce and promote children right tended to emphasize children rights but gave little attention to their responsibilities. This made the children claim their rights with no regard for the responsibilities that go with those rights. Similarly, its acceptability was affected by the failure to target community resource persons, the traditional and cultural leaders including the FGD members as the first line of action

#### **5.3.1 Limited bargaining power of children.**

Many children that were interviewed revealed that their parents were the ones to make the financial settlements for their education and parents had to decide for them on all education matters. This was an indication that children feared to voice their views to their parents in case they stopped funding their education. This came out clearly when one parent in the Kakira FGD said that since children did not to take part in paying fees they had to leave the owner of the money to decide. This was an illustration that children had limited bargaining power because of their status as children. This challenge resulted from lack of access to resources which hindered them from bargaining with their parents on matters that affect them.

### **The rigid state policy on education.**

The findings indicated that pupils in primary school were supposed to study all subjects and students in secondary had to study science subjects. This is a state policy that emanated from its duty of providing education (Constitution of the Republic of Uganda, article 30) to children. The children felt that the policy of dictating subjects of study in schools was an impediment to their freedom of selecting subjects of their choice and competence. While this is good in terms of children receiving an all round education in both the sciences and arts subjects, it violated the children's rights to make their own decisions based on their ability and preferences.

In the Education Policy Cap 127 for example, the children were not even recognized as partners in education development. This reflected the invisibility of children to policy makers and their lack of status as individuals with equal status to adults as members of the human family and rights holders. As a large portion of the world's population, the children must be considered and involved when decisions are made. The governments and other stakeholders are therefore morally obliged to recognize the full spectrum of human rights for all children.

### **The inappropriate legal framework.**

Another outstanding revelation was on the National legal framework designed to foster the children's rights. According to the Kojja FGD both the laws concerning children participation and the meaning of the children right to participate in decision making were not clear. The confusion is evidenced during the judicial and administrative proceedings where the definition of age as a guide post for determining criminal liability was often misleading. According to the law, the age of criminal liability in Uganda is 12 years. But in the children statute the child is defined as anybody below the age of 18 years. This means that the child between 12 and 17 years inclusive was answerable for any criminal acts they commit and thus be subjected to penalty sentences which may amount to abuse of child rights. Such inappropriate legal framework is a challenge to children participation in decision making.

While a strong legal system is a requirement to ensure that children rights were implemented or upheld by government, it is also clear that fighting for children rights cannot simply be achieved through a legal framework that overlooks the economic, social, cultural and political barriers to children's involvement

#### **5.5.4 Disharmony between the right to participate in decision making and the right to education.**

The revelation that teachers hold the mantle of authority over students in matters of education and the dictum that, the teacher knows-it all have impacted on the methodology of teaching. This has involved a one way flow of information from teachers to students which have had a debilitating factor on children's right to participate in education decision making. This has created a disharmony between the right to participate in decision making and the right to education in practice.

The use of child centered methods should be encouraged to provide support in learning and experiencing, avoiding simple repetition and memorization. This means that children should be given opportunities for active participation, decision making and responsibilities within the school in order to prepare them for life in a free democratic society. In this regard it is important to encourage the trend of ensuring students representation in school councils and disciplinary boards, the consideration of their views when the curriculum is being reviewed, the schedule in the school is being decided on or recreational activities are being promoted. It is equally relevant to ensure student participation in proceedings specifically relevant to them in particular, when decision on suspension or expulsion may be at stake.

#### **5.3.5 Disabling decision making environment.**

The findings from the rural schools visited recorded reluctance from parents to allow children to participate in the decision making process in education matters but the opposite was true in peri-urban and urban schools. This pattern of events seemed to suggest that while the parents in rural setting tended to hold onto their traditional exclusionary practices those of urban areas have tended to relax their traditional attachments to such practices. This explained the supportive comment of a respondent in Mukono Academy where one

leader said that the environment in which each child grew was different and influenced participation in decision making either positively or negatively. In the urban setting opportunities for participation are available while in the rural setting they are squashed. This explained why the children in Nsanja primary school had little opportunity to participate because their environment was not conducive.

### **Child peer pressure and child/adolescent excitement.**

Arguably, the peer pressure can negatively or positively affect the behaviors of young persons. This revelation was made by the parents/adults in FGDs Mukono Town schools. According to them the young persons are under pressure to adjust to new challenges among which are: the need to belong, to be different, independent and competitive among other peers. These plus adolescent excitement, immaturity and pressures from fellow peers are the concoction which misleads the young persons when left to make their own decisions. These challenges confuse the children and make them restless and stressed. By deciding for them the parents are trying to safe guard their children from making difficult decisions. In spite of the above, the adolescent period is important in a child's life and care should be taken to nurture their involvement in decisions to avert rebellious decisions. At whatever age children should be given an opportunity to express their views on issues that affect them. It is argued that once children are respected they reciprocate accordingly.

### **5.3.6 Poverty and the financial implications of decisions**

The finding that most education decisions have financial or social implications were mentioned by both children and adults that, to participate in decision-making process one has to have financial muscle to accompany the decisions made. The parents of Kisowera revealed that children had no resources to facilitate the decisions they make. It was also apparent that children growing in poverty often have limited access to social amenities such as health care, education, leisure activities, and housing. In this milieu one would hardly expect these children to achieve their rights to active participation in the community. Because of limited resources, most parents in Mukono parents did not involve their children in education decisions.

The challenges faced by the children in the enjoyment of their right to participate in education decision making were arranged according to categories, and using the weighting value of x2 of each number of subjects that fit into each category. The cultural and social challenges impacted intensely on the right of children to participate in decision making process. These are trailed by legal and political challenges.

When arranged singularly and in their order of intensity the challenges were listed as follows:-1) the varied interpretation of the concept, ii) the parental exclusionary premises and prejudicial point of views; iii) the negative environment for decision making, iv) the inappropriate approaches and strategies, v) disharmony between the rights to participate and education, vi) child peer pressure and adolescent excitement. vii) the limited bargaining power of children, viii) the financial implications of decisions, ix) the inappropriate legal framework, x) the rigid state policy.

In conclusion, several factors determined the level and degree of children's participation in decision making in Mukono district. These are social, economic, cultural, political and legal barriers to children's involvement. Children and young people growing up in poverty with limited access to health care, education leisure activities and housing are hardly achieving their right to active participation in the community (UNICEF, 1989, article 23).

The cultural set up renders children invisible or insignificant in the decision making process in education matters. The weak legal system has resulted in disharmony in laws and policies that enhance children participation in decision making.



## **CHAPTER SIX**

### **CONCLUSIONS AND RECOMMENDATIONS**

#### **6.0 Introduction**

This chapter presents conclusions and recommendations based on the findings of the study. The main aim of the study was to identify the challenges faced by children in the enjoyment of their right to participate in education decision-making in Mukono district.

#### **CONCLUSIONS**

The functional meaning of the right of the child to participate in decision making is the process of empowering children under a working framework where the three categories of participation rights and participation bases (enabling environment) are synergized and underpinned by the consideration of the weighting values. In short, it is to speak, to participate, and to have views taken into account. These three phases describe the sequence of the enjoyment of the right to participate from a functional point of view. This is derived from the ‘final standard meaning of common achievement’.

The right of children to participate held different meanings for different groups in Mukono and lacked shared understanding and agreed definitions for implementation. This meant that the right of children to participate in education decision making did not hold good for all children equally, in all places, and at all times and therefore was not a static concept.

There was a disabling environment for the promotion and protection of the right of children to participate in decision making in education. The weak legal system including lacunas in the policies and laws on children’s rights, were partly to blame for this situation. Both the policies and laws have limitations in fighting for children’s right because they overlooked the wider social, cultural, economic and political policies to ensure the wellbeing of families and children.

The same limitations have also crippled the growth of the participation bases and this has resulted into a non significant level of children participation in education decision making both in scope and depth which was truncated to non participation level.

The strikes were a skewed form of participation it provided no constructive and empowering skills, nor instilled democratic values and citizenship. The majority of children did not get opportunities to express themselves, get heard and their decisions were not given due weight.

**There were ten main challenges that obscured the children's right to participate in education decision making.** Arranged according to categories, and using the weighting value of x2 of each number of subjects that fitted into each category the cultural and social challenges impacted intensely on the right of children to participate in decision making process. These were followed by the economic challenges and trailed by legal and political challenges.

There was conflict between the parents' responsibility for the care of children, and the right of children to participate in matters affecting their lives. This was mainly because of misunderstandings resulting from the traditional concepts of adult power.

The government of Uganda has not committed resources including the political will for the sensitization of adults and children on participation rights.

There has been a slow progress in promoting new methods of participation, including the use of information technology. This has made children to get limited exposure to different arenas of participation mainly on getting information about participation practices in other societies.

Finally, the children make up a large portion of the world's population, which indeed, must be considered and involved when decisions are made.

### **6.1.2 Recommendations**

The following recommendations address the challenges identified above. The goal is of having the children hold and enjoy their right to participate in decision making and in getting the government to implement and uphold these rights.

There should be a new and deeper meaning of the right of children to participate. This should establish a new social contract, one by which children are fully recognized as rights-holders who are not only entitled to receive protection but also have the right to participate in matters affecting them, a right which can be considered as the symbol for their recognition as rights holders. This implies, on the long term, changes in political, social, institutional and cultural structures.

There is need for national guide lines to be supported by field work kits with detailed practical ways to promote child participation at the various levels. Priority should be on sensitization.

Deliberate efforts should be taken to design curricular to teach child rights (as subjects or courses) in educational institutions right from primary schools through to tertiary institutions so that as a child grows to adulthood, they learn participation as a norm expected of everybody. The emphasis should mainly be the children.

The government should avail opportunities to children both at home and in school to develop life skills, negotiation skills, self -confidence, self-esteem and decision-making.

There is need to develop political forums for children to have collective action and lobby politicians; address issues of diversity and representation within this.

There is need to examine our own attitudes and values about children's involvement. Any participative strategy will have a limited impact without attitudinal change.

There is need for a review of funding commitments to support children's consultation and involvement. This can only be done when there has been an established purpose and function of participatory practices.

The government should come up with strategies that rhyme with the developments in the world. For example, there should be the promotion of information technology as a new method to facilitate the children's right to participate in decision making.

The children human rights committee should be set up to review the legal weaknesses inherent at international, regional and domestic levels in order to plug the gaps and to set up relevant policies, laws and legal bodies and enforcement mechanisms on children's rights.

The government of Uganda must promote independent Human Rights Institutions for children such as the office of the Inspector General of Government for children and the Children's Commission of Human Rights. There should be a child desk in accessible points for designing appropriate programs and policies for the promotion of child rights.

At national level, the government should promote the comprehensive ratification of treaties related to children's rights and their incorporation into all domestic education legislation as fundamental conditions for ensuring the protection of children's participation rights in education decision making process.

The government should get prepared for a struggle against children's right to participate and therefore it should plan accordingly for the resistance.

There should be capacity building for stake-holder's skills in human rights education. This will involve providing skills to analyze causes/ constraints to children's right to participation in all matters that affect their lives and imparting values and norms that facilitate support for their participation. This would involve a thorough analysis and review of the available instruments and opportunities for the purpose of carrying out human rights education to all stakeholders. The stakeholders include the parliamentarians parent/care givers, religious/cultural/political leaders, school authorities (teachers, PTA, SMC, and Boards of Governors), community members, children and paralegal for grassroots implementation

There is a need to work with International Organizations, including international financial institutions to strengthen the capacity of the government in meeting its obligations to provide universal education and in order to make children feel some level of independence from parents as they are making education decisions

The government should take into consideration vulnerable and marginalized rural children who need a special approach in it. This will ensure that the child is capable of forming his or her own views.

Building socially inclusive schools' community's relationship requires a focus on relations of power that lead to reduction in discrimination and inequality. This in turn requires multidisciplinary approach within and between schools.

Finally, it is important that the above interventions supporting children's right to participate in decision making are implemented in a multi-sectoral manner for optimum achievement however, a legal umbrella for Children's right to participate in decision making should be a priority to reduce the complexities to rights and their infringement.

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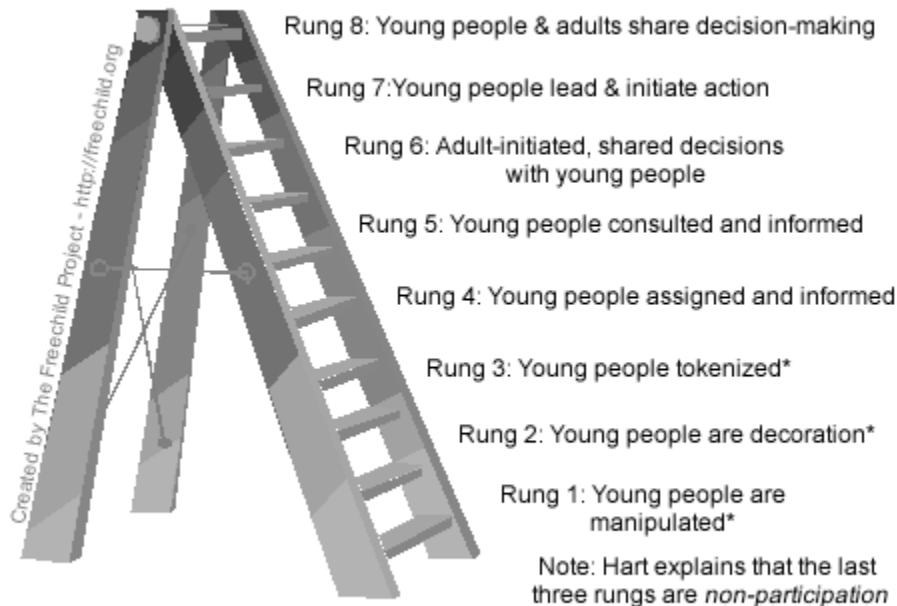
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## APPENDIX A

### Hart's Ladder of Young People's Participation

#### Roger Hart's Ladder of Young People's Participation



Adapted from Hart, R. (1992). *Children's Participation from Tokenism to Citizenship*. Florence: UNICEF Innocenti Research Centre.

### Degrees of Participation

#### 8) Young people-initiated, shared decisions with adults

This happens when projects or programs are initiated by young people and decision-making is shared between young people and adults. These projects empower young people while at the same time enabling them to access and learn from the life experience and expertise of adults.

#### 7) Young people-initiated and directed

This step is when young people initiate and direct a project or program. Adults are involved only in a supportive role.

## **6) Adult-initiated, shared decisions with young people**

Occurs when projects or programs are initiated by adults but the decision-making is shared with the young people.

## **5) Consulted and informed**

This happens when young people give advice on projects or programs designed and run by adults. The young people are informed about how their input will be used and the outcomes of the decisions made by adults.

## **4) Assigned but informed**

This is where young people are assigned a specific role and informed about how and why they are being involved.

## **3) Tokenism**

When young people appear to be given a voice, but in fact have little or no choice about what they do or how they participate.

## **2) Decoration**

Happens when young people are used to help or "bolster" a cause in a relatively indirect way, although adults do not pretend that the cause is inspired by young people.

## **1) Manipulation**

Happens where adults use young people to support causes and pretend that the causes are inspired by young people.

The 7 or 8 Debate:

Roger Hart's Ladder of Participation shows young people-initiated, shared decisions with adults as the top form of young people's participation, followed immediately by young people-initiated and directed. This is somewhat controversial an issue for many people working with and around young people. Essentially, the debate is which of these levels of participation is actually the most meaningful?

Many believe that shared decision making is most beneficial to both young people and adults. Others believe that young people are most empowered when they are making decisions without the influence of adults. Most often, this doesn't exclude adults but reduces their role to that of support.

Both arguments have merit; ultimately, it is up to each group to determine which form of decision-making best fits with the groups' needs.

## **Appendix B: Letter of introduction**

## Appendix C: Questionnaire for primary school pupils

### Makerere University

### Faculty of Arts

### MA HRT Programme

The study is being carried out in Mukono urban and rural areas in Mukono district. This selection is intended to bring to the fore the urban and rural perspectives of children and stakeholders as regards the participation of children in education decision making. In order to receive data about the promotion and protection of children's right to participate in education decision making in Uganda it is pertinent to reflect the urban and rural settings of Uganda schools and education stakeholders in the research contents.

I am conducting a study on the "*Challenges facing children's right to participate in education decision-making*". Your responses are kindly sought to these questions. The information you give is purely for academic purposes and the recommendations made there from due likely to be beneficial to you and the entire business community.

I guarantee that your responses will be treated with utmost confidentiality.

Thank you very much.

### 1.0 Personal profile

1.1 Name: .....

1.2 School:.....

1.3 Sex: .....

1.4 Religion:

(a) Moslem (b) Anglican (c) Catholic (d) Buddhist

Other.....

1.5 Age .....

### 2.0 Education

2.1 Are you a Day Scholar? Yes..... No.....

2.2 When did you join this School?

2.3 Children have a right to participate in the choice of the schools they want to join  
Yes..... No.....

2.4 If yes, give some reasons?

.....  
.....

2.5 If no give some reasons?

.....  
.....  
.....

2.6 Did your parents/Guardian seek your opinion before bringing you to this school?

Yes..... No.....

2.7 Have you been to any other school?

Yes..... No.....

2.8 Why did you change school?

(a) It was the wish of my parents

(c) It was the wish of my guardian

(d) I decided to change

As regards changing schools, boys consulted more than girls

Yes (2) NO (3) Always (4) Sometimes

### 3.0 Family background

3.1 Does your mother and father stay together?

Yes..... No..... I am an orphan .....

Do you have a step mother at home?

Yes..... No.....

**4.0 School regulations**

Did the school authorities seek your views on the school rules and regulations?

Yes..... No.....

4.2 Do you think you have a right to be consulted on the above issue?

Yes..... No.....

4.3 If yes give reasons:

.....  
.....  
.....

4.4 If no give reasons:

.....  
.....  
.....

4.5 Do you think one of the reasons behind the rampant strikes in schools could be attributed to denial of the right of children to participate in the decision making in schools?

Yes..... No.....

**5.0 Subject Combinations**

5.1 Do you like the subjects you are taught at school?

Yes..... No.....

5.2 Do you think you have the right to choose the subject of your choice?



Yes..... No.....

**6.0 Career**

6.1 Do you think your parents are influencing the choice of your career?

Yes..... No.....

6.2 Do students have the right to choose the career they want to take up?

Yes..... No.....

6.3 If yes give reasons?

.....  
.....

6.4 If no still give reasons?

.....  
.....  
.....

**Thank you.**

Name of respondent (Optional).....

Date.....

Comment.....

.....

## APPENDIX D: Questionnaire for Secondary students

### Makerere University

### Faculty of Arts

### MA HRT Programme

I am conducting a study on the challenges facing children's right to participate in education decision-making. Your responses are kindly sought to these questions. The information you give is purely for academic purposes and the recommendations made there from due likely to be beneficial to you and the entire business community.

I guarantee that your responses will be treated with utmost confidentiality.

Thank you very much.

#### 1.0 Personal profile

- 1.1 Name: .....
- 1.2 School: .....
- 1.3 Sex: .....
- 1.4 Religion:  
(a) Moslem (b) Anglican (c) Catholic (d) Buddhist  
Other.....
- 1.5 Age .....

#### 2.0 Education

- 2.1 Are you a Day Scholar? Yes..... No.....
- 2.2 When did you join this School?.....
- 2.3 Do you think Children have a right to participate in the choice of the schools they want to join?  
Yes..... No.....
- 2.4 If yes, give some reasons?

.....  
.....  
2.5 If no give some reasons?  
.....  
.....

2.6 Did your parents/Guardian consult you before bringing you to this school?

Yes..... No.....

2.7 Have you been to any other school?

Yes..... No.....

2.8 Why did you change school?

- (a) It was the wish of my parents
- (c) It was the wish of my guardian
- (d) I decided to change

As regards changing schools, are boys consulted more than girls

Yes (2) NO (3) Always (4) Sometimes

### **3.0 Family background**

3.1 Does your mother and father stay together?

Yes..... No..... I am an orphan.....

Do you have a step mother at home?

Yes..... No.....

**4.0 School regulations**

4.1 Did the school authorities seek your views on the school rules and regulations?

Yes..... No.....

4.2 Do you think you have a right to be consulted on the above issue?

Yes..... No.....

4.3 If yes give reasons:

.....  
.....  
.....

4.4 If no give reasons:

.....  
.....  
.....

4.5 Do you think one of the reasons behind the rampant strikes in schools could be attributed to denial of the right of children to participate in the decision making in schools?

Yes..... No.....

**5.0 Subject combinations**

5.1 Did your parents /guardians and teachers influence your choice of subject combinations?

Yes..... No.....

5.2 Do you think you have the right to be choose the subject combination of your choice

Yes..... No.....

**6.0 Career**

6.1 Do you think your parents are influencing the choice of your career?

Yes..... No.....

6.2 Do students have the right to choose the career they want to take up?

Yes..... No.....

6.3 If yes give reasons?

.....  
.....

6.4 If no give reasons?

.....  
.....  
.....

**Thank you.**

Name of respondent (Optional).....

Date.....

Comment.....

.....

## CHAPTER ONE

### INTRODUCTION AND BACKGROUND

#### 1.0 Introduction

Article 1 of the United Nations Convention on the Rights of the Child (UNCRC 1989), defines children as all persons less than 18 years of age, unless the legal age of majority in a country is lower. According to articles 3,7,8,12,13, 14, 15, 16,17,18,23, 28, 29, 31<sup>1</sup> of the UNCRC 1989, these children are entitled to rights of participation in decision making. In particular the children have the right to participate in decision making on all matters concerning them including education. Since it's only the children that can give true effect of their needs, they should be allowed to decide for themselves in their best interest.

Article 12 is at the core of the right of children to participate in decision making. It states that; “children must freely express their views in matters affecting them...” They must be given the opportunity to be heard either directly or through a representative or an appropriate body in any judicial and administrative proceedings affecting them”. This process is particularly important in case of disciplinary actions on children in schools. The statement in article 12 also represents the three phases that describe the sequence of the enjoyment of the right to participate from a functional point of view. These are “to speak, to participate, to have their views taken into account”.

The right to participation is one of the guiding principles<sup>2</sup> of the convention. It contains thirteen rights of children to participation. These rights support children's development socially, culturally, economically and politically. Participation is the path to other rights

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<sup>1</sup>UNCRC 1989 : Article 3: All should work towards what is best for each child

ibid article 7: right to name.

ibid article 8: right to identity and family.

ibid article 13: right to get and share information

ibid article 12: children must freely express their views in matters affecting them

ibid article 14: right to think and believe what you want and practice religion ibid 15: right to freedom of thought, conscience, religion, association and peaceful assembly

ibid article 15: right to freedom of thought, conscience, religion, association, and peaceful assembly.

ibid article 16: Right to privacy.

ibid article 17: right to reliable information.

ibid article 18: both parents share responsibility of bringing up children.

ibid article 23: care and support for disabled children.

ibid article 28: right to education

ibid article 29: Education for development of child's personality and talents to the full

ibid article 31: right to relax and play and to join in activities.

<sup>2</sup> <http://www.ngos.net/conditions/childsrightrights/faq.html> 1/11/2006: Frequently Asked Questions – Convention on the Rights of the child - The best interest of the child; participation- listening to the voices of children; Non discrimination & Survival and development.

and is relevant to the exercise of all other rights of protection, care and welfare within the family, school and the larger community.

In education the children's participation takes on a special dimension. Education gives children the opportunity to develop their talents and abilities to their full potential, gain confidence and self-esteem, to use their initiative and creativity; to gain life skills and take informed decisions; and to understand and experience pluralism; tolerance and democratic co-existence. In brief, the right to education means the right to experience citizenship. The children must be perceived not as mere recipients of knowledge, if they are to achieve citizenship and all it entails. Rather, as active players in the learning process. It is for this reason that the Convention puts so much emphasis on the aims of education (article 28) and on an educational system that respects the child's dignity.

The participation rights are grouped in three categories which are related and arranged in this order: primary, social and substantive participation rights, respectively. This is because the primary rights have to exist prior to social participation and to ultimately demonstrate the substantive rights. However, in practice these are intertwined and unilinear.

The primary participation rights serve to facilitate children's informed decisions, association and the building up of democracy. They provide the defense for children against those who become domineering. The social participation rights nurture children's participation skills, the democratic values, norms and citizenship during the decision making process and foster an environment for institutional building. They ensure for interactive participation, support the full development of the human personality and strengthen respect for human rights and fundamental freedoms. The substantive participation rights ensure that the children's views are heard, taken seriously and put into consideration.

Under a robust legal system backed up by a wider social and economic policies that ensure the wellbeing of families and children, these rights are translated into three participation bases. The first base provides the knowledge and awareness on the child friendly participation norms and values to targeted groups and the general community; the second base fosters institutional building of child centered/based institutions and

structures including a robust legal system and access by children; and the third base facilitates the physical participation of children, and the acquisition of negotiation and decision making skills, continually monitored and evaluated for sustainability. The three bases support the growth of an enabling environment for children's participation in decision making process on matters that affect their lives and are a prerequisite to children's participation in decision making. In the absence of these bases however the children's rights to participation in decision making is difficult to achieve.

The three bases also represent the three phases, to speak, to participate, to have their views taken into account. These three phases describe the sequence of the enjoyment of the right to participate from a functional point of view

The Uganda constitution (1995) dedicated chapter four to the provision of human rights for every body, and article 34 to the rights of children in accordance with article 42<sup>3</sup> of the UNCRC. Consequently, the Education Act Cap 127; the Children Act Chapter 59; the Penal Code Cap 120 and the Uganda Human Rights Commission (UHRC) were enacted to respond to the same call.

Despite the efforts above, most children remain excluded from the decision making process on most matters that affect their lives including education.

This study intends to identify the challenges faced by children in the enjoyment of the right to participate in education decision making in Mukono district. The focus of this study was limited to decisions made in four educational areas listed below:

- I. Selection of school;
- II. Selection of subjects or the subject combination of study;
- III. Selection of a career or profession to pursue, and
- IV. Selection or involvement of children in the making of school rule and their enforcement.

Specifically the four educational areas facilitated the three areas of the study. They supported in establishing the meaning of the right of children to participate, the levels (scope and depth) of children's participation in their educational decisions in Mukono

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<sup>3</sup> Article 42: States have the obligations to promote and protect all children's rights, UNCRC 1998



district; and identified the challenges faced by children in the exercise of the right to participation in decision-making.

The study envisages that the findings will facilitate policy makers to design appropriate policies, laws and programme for ensuring that children's rights to participation are respected, protected and fulfilled<sup>4</sup>. In a nutshell, this research was an assessment of the children participation theory and whether the practice was in tandem with the praxis of the universal perception of child participation.

### **1.1 Background to the study**

Uganda adopted the Human rights obligations and principles for all her people including children in chapter four of its Constitution (1995) as obligated by the various international and regional Human Rights instruments. Article 20<sup>5</sup> is emphatic on the entitlement of all persons to human rights. The persons do not need permission from the state to exercise and enjoy those rights. Article 34<sup>6</sup> emphasizes the rights of children and their entitlement.

The above provisions are a mirror image of human rights provisions of the Bill of rights<sup>7</sup>, the UNCRC (1989), the African Charter on Human and People's Rights (ACHPR 1981) and the African Charter on the Rights and Welfare of the Child (ACRWC, 1990) to select but a few. They confer equal entitlements and rights to both adults, children as human persons. They confer the obligations to respect, protect, and fulfill the rights thereof to the international community, nations individually, individuals groups and organs of society. These obligations are based on key human rights principles of universality and non-discrimination, inalienable; indivisibility and interdependence; accountability and participation.

Although all human persons have inherent freedom to participate in the achievement of their rights, it is an uphill task for children to exercise their rights to participate in decision making. This has been particularly difficult with participation in political and economic decisions. There are six main reasons for their exclusion. The first main reason

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<sup>4</sup> Human Rights Reference Handbook; Prepared for curriculum Development Workshop on Human Rights, Justice and Peace Kampala, Uganda 1-5 December 2003.

<sup>5</sup> The constitution of the Republic of Uganda 1995: Article 20: Irrespective of age or status, all persons are entitled to human rights and they do not need permission from the state to exercise and enjoy those rights.

<sup>6</sup> *ibid* article 34: Rights of children.

<sup>7</sup> UNDHR 1948; ICCPR 1966; CDESCR 1976

began with the Bill of Rights. Its provisions on rights to children to participate in decision making were implicit and it gave the mandate over educational matters to parents and guardians. Under the UDHR and ICESCR prior rights to choose the kind of education to give their children and the type of schools to join are given to parents<sup>8</sup>. Although this stance was overridden by the UNCRC<sup>9</sup> the substantive decision making powers are still with the parents and the guardians in the family, school and the community.

The second main reason is legal. There are inappropriate, inadequate and some of them wrong policies which do not consider children's participation as a priority. The legal mandate for children participation all over the world has been criticized as weak and ineffectual<sup>10</sup>. There has been a revelation that legal and policy provisions that promote children's involvement in decision making were limited in scope and depth in the domestic arena. This has been mainly due to the weaknesses in the international human rights instruments and the varied traditional and cultural ideological framework of the societies under which it operates.

The third main reason is social. The social set up of many communities has become a barrier for children participation. The social structure of these societies has put children at the bottom of the social systems. In many African societies, children participation is seen in terms of fulfilling duties and responsibilities of obedience, respect for parents, superiors, and elders at all the times. This means that children become indebted to the parents to work for the cohesion of the family. This has made children to lose out on their way to meaningful participation.

The fourth main reason is economical. Participation is very successful in a conducive economic environment where there are options. A situation that is poverty riddled can not support children's enjoyment of participation because it is always the powerful that control the resources and therefore will subdue the weak children to do what the powerful want. In such a situation children participation can not take place. The economic problem also hinders the process of making laws and the sensitization of the communities about

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<sup>8</sup> UNDHR 1948: Article 26(3) and ICESCR article 13(3)

<sup>9</sup> UNCRC 1998: article 12: children must freely express their views in matters affecting them

<sup>10</sup>Paul Nixon: American Humane: Seen but not heard? children and young people's participation in family group decision making: concepts and practice issues pg 22

participation. This can be shown by the difference between rich communities and the poor ones. In rich communities participation is at a higher degree than in the poor ones<sup>11</sup>.

The fifth main reason is cultural. The differing traditional and cultural ideological framework under which the rights are operating have given varied conception, perception and interpretation to the rights standards (primary, social and substantive participation Rights and weighting values) within the ‘final standard meaning’. The stance is that participation holds different meanings for different groups. This lack of shared understandings and agreed definitions has made it harder for participation to be put in practice.

The sixth main reason is political. The state has the obligation of ensuring that children’s participation are respected and applied in practice. This is not the case in many countries because of the lack of political will to commit resources and legal base for the implementation of the policies towards children participation in decision making. In Uganda the paper work has been laid but very little has been done to put child participation on the political agenda.

The above explain why the present education system in Uganda limits the children’s opportunity to participate in education decisions. They ignore the implied recommendations in article 29 to adopt child-centered approach to teaching and learning in education. They also override the *consensus ad idem* reached by the proponents of the UNCRC by the principle of participation. The availability of the three participation bases in schools will enable children to develop democratic values, principles and self-esteem that are essential for learning and decision making through life.

According to the United Nations Family Planning Association Report<sup>12</sup>, children must be prepared in order to achieve the level of competence where their right to education begins to matter. This means that the child has a right to choose what education he or she shall receive, when, where, how and from whom to receive it; and indeed, whether to receive an education at all.

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<sup>11</sup> [Http://www.epi.org/content.cfm:Enriching](http://www.epi.org/content.cfm:Enriching) children, enriching the nation public investment in high quality pre-kindergatten.2004.

<sup>12</sup> United Nations Family Planning Association Report, 2000.

De Waal and Temba (2002) warned that the consequence of *not* letting children voice their opinion is for them to turn to criminality or militarism. According to him, the child needs experience and it is better to get it in situations which are not dangerous or have far reaching consequences”<sup>13</sup>. He recommends a total paradigm shift, where the adult’s mindset is changed to begin to question the relevance and appropriateness of the cherished traditionally held beliefs, but which bar children from participation.

## **1.2 Statement of the Problem**

Although article 34 in the Uganda Constitution 1995, grants children the rights, it is deficient on fostering the rights of children to participation in decision making processes. There have been no explicit policies, laws, spaces and structures and skills developed to facilitate the participation rights in education decision making which render the participation environment weak and disabling. This weakness has hindered the growth of the participation bases without which the children’s participation process in decision making cannot foster.

The deficiencies were also carried over in the present national legal systems related to children, viz the Children’s Act Cap 59; the Local Government Act ..., the Education Act Cap 127; the Penal Code Cap 120 and the Human Rights body (UHRC). These documents lack substantive provisions for promoting and protecting the right of children to participate in decision making.

The limitations above are multifaceted further by different traditional and cultural ideological frameworks under which the right of children to participate in decision making is operating. The adults hold exclusionary premises, paternalistic and prejudicial points of views about children’s autonomous rights. These hamper the development of common criteria of conceptualization, definition and interpretation of the right of children to participate in decision making. This has resulted in differing interpretation of the rights standards and weighting values and has limited the meaning to a contextual one where participation begins to hold different meanings for different groups.

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<sup>13</sup> Målfrid Grude Flekkøy and Kaufman: *The Participation Rights of the Child: Rights and Responsibilities in Family and Society*, 1997.

### **1.3 Scope of the study**

The study looks at the challenges faced by children in the enjoyment of the right to participate in education decision making. These are examined from four main perspectives: Who selects the schools; the subjects of study; the career or profession to pursue, and the school rules. The research is carried out in primary and secondary schools, and the surrounding communities in Mukono district. The study also examined 12 selected human rights instruments to establish the meaning of the right to participate in education decision making and its legal frameworks at the various levels.

A total sample of 176 respondents including; students, pupils, head teachers, parents and local councilors were interviewed. Mukono district was selected as a representative of the cosmopolitan area of Uganda with adequate rate of school development. The research was specifically carried out in the villages of Mpoma, Kisowera and Mukono municipality. The composition of the district shows a fairly equal representation of both urban and rural settings in Uganda.

### **1.4 Aim of the study**

This study intends to identify the challenges faced by children in the enjoyment of the right to participate in education decision making.

### **1.5 Specific objectives.**

I. To trace for the meaning of the “children’s right to participate” concept in education decision making and its legal promotion and protection framework.

II To examine the level (scope and depth) of children’s right to participate in education decision making in Uganda.

III. To establish the challenges faced by children in the enjoyment of their right to participate in education decision making.

## 1.6 Hypotheses

I. Human rights instruments provided a standard meaning to the concept “children’s right to participate” in education decision making and the legal provisions to promote and protect it.

II. The right of children to participate in education decision making is a static concept that holds good for all children equally, in all places, and at all times.

III. It is only a robust legal system that can sustain the efforts aimed at getting the children to enjoy the right to participate in decision making in general and education matters in particular.

IV. The Children’s Right to participate in education decision-making is challenged by legal, social, economic, political and cultural barriers.

## 1.7 Definition of key Terms

The following key terms are defined as used in this study:

**Accountability:** In this study the meaning used will be answerability for all duty bearers.

**Being ‘given a voice:** Having the opportunity to be heard by the decision-makers and to influence decisions as legitimate contributors.

**Child:** Article 1 of UNCRC (1989), the holder of Child rights - every human being below the age of 18 years. While the convention specifies the upper age limit for childhood as 18 years, it recognizes that majority may be obtained at an earlier age under the law.

**Decision-making:** As defined by Robert (1998), it is the art of identifying and choosing alternatives based on values and preferences of the decision-maker. It is therefore the process of sufficiently reducing ambiguity and doubt about alternatives to allow a reasonable choice to be made. Robert identified three basic kinds of decisions and these include:

- a) **Decisions whether:** this is Yes/No, Either/Or decisions that must be made before we proceed with the selection of an alternative
- b) **Decisions which:** these decisions which involve a choice of one or more alternatives from among a set of possibilities, the choice being based on how well each alternative measure up to a set of pre-qualified criteria

- c) **Contingent decisions:** these are decisions that have been made but put on hold until some condition is met.

**Education:** Refers to the act of providing knowledge, skill and desirable qualities to human persons<sup>14</sup>.

**Human rights:** entitlements.

**Inalienable:** every human being is born with rights which cannot be taken away

**Indivisibility and interdependence:** failure to realize some rights makes it more difficult to achieve others.

**Level of children's participation:** refers to the scope and depth of children's engagement in initiatives, organization and institutions.

**Participation:** The process through which stakeholders influence and share control over priority setting, policy-making, resource allocations and access to public goods and services. Participation is arguably divided into categories: negative and positive:

- a) **Positive Participation:** Conveys principles relating to voluntarism defined as: an on going process of children's active involvement in decisions that affect their lives.
- b) **Negative Participation:** Includes the involvement of children in armed conflict and in exploitative labor.

**Participation bases:** These are three: the knowledge and awareness base, the institutional set up and the acquisition of the negotiation and decision making skills for the participation process.

**Participation rights:** Participation rights are arguably divided into three categories; the primary, social, and the substantive rights.

**Rights:** Simply stated, a claim of an individual which is recognized by the society and the state.

**Scope of children's participation:** the range of mechanisms available to enable the participation of children.

**Standard:** A measure serving as a basis or example or principle to which others conform, or should conform or by which the accuracy or quality others is judged.

**Non-discrimination:**

**Universality:** all rights for all people, everywhere and all the time

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<sup>14</sup> Human Rights Reference Handbook; Prepared for curriculum Development Workshop on Human Rights, Justice and Peace Kampala, Uganda 1-5 December 2003

## CHAPTER TWO

### LITERATURE REVIEW

#### 2.0 Introduction

This literature review was based on four main themes for the study. The first theme traced for the meaning of the ‘right of children to participate’ in education decision making, and the legal provisions that promote and protect it.

This was done by reviewing selected human rights instruments at international, regional, and national levels. They included the UDHR 1948; ICCPR 1966; ICESCR 1976 and the UNCRC 1989 at the international level; the ACHPR 1981 and ACRWC 1990 at the regional level and the Constitution of the Republic of Uganda 1995; the Education Act Cap 127; the Children Act Chapter 59; the Local Government Act Cap 243; the Penal Code Cap 120 and the Uganda Human Rights Commission (UHRC) at the national or local level. The international level provided the international perspective while the regional and local levels provided the regional/African and national/local level perspectives respectively on the right of children to participate in education decision making.

The second theme examined the level (scope and depth) of the right of children to participate in education decision making. This was engagement of children in initiatives, organization and institutions including the mechanisms available to enable the participation of children at the international and national levels. The Hart’s ladder of participation<sup>15</sup> and his proposed ‘requirements of true participation’<sup>16</sup> were used to define the level of their participation.

The third theme established the challenges faced by children in the enjoyment of their right to participate in education decision making. This was done by identifying the challenges, ascertaining their extent, the root causes and the effects on the right of children to participate in education decision making. They were also weighted using the weighting value of x2 of each number of subjects that fitted into each designed category.

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<sup>15</sup> Appendix A: Harts ladder of participation: Adopted from Hart, R (1992). Children’s Participation From Tokenism to Citizenship.

<sup>16</sup> i. The children understand the intentions of the project  
ii. They know who made the decisions concerning their involvement and why  
iii. They have a meaningful (rather than decorative) role  
iv. They volunteer for the project *after* the project was made clear to them



## **2.1 To trace for the meaning of the “children’s right to participate” in education decision making and its legal framework.**

### **2.1.1 The mandate to promote and protect Human Rights**

The concept of human rights was based on the belief that, whoever or wherever we are, we had rights simply because we are human beings. These rights, despite the diversity and differences in culture, identity, community, gender, or race, cannot be denied. The children are therefore rights holders in their own right as human beings.

According to *Resolution 217 a (III) of 10 December 1948) of the General Assembly*, the UDHR (1948) was proclaimed the first “common standard of achievement for all peoples and all nations...”<sup>17</sup> They form the international customary law which binds all governments and are applicable to all human population as a whole. To attest the mandate for promoting and protecting these rights, numerous Human Rights instruments were designed including UDHR 1948; ICCPR 1966; ICESCR 1976, the UNCRC 1989; ACHPR 1981 and ACRWC 1990.

Henry Shue (1980) defined the obligations to promote and protect the human rights of all human population typologically in a ‘tripartite typology of obligation’. According to him every basic right had three types of correlative obligations. These were: ‘to avoid depriving, ‘to protect from deprivation’ and ‘to aid the deprived’. These have been redefined into simpler words ‘to respect’, ‘to protect, and ‘to fulfill’<sup>18</sup> whereby the last one may be divided into obligations of facilitating and providing.

In 1993 the Vienna Declaration and Programme of Action (VDPA) proclaimed that ‘the promotion and protection of all human rights is ‘a legitimate concern of the international community... and of nations individually’<sup>19</sup>. Consequently the dissemination and enforcement of rights standards became a responsibility of the entire world community and all nations individually. This gave the world community two distinctive roles. The first was to concern itself with how a state treated its own subjects in this day and age. The second was for all states to follow the superior international standards which had been established by common the consent and practice. These were to be used for

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<sup>17</sup> Preamble UDHR (1948) (*Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948*)

<sup>18</sup> University for Peace: Human Rights Reference Handbook; Prepared for curriculum Development Workshop on Human Rights, Justice and Peace Kampala, Uganda 1-5 December 2003, pg 18

<sup>19</sup> Op.cit. pg 12.

appraising domestic laws, and the actual conduct of these states within their own territories in the exercise of their internal jurisdiction.

In the same vein, the Right and Responsibility of Individuals, Groups and Organs of Society on Universally Recognized Human Rights and Fundamental Freedoms were declared by United Nations of the 85<sup>th</sup> plenary<sup>20</sup> (1998). The declaration compelled all the governments, agencies and organizations of the United Nations system to intensify efforts to disseminate the declaration and to promote universal respect and understanding<sup>21</sup> of these rights and freedoms. In addition, it was agreed that any “expressions of concern’ by the world community ‘at violations of ... rights in the domestic affairs of any state... should not be considered as interference’<sup>22</sup>.

The mandate to promote and protect the rights of children and the specific rights of children to participate in decision making including education were specifically articulated by the UNCRC (1989) at the international level, the ACRWC (1990) at the African regional level and the Constitution of Uganda (1995) at the National level. These mandates were embedded in same legal provisions within the respective documents.

### **2.1.2 The children’s participation rights Framework at the various levels.**

The meaning of the right of children to participate in decision making was traced through the following instruments; the UDHR 1948; ICCPR 1966; ICESCR 1976 and the UNCRC 1989 at the international level; ACHPR 1981 and ACRWC 1990 at the regional/African level and the Constitution of the Republic of Uganda 1995; the Education Act Cap 127; the Children Act Chapter 59; the local government Act Cap.243, the Penal Code Cap 120 and the Uganda Human Rights Commission (UHRC) at the national level.

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<sup>20</sup> Resolution 53/144 of General Assembly of the United Nations of the 85<sup>th</sup> plenary -held on 9<sup>th</sup> December 1998

<sup>21</sup> [www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.RES.53.144.En?Open\\_Document](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/A.RES.53.144.En?Open_Document): Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

<sup>22</sup> Op. cit. pg 12.

### 2.1.2.1 The Universal Declaration of Human rights (1948)

The UDHR (1948) was the first comprehensive agreement among nations on the specific rights and freedoms of ‘all human beings. According to resolution 217 of the General Assembly, the UDHR (1948) is the “common standard of achievement” for all peoples and all nations”<sup>23</sup>. It formed the customary international law which bound all governments and was applicable to the human population as a whole including children.

Within the UDHR, the meaning of the right of children to participate in decision making in general and in education matters in particular were traced in the following articles including 1, 2, 7,12,18,19,20,24,26 and 27. The same articles provided the mandate for the promotion and protection of these rights. These rights have been categorized as ‘primary<sup>24</sup> and social participation rights’<sup>25</sup>. Both categories of rights are fundamental to the children’s enjoyment of their right to participate in education decision making as described below.

The primary participation rights serve to facilitate children’s informed decisions, association and the building up of democracy. They provide the defense for children against those who become domineering. The social participation rights nurture children’s participation skills, the democratic values, norms and citizenship during the decision making process and foster an environment for institutional building. They ensure for interactive participation, support the full development of the human personality and strengthen respect for human rights and fundamental freedoms.

Despite the provision of the primary and the social participation rights, the rights that ensure that the children’s views are heard, taken seriously and put into consideration were missing. These are called substantive participation rights which should be part and parcel of the primary and social participation rights package. Without these substantive

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<sup>23</sup> Preamble UDHR (1948) (*Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948*)

<sup>24</sup> The Primary participation rights:-  
ibid Article 1: equal human rights  
ibid Article 2 : Non discrimination  
ibid Article 7 : Equality before the law  
ibid Article 12: Right to privacy  
ibid Article 18: right to freedom of thought, conscience and religion  
ibid Article 19: right to freedom of opinion and expression  
ibid Article 20: right to freedom of peaceful assembly and association.

<sup>25</sup> The Social participation rights:  
ibid Article 24: right to (play) rest and leisure  
ibid Article 26: right to education  
ibid Article 27 :right freely to participate in the cultural life of the community

participation rights the primary and social participation rights will not sufficiently support the growth of an enabling environment for children's participation in decision making process on matters that affect their lives.

An enabling environment will consist of three bases; the first will be the knowledge and awareness base on child friendly participation norms and values; the second will be the child - based institutional building including a robust legal system and accessibility base and the third will be the practical participation base where the children will engage their negotiation and decision making skills to make weighted decisions. The three bases are a prerequisite to children's participation in decision making. The three bases usually correspond with the three phases of participation which are to speak, to participate and to have the children's views taken into account. These three phases describe the sequence of the enjoyment of the right to participate from a functional point of view.

Other limitations with the UDHR are that article 26(3) gave the final decisions on the educational matters to the parents. They had the prior right to choose the kind of education for their children. In any case, the primary and social participation rights which the UDHR provided were not specific to children but were directed to all 'human persons'. This ambiguity fails to envisage the children as subjects of rights who are able to form and express opinions.

In order to monitor the implementation of the rights provided, the UDHR assigned the General assembly the responsibility of ensuring that every individual and every organ of society, strives to teach educate and to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of member States themselves and among the peoples of territories under their jurisdiction.

### **2.1.2.2 The International Covenant on Civil and Political Rights (1966)**

To the meaning of right of children to participate in decision making, the ICCPR added the civil and political rights including the rights to self-determination, to nationality and a name...<sup>26</sup> in articles 1 and 24<sup>27</sup>. According Gros H. Espiell 2000 the right to self-

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<sup>26</sup> ibid article 24: nationality and name & protection of child as a minor.

determination<sup>28</sup> is important to decision making process for three reasons. First, it mandates ‘every person’ to exercise his or her right to make choices in respect of their life...’ Second, it guarantees ‘every person’ the right to participate in the democratic process of governance to influence their future politically, socially and culturally. Last, it is an erga omnes principle<sup>29</sup> and therefore entitles every one to command respect from others and the government, during any interactions under any circumstances. Similarly, the right to nationality and name are a prerequisite to political rights during community participation for both adults and children. They allow for political ‘voices’ into the affairs that concern them in their society.

However the restrictive measure in article 19(3) which many African states have been known to use is another predicament to the right of children to participate in decision making process. Similarly, the provision requiring the protection of children as minors in article 24 is bound to be used as an excuse to prevent children from participating in decision making under the cover of protecting them from the rigors of decision making.

For monitoring and evaluation of the ICCPR performance, the Human Rights Committee was assigned (article 29) the overall responsibility of receiving reports from States Parties to the present Covenant member states on a yearly basis or whenever the Committee so requests. These will be on the measures adopted to give effect to the rights recognized in the ICCPR and on the progress made in the enjoyment of those rights. Any action to be taken will be transmitted to the Secretary-General of the United Nations who after consultation with the Committee, will transmit to the specialized agencies concerned the issues that fall within their field of competence (article 40).

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<sup>27</sup>Articles 1: All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development (ICCPR 1966)

<sup>28</sup> United Nations Geneva August 2000: Understanding Self-Determination: The Basics Presentation to First International Conference on the Right to Self-Determination United Nations Geneva August 2000.

<sup>29</sup> ICESCR: articles 10(3): provision of special measures of protection from discrimination, exploitation on economic and social conditions.

ibid: article 13(1):Right to education and fundamental freedoms

ibid: article 13(2):Right to appropriate and accessible education

### **2.1.2.3 International Convention on Economic, Social and Cultural Rights (1976).**

The ICESCR (1976) added the social, economic and cultural dimensions to the meaning of the right of children to participate in education decision making as human persons in articles 10 (3) and 13 (1 and 2)<sup>30</sup>.

However article 13(3)<sup>31</sup> echoed article 26(3) of the UDHR by categorically denying the children the opportunity to enjoy their right to participate in education matters. The children are left victims of manipulation when all powers to decide on education matters are left to parents or legal guardians. The Bill of rights<sup>32</sup> was also silent on the weighting values which are known to influence the weight of children decisions/views. These are; childhood, age, maturity, ability, competence, and the best interest of the child. It is the failure to include these considerations that compounds the difficulty of getting the adults to see children as subjects of rights capable of intervening as partners in the process of social change and in the building up of democracy.

A Committee on Economic, Social and Cultural Rights (CESCR) in Article 17 was established for monitoring of the progress of the covenant. The states are obliged to make periodic reports to the committee within one year on the instrument implementation which ends up in the plenary of the GA of UN. The assessment and evaluation of the progress stimulate responses by the UN to errant states in Human Rights observance, promotion and protection article (article 21).

From the above, the decision making powers on education matters are legally put in the hands of the parents and the state. Without substantive participation rights, it becomes hard for children to share in decision making process.

### **2.1.2.4 The United Nations Convention for Rights of Children (1989)**

The most significant step on the meaning of the children's right to participate in education decision making came with the UNCRC (1989) in thirteen of its articles. The participation rights are harmoniously packaged to include the three categories of these rights; the primary<sup>33</sup>, the social<sup>34</sup> and the substantive<sup>35</sup>. The UNCRC also provided the

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<sup>31</sup> ICESCR: article 13(3): The parents or legal guardians must choose the schools for the children.

<sup>32</sup> UDHR, ICCPR & ICESCR 1976

<sup>33</sup> UNCRC 1989: articles: 7, 8, 13, 14, 15, 16, 17, 18, op.cit. pg 10.

<sup>34</sup> Articles 23, 28, 29 and 31. Op.cit pg 14.

weighting values which according to Flekkøy, M. G. and N.H. Kaufman (1997)<sup>36</sup> influence the quality and weight of the decisions made by the children. These are childhood, age, maturity, ability, competence, and the best interest of the child. This package of participation rights formed the ‘first standard meaning of common achievement’ for the right of children to participate in decision making for all peoples and all nations.

Based on the ‘first standard meaning of common achievement,’ the following offer reasons for a special case for children to participate in decision making on matters that affect their lives (2006)<sup>37</sup>.

(1). Children's views are rarely heard and considered in the political process. However much as they generally do not vote and do not otherwise take part in political processes their views on many important issues while at home, school and in local communities and even in governments must be listened to and taken seriously.

(2). Children are individuals and have equal status with adults as members of the human family. They are neither the possessions of parents nor of the state, nor are they mere people-in-the-making. The governments and other stakeholders are morally obliged to recognize the full spectrum of human rights for all children. This is a large portion of the world's population, which indeed, must be considered and involved when decisions are made.

(3). The healthy development of children is crucial to the future well-being of any society and issues such as disease, malnutrition and poverty – that threaten the future of children and societies worldwide must be combated with children’s involvement;

(4) The children start life as totally dependent beings and must rely on adults for the nurture and guidance they need to grow towards independence; such nurture is ideally found in adults of children's families and when missing the society must fill the gap;

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<sup>35</sup> ibid article 12: children must freely express their views in matters affecting them

<sup>36</sup> Flekkøy, M. G. and N.H. Kaufman (1997) *The Participation Rights of the Child: Rights and Responsibilities in Family and Society*. London: Jessica Kingsley Publishers.

<sup>37</sup> <http://www.ngos.net/conditions/childdrights/faq.html> 1/11/2006: Convention on the Rights of the child Frequently Asked Questions

(5) The actions of government impact on children more strongly than any other group in society and practically every area of government policy (for example, education, public health and so on) affect children to some degree directly or indirectly. Where government policy-making fails to take children and their views into account, it threatens their future.

(6) Many changes in society are having a disproportionate and often negative impact on children and these changes include transformation of the family structure, globalization, shifting employment patterns and a shrinking social welfare nets in many countries. The impact of those changes can be particularly devastating to children and it is only them that would give the true effect;

(7) That the costs to society of failing its children are huge and the way in which children develop determines whether they will make a net contribution or pose a huge cost to society over the course of their lives;

(8) The global trend of urbanization has taken a severe toll on especially children, who are nearly half of the urban population in the developing world living in poverty. The plight of children often worsens when families relocate from the countryside to large cities. Parents and children lose support systems with the break-up of extended families resulting in the presence of children on the street scavenging, begging, hawking and soliciting.

The case above, brought out three fundamental facts: First, that children's participation rights are not special rights, but rather the fundamental rights that are inherent to the human dignity of all people regardless of age; Second, that children's participation rights "are no longer perceived as an option or as a question of favor or kindness to children or as an expression of charity"<sup>38</sup>; and Last, that governments are obliged to bring their legislation, policy and practice in conformity with the standards in the convention, transform the standards into reality for all children and abstain from any action that may preclude the enjoyment of those participation rights in particular and the other human rights in general or violate them.

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<sup>38</sup> Op.cit pg 18.



### 2.1.3 The Regional Human rights Framework

The development of the regional African human rights framework however, began the reflections that there were limitations with the ‘first standard meaning of common achievement’ for the right of children to participate in decision making. It was realized that the meaning needed to be brought into sync with the African perspective. Secondly, there was already evidence that both the rights standards (primary, social and the substantive participation rights) and the weighting values hold varied meanings in the different milieus of the world. These two reflections began to bring to light that participation holds different meanings for different groups. According to Adams (2003) this lack of shared understanding and agreed definitions make it harder to put into practice.

#### 2.1.3.1 The African Charter on Human and Peoples’ Rights (1981)

The ACHPR<sup>39</sup> developed at the African regional level provided similar participation rights to the meaning of children’s right to participate in decision making process. These included; the primary<sup>40</sup>, social<sup>41</sup> and substantive<sup>42</sup> participation rights to any ‘person’ in the following articles, 2, 3(1 & 2), 8, 9, (1 & 2), 10, 11, 13, 17, 27, 28 and 29. The ACHPR added the African dimensions articulated in Articles 13, 17, 27, 28, 29 during implementation.

Articles 27, 28 and 29 provided for children’s duties towards their family, society and fellow beings. This is because rights and duties are intrinsically connected. Article 17(3) advocated for promotion and protection of important African morals and traditional values recognized by the community. This emphasized the element of responsibility and

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<sup>39</sup>African [Banjul] Charter on Human and Peoples' Rights is an OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982).

<sup>40</sup>ACHPR (1981) articles 2: right to enjoyment rights and freedoms

ibid articles 3(1): right to be equal before the law

ibid articles 3(2): Right to equal protection of the law

ibid articles 8: Freedom of religion and conscience

ibid articles 9(1): Right to receive information

ibid articles 9(2): right to express and disseminate opinions

ibid articles 10: Right to free association

ibid articles 11: Right to assemble freely with others

<sup>41</sup>ibid article 17: right to education

ibid article 27, 28 and 29: duty to family, society and fellow beings.

<sup>42</sup>ibid article 13: right of every citizen to participate freely in the government of his country

ibid article 17(3) promoting important African values.

culture in decision making. This is important because it is the value paradigm in a society which determines the weight of any decision.

Allotting duties and responsibilities to children signals danger to children wellbeing. It makes them duty bound to perform exploitative tasks at times, in the name of fulfilling duties in the home, the community and school. It is important therefore that the conditions that subject children to forced labor are not promoted. Similarly, article 17(3) need to be promoted with caution as it may negatively become a major basis for promoting values that result in a wide range of abuses.

In part two of the Charter a commission and an African Court on Human Rights were provided to operate as an individual complaint mechanism. However, the access to the two structures by children is doubtful because it is already difficult for the adults. According Mutua (1998) the Commission was a “façade,<sup>43</sup> a ‘yoke that African leaders have put around our necks’.

### **2.1.3.2 African Charter on the Rights and Welfare of the Child (1990)**

The ACRWC<sup>44</sup> provisions also complemented the UNCRC by responding to the sentiments, experiences and the socio-cultural and economic realities of the African setting. It is modeled along the UNCRC and the two instruments share key principles, have similar participation articles and the rationales for the right of children to participate in education decision making.

The new addition to the meaning is in article 2<sup>45</sup> which discourages customs that are inconsistent with the rights, duties and obligations. This is a major move towards setting the African child free from the cultural barriers and in line with the provisions in article 1(3)<sup>46</sup>. The charter also provided similar provisions on the primary<sup>47</sup> social<sup>48</sup> and

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<sup>43</sup> Mutwa Ondinkalu & Chidi Anselmo: A preliminary Assessment, transnational law and contemporary problems vol. 8 p 367 (1998).

<sup>44</sup> African Charter on the Rights and Welfare of the Child-an OAU Doc. CAB/LEG/24.9/49 (1990) of November 29 1999

<sup>45</sup> ACRWC Article 2: Any custom, tradition, cultural or religious practices that are inconsistent with the rights, duties and obligations contained in the charter should, be... discouraged.

<sup>46</sup> ACRWC 1990: Article 1: the member states to recognize and undertake the necessary steps in accordance with their constitutional process and within the provision of the Charter to adopt such legislation or other measures as may be necessary to give effect to the provisions...

<sup>47</sup> ACRWC 1990: Article 17: rights to access information.

ibid Article 7: right to expression/communication.

ibid Article 9: freedom of thought, conscience and religion.

ibid Article 10: respect for child's private life.

ibid Article 8: right of association.

ibid Article 6: right to an identity, nationality, name & family relations

ibid Article 12: right to rest, leisure, play.

substantive<sup>49</sup> participation rights like the UNCRC. It further emphasized the elements of duties and responsibilities of the child (article 31) to the family and community and the importance of the African culture introduced earlier.

The incorporation of duties and responsibilities of a child (article 31) to the ‘first standard meaning of common achievement’ produced the ‘final standard meaning of common achievement’ for the ‘right of children to participate’ in decision making including education. This was laced with the sentiments, experiences and the socio-cultural and economic realities of the African setting. It includes a set of rights standards: - the primary, social and substantive participation rights. It also includes the weighting values<sup>50</sup>.

#### **2.1.4 The National Human Rights Legal Framework**

The ratification<sup>51</sup> of the ICCRP, ICESPR, ACHPR, UNCRC, and ACRWC Human rights treaties meant that Uganda was obliged to implement and to uphold the rights of children to participate in decision making on all matters including education. It also meant that Uganda was accountable to the international community and her people internally for any violation, breach or failure to respect and fulfill any of the children’s rights within its territory.

The adoption of the ‘final standard meaning of common achievement’ for children’s right to participate in decision making for all nations began with the Constitution of the Republic of Uganda 1995. Under this legal framework subsequent enactments to domesticate the meaning were made. These included the Education Act Cap 127; the Children Act Chapter 59; the Local government Act Cap.243, the Penal Code Cap 120 and the Uganda Human Rights Commission (UHRC) as detailed below.

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<sup>47</sup> ibid Article 11: participation right of the child with mental or physical disability; right to education

<sup>48</sup> ibid Article 31: Duties and responsibilities of the child

<sup>49</sup> ibid Article 4(2): right to participation.

<sup>50</sup> ibid Article 4 (1): best interest of the child.

<sup>50</sup> Childhood, age, maturity, ability, competence, and the best interest of the child.

<sup>51</sup> The ICCRP was ratified on 21 June 1995; the ICESPR was ratified on 21 January 1987; the ACHPR was ratified on 10 May 1986; the UNCRC was ratified on 17 August 1990; the ACRWC, was ratified on 17 August 1994.

#### **2.1.4.1 The Constitution of the Republic of Uganda 1995.**

The Constitution of the Republic of Uganda Chapter 4 provided for the human rights of all individuals in Uganda. Within the Constitution, the meaning of the children's right to participate in education decisions was adopted in the eight articles. These were article 29<sup>52</sup>, which reflected the primary participation rights for 'every body' and articles 30, 34, 36, 37, 38, 43 and 44 which provided for the social participation rights<sup>53</sup>. Only article 34 provides rights specific to children. However, it does not contain the rights of children to participate in education decisions. In particular, there are no provisions for the substantive participation rights for children. This gap is exploited by the parents'/guardians who continue to make educational decisions for their children often without their consent. Albeit, the weaknesses above, article 34 provided a legal framework for subsequent policies and laws on children rights.

#### **2.1.4.2 The Education Act Cap 127 (1970)**

The Education Act Cap 127<sup>54</sup> was an outcome of article 30 of the constitution of Uganda 1995 and a replica of article 28 of the UNCRC. It was developed to guide the regulation of the education and administrative systems in schools. However, while the relevant sections 2<sup>55</sup> and 3<sup>56</sup> of the Act specified the participation rights of partners in education; the teachers and inspectors, the premises for the children's participation were not included. In this regard, the Act neither contributed nor complied with the 'final standard meaning of common achievement of the right of children to participate in education decision making. Similarly, it did not promote or protect the participation rights of children in the administration of education decisions.

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<sup>52</sup> The Constitution for the Republic of Uganda 1995: Article 29: ...every individual to access information, to freedom of association and to formulation of opinions free from influence and coercion.

<sup>53</sup> Article 30: All persons have a right to education

Article 34: exclusion order.

Article 36: Search and production order.

Article 37: removal of a child under emergency protection.

Article 38: Offence to remove a child from a place of safety without authority.

Article 43: Conditions for foster care placements.

Article 44: Jurisdiction.

<sup>54</sup> The Education Act Cap 127, July 17<sup>th</sup> 1970.

<sup>55</sup> *ibid*: Teachers/ head teachers to control and manage the schools.

<sup>56</sup> *ibid*: The inspectors of schools to inspect premises and control of teachers.

### 2.1.4.3 The Children Act Chapter 59

In the children Act 59, some semblance to the meaning, the promotion and protection of the children's right to participate in education decisions was reflected in three core principles<sup>57</sup>, the guidelines,<sup>58</sup> protection of the child from harmful customary practices and the provisions of a child representative<sup>59</sup> in each local council.

The participation principles compel all persons, the state, courts, and local authorities involved in decisions concerning children to consider their wishes, feelings, and the physical, emotional and educational needs, and the likely effects of any changes in the children. It is therefore arguable that in decision making other than the legal, the best interest of the child is paramount and children should participate in the processes. Thus the idea of representation of children in the local council by the secretary for Women must have been tagged to the best interest of the child.

Section 7 supports the elimination of harmful customary practices to the children's health. According to De Waal and Temba's (2000), refusing children to participate in decision making is a harmful practice. It deforms the child emotionally and mentally and may resort to criminality<sup>60</sup> and militarism in order for a child to express his or her views. However, this provision may be misrepresented to exclude children from taking part in the decision making process. Section 14<sup>61</sup> emphasized the legal dimension of the meaning. This means the engagement of children in conflict with the law on matters regarding the handling and the completion of their cases. In a situation of dispute requiring legal action against the parents, the principle can be invoked to protect them.

The Act does not include the exclusion of children from participation in decisions among the cases of child abuse to be reported to local governments or as a criminal charge against a parent. Most of the cases to be handled in these courts are on child neglect and

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<sup>57</sup> *ibid*: Core principles: participation of children in decisions that affect them; the best interest of the child and survival and development of the child

<sup>58</sup> The Children Act Chapter 59: To safeguard and promote welfare of children.

The secretary of children shall be assisted by officials of the local government in exercise of her duties

Local government shall mediate in situations of child right infringement.

Power given to local government to protect property of children.

Local government to keep register of disabled children.

Assistance for the accommodation of children

Tracing of lost children.

<sup>59</sup> The children act chapter 59 section 7: protection of the child from harmful customary practices to their health.

<sup>60</sup> De Waal and Temba (2002): in Afua Twum-Danso: [Africa: a hostile environment for child participation?](#) 2000

<sup>61</sup> The Children Act Chapter 59: Section 14: court has jurisdiction to hear criminal charges against a parent.

physical torture or mental suffering. In this case mental torture would arise from denial to participate in decision making. The Act provides no remedy for a child if they disagree with the parent on decisions of educational matters.

#### **2.1.4.4 The Local Government Act Cap. 243.**

The Local government Act Cap 243, Section 8 of the third schedule provides for a decentralized frame work<sup>62</sup> to facilitate participation and the representation of all groups in the local councils. The provisions indicate that Children will also participate in the local councils through the children's representatives. This means that the children's representative i.e Secretary for children, must consult, inform the children and take action based on their views.

#### **2.1.4.5 The Uganda Human Rights Commission (1997)**

The UHRC<sup>63</sup> is an independent constitutional body established to promote and protect human rights of every body in Uganda. Its function is to empower the public by giving them basic knowledge about their rights. It is responsible for investigating violations of human rights and is an additional organ available for citizens to complement the work of the judiciary for appropriate redress where a violation is proven.

Under the UHRC the right of the children to participate in education decision making is reflected in the type of cases frequently handled by the commission. According to one of its annual report (2001), of the total 2,342<sup>64</sup> complaint cases reported<sup>65</sup>, only 55 (2.3%) cases were related to children's rights to participate in education matters. These were specifically the denial of school fees. It is the social participation right (right to education) that is being fulfilled and protected here.

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<sup>62</sup> Local government Act Cap 243, Section 8: Two councilors one of whom shall be a female youth representing the youth in the district.

<sup>63</sup> Uganda Human Rights Commission established under article 51(1) of the Constitution of the Republic of Uganda (1995) and by the *Uganda Human Rights Commission Act No.4 of 1997*.

<sup>64</sup> Uganda Human Rights Commission -Annual report January 2001- September 2002 p.2-3

<sup>65</sup> Total 771 cases reported on violation of individual participation rights to Uganda Human Rights Commission:  
307 cases of adults denied liberty rights;  
192 cases of adults denied rights to fair hearing;  
195 cases of adults denied rights to privacy;  
2 cases of adults denied rights to freedom of worship;  
16 cases of adults denied rights to fair treatment;  
55 cases of children denied rights to education  
4 cases of adults denied rights to vote

In conclusion, from the different international and regional instruments above the ‘Final standard meaning of common achievement’ for the right of children to participate in decision making for all nations was formed. This means the implementation and upholding of the primary, the social and the substantive participation rights of the children in education decision making. It also means the inclusion of the weighting values operating under a legal framework backed up by wider social, cultural, economic and political policies to ensure the well being of families and children and their active participation in the family, schools and community.

While the standards (primary, social and substantive participation Rights and weighting values) for the meaning and legal frameworks were laid down, however, the conception, perception and interpretation of these standards have varied. This is due to the different traditional and cultural ideological framework under which they are operating and explains why participation holds different meanings for different groups. In essence the right of children to participate in education decision making is not a static concept that holds good for all children equally, in all places, and at all times.

## **2.2 The participation level of the right of children in education decision making.**

This section reviewed the participation level of the right of children to participate in education decision making. It looked at the scope and depth of children’s engagement in initiatives, organization and institutions including the mechanisms available to enable the participation of children in decision making process. The scope and depth of children’s engagement were determined by considering the decisions that have been made, consciously or unconsciously, how “freely” children can express their views and the extent of their “opportunity to be heard” using the Harts Ladder of participation and his proposed ‘requirements of true participation’<sup>66</sup>. These describe the three phases of participation i.e, to speak, to participate and to have their views taken into account. These three phases describe the sequence of the enjoyment of the right to participate from a functional point of view.

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<sup>66</sup> i. The children understand the intentions of the project  
ii. They know who made the decisions concerning their involvement and why  
iii. They have a meaningful (rather than decorative) role  
iv. They volunteer for the project *after* the project was made clear to them

### **2.2.1 Participation in School Planning Body**

There has been evidence to show that children generally have little say in school planning body on education matters that affect them because the adults have usurped the participation process. According to Sharon Rafferty's study<sup>67</sup>, the children's participation in the school planning body were non-existence while that of the parents/adults was high. She reported that;

*“As a former parent and a member of the school board, I have been informed, consulted and involved in a whole range of issues...”*

Her conclusions were that the school partnership with parents is always strong on the agenda contrary to that of children ...and “although the real consumers in the educational process are children; they appear to have little recognition” This exclusion of children emanates from the fact that adults have the attitude that children cannot be consulted on such matters because they are “just children”.

### **2.2.3 Selection of new school**

John Dolan<sup>68</sup> in his report on selection of a new school indicated that parents choose the schools for their children without considering their opinion. He observed that,

*“Immediately a child is ready to join a new school, the parent takes him or her to the nearest local school without considering the opinion of that child”*

He contends that, the reason why parents do this is because they “have the power and resources to make the decisions<sup>69</sup> where as the children don't have. In any case it is clearly stated in the human rights instruments that it is the duty of parents and the state to provide education for the children.<sup>70</sup>

### **2.2.4 Exercising citizenship.**

The Twum – Danso et al report (2000)<sup>71</sup> showed the extent to which children are denied opportunities to practice citizenship. In his report he showed that 50% of children below

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<sup>67</sup> Sharon Rafferty: *Giving Children A Voice - What Next?(1996)*

<sup>68</sup> John Dolan: School Choice -Telematic European Learning Materials for Inclusive Education project, 2000.

<sup>69</sup> [www.vobs.at/gassner/11/5choice.htm](http://www.vobs.at/gassner/11/5choice.htm): Who chooses which school for a particular child?

<sup>70</sup> Article 26 (3) UDHR Article 28; CRC Article 11(3a); ACRWC and Article 34 (2); Constitution of the Republic of Uganda 1995.

<sup>71</sup> Op cit. pg 27.



18 years have been a wasted source of real contribution as citizens within their communities. They have not been engaged in dialogue to promote respect for them as social actors with a role to play in society and in the exercise of rights. According to Afua Twum–Danso this high percentage of children that are denied the rights to participate in decision making on matters that affect their lives is of real concern and needed mitigation.

### **2.2.5 Expression of grievances**

John Elemu<sup>72</sup> reported on strikes as the new found method students use to express their grievances in education decisions. He reported that a total of forty strikes, the highest ever by children in various schools took place in Uganda in 2005 alone, the worst being the incident in Nabumali High School.

De Waal and Temba (2000) condemned the strikes because they are a negative participation. Both argued that, when young people are denied the prospect of effective participation, they often turn to this type of criminality or militarism<sup>73</sup>. Flekkøy and Kaufman (1997) further warned that, ‘it is better for children to get the right experience in situations that are not dangerous’<sup>74</sup>.

### **2.2.6 School girl marriages**

The practice of marrying off young school girls has had negative implications for the participation of, especially the girl child. This practice has compounded the already high schoolgirl drop out rate that is every where. During the– Ndimugezi Nomukobere talk show on Central Broadcasting Service Radio Station (Uganda) it was reported that for every a hundred girls that enroll in primary schools each year, it is only 11% that complete the primary school level<sup>75</sup>.

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<sup>72</sup> John Elemu: School strikes: New Vision, January 3<sup>rd</sup>. 2005 Uganda.

<sup>73</sup>Op cit pg 24.

<sup>74</sup> Flekkøy, M. G. and N.H. Kaufman (1997) *The Participation Rights of the Child: Rights and Responsibilities in Family and Society*. London: Jessica Kingsley Publishers.

<sup>75</sup> Radio CBS Talk – Ndimugezi Nomukobere @ 8a.m -10 am – 29/12/07

### **2.2.7 Poverty**

Behind the above skewed form of girl child participation however is poverty as the driving force in the face of limited opportunities and resources. Some parents justify the giving away of their young daughters to protect them from getting ‘spoilt’. This is in effect a misinterpretation of the best interest of the child.

On this, one ABEK official said,

*‘in the villages you find that a very old man can admire a young lady of say 17 or 18 once he says I want to marry that lady the parents just give her away without her consent because the family needs the animals. At times they engage in commercial sex’.*

### **2.2.8 Inappropriate awareness approaches.**

This general lack of acceptability of child participation in the community is partly related to inappropriate awareness approaches to children’s right to participation which gave little attention to children responsibilities. In Uganda, the level of acceptance of children participation in the community is about 30%<sup>76</sup>. This is partly because the advocates of child participation did not properly explain the whole concept and its benefits to the community. When you mention child rights they say, ‘now the people who make our children big headed have come again’. They emphasized the children’s rights and neglected children’s obligations. It is clear from the above that for as long as children remain invisible and muted such practices will persist. The main reason for this is their subordinate position in society.

Since the World Summit for Children in 1990, it became apparent that children and young peoples’ participation was beneficial to children, their families, community, the school, development workers and the nation for democracy. There are now some interesting initiatives taking place in many European and African countries and Uganda in particular to indicate that children are being involved in decision making processes.

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<sup>76</sup> Baseline survey report on status of child participation in Uganda, final draft October 2006.

### **2.2.9 The case for the disabled children.**

Of late, the participation situation of disabled children in their education matters is taking root. The methods of learning have become participatory through the use of gestures, the Braille system, therapeutic and special needs toys, adaptive equipment and tools. These are also used as a means of expressing their views. For a long time, the use of the multi media has been enabled through extensive examination of the participation of disabled children in activities and interventions.

However according to Robbins<sup>77</sup> there has been a wide variation in the extent to which disabled children were being involved about their care with many authorities reporting that work to consult and involve disabled children was at an early stage. Also, the focus remained on gathering views of parents even where the practice for consultation is good. The disabled children and young people particularly those with complex needs are left out<sup>78</sup> (2006).

### **2.2.10. The phenomenon of the HIV/AIDS**

The phenomenon of HIV and AIDS has clearly brought out cases of communities recognizing the need to engage their children and young people in the fight against HIV and AIDS in their childhood stages. Twum Danso has supported this as he noted that;

*“The devastating impact of HIV and AIDS has arguably facilitated this process. As young people are largely affected by the pandemic, the numerous awareness campaigns have led to the establishment of many children’s clubs, particularly within Schools”<sup>79</sup>.*

Research on HIV/AIDS is also becoming increasingly child-focused and children have been actively involved in research as providers and collectors of data. This means children are now being brought up to have a stake in planning and looking for strategies together with adults. It has also clearly brought out cases of children that exercise decision making responsibilities of heading families albeit at an early age. These have had to take decisions on behalf of their siblings.

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<sup>77</sup> Robbins D(2001)Transforming children services: An evaluation of Local Quality protects Program QP Year 3,London:Department of Health

<sup>78</sup> SPRU participation of disabled children and young people in decision making relating to social care 2006

<sup>79</sup>Van Beers 2002 - Pushing the Participation Agenda – Experiences from. Africa’

### **2.2.11 Single parenthood**

The phenomenon of single parental hood has brought out cases of children participation in decision making in education. The children who live with single parents have become independents and active individuals, with duties to perform. In some cases they are required to work to perform duties which should have been done by another parent such as making decisions on schools that they should go to and topping up the family income. Although this focus on duties makes the need for participation more crucial as one grows up, the responsibility should be in within the capacity of the child. Care must be taken to ensure that the responsibilities are not excessive under the guise of participation and that the participatory activities do not undermine other responsibilities, such as school work.

### **2.2.12 The non-denominational private boarding primary and secondary schools**

The busy parents usually send their children to boarding schools. This has had implications for the participation of these children in the education decision making process. Most of these parents discuss with their children which school they want to go to and how often they should visit them. This is partly due to the parents' busy schedule and the little time they have for their children. The children's actions are also influenced by their Peers. This is especially true in non-denominational schools which are liberal in their outlook.

### **2.2.13 Education in a foreign country for children of rich parents.**

Another interesting phenomenon which has influenced Participation of children in decision making in education matters involves rich parents who send their children to foreign countries in search of better education. Most of the children sent out to study have the opportunity to learn to exercise intricate education decisions without the influence of their parents. The environment they are staying in is such that they have the opportunity and space to speak, participate and to have their views taken into account.

### 2.2.14 School leadership

The Ugandan schools have been concerned with the idea of leadership as a way of involving children in the administration of schools and at the same time preparing them for leadership thereafter. Joel Runnels<sup>80</sup> reported that in his school, prefects are chosen through prefects' election campaign and after winning the majority vote in the whole school (2006). This practice has given the children the opportunity to participate in the supervision of the activities in schools and learn the practice of campaigning during elections which is good and a positive initiative in education decision making.

According to Kristi S. Lekies<sup>81</sup>, “.....kids can do so much more than we give them credit for”. In his report he noted that;

*‘I guess I never had really thought about the possibility of having the kids to be at that level in the planning processes. This has enhanced the implementation of the children’s participation in decision making.*

From the above, there is evidence to show that children are beginning to enjoy the right to participate in decision making in educational matters. This is at the first phase level - ‘to speak’ and it is in terms of children engagement in initiatives at school. There are also indications that children are beginning to have opportunities to discuss educational matters in the family with parents. However their engagement in educational organizations and institutions (which represent the second and third phases) is still barred by the cultural, social, economic, political and legal challenges.

Based on Hart’s ladder of participation<sup>82</sup> and his proposed ‘requirements of true participation therefore, the overall indicative participation level of the children’s participation in decision making in their educational matters was non-participation (exclusion). This level is occasioned with intermittent initiatives of positive or meaningful participation at level five<sup>83</sup> of Harts ladder of participation. However, Harts research<sup>84</sup> revealed that the participation of children in decision-making process on most issues was

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<sup>80</sup> Latest News: [www.kisoro.org/trust.htm](http://www.kisoro.org/trust.htm) 2006.

<sup>81</sup> Kristi S. Lekies - Garden- Based Learning Projects’ <http://hort.cornell.edu/edu/gbl/groundwork> 2006

<sup>82</sup> Appendix A: Harts ladder of participation: Adopted from Hart, R (1992). Children’s Participation From Tokenism to Citizenship.

<sup>83</sup> Harts ladder: Consulted and informed

<sup>84</sup> Op.cit. pg 11.

not widespread and genuine. In most cases, children are used by adults to give the appearance of participation without the substance. In conclusion, true participation by young people is relatively uncommon in the world and Uganda in particular.

### **2.3 To trace for the meaning of the “children’s right to participate” in education decision making and its legal framework.**

The third theme established the challenges faced by children in the enjoyment of their right to participate in education decision making. This was done by identifying the challenges, ascertaining their extent, the root causes and the effects on the right of children to participate in education decision making. The challenges were also weighted using the weighting value of x2 of each number of subjects that fit into each designed category.

Harts research<sup>85</sup> revealed that the participation of children in decision-making process on most issues was not widespread and genuine. This is due to a wide range of challenges which have impeded the implementation process and attenuated the children from the enjoyment of their rights to participate in education decision making.

Only ten main challenges have been discussed here. These are; the varied interpretation and meaning of children’s right to participate in decision making; the varied conceptions and perceptions of the weighting values of children’s views and decisions; the conflict between the parental rights and the rights of children to participate in decision making; the parental/adults exclusionary premises and prejudicial point of views on the right of children to participate in decision making process; disharmony between the rights to participate in decision making and the right to education; the colonial legacy; the education decisions and their financial implications; the inappropriate structures and approaches to children’s rights; poverty; the state obligations towards children and the inappropriate legal framework.

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<sup>85</sup> Op .cit. pg 11.

### **2.3.1 The varied interpretation and meaning of children's right to participate.**

Due to different traditions and cultural ideological frameworks under which the right of children to participate in education decision making is operating, participation holds different meanings for different groups (Adams 2003). These consist of the traditions, culture, norms and values of any society or community whose related perception of children's participation in decision making may either be positive, negative or derogatory. This means that the meaning and form that the right of children to participate in decision making takes is derived from the perceptions which that particular society holds. Thus, the meaning has become contextual such that, in one society it is regarded as 'positive' and in another negative or exclusionary.

According to Michael Gose (2002), the African traditions and culture view the participation of children in terms of fulfilling duties and responsibilities of obedience, respect for parents, superiors and elders at all times...<sup>86</sup>. This means that children become indebted to the parents and work for the cohesion of the family. This duty to obey, even in cases where the parents are abusive, may result in 'a lifetime of unquestioning obedience and loyalty' in compensation<sup>87</sup>. The negativity of this form of participation is articulated by Ncube's statement that "the harder the labor the better prepared for life the child becomes in the future"<sup>88</sup>. This form of participation is not far from child labour.

According to Lansdown, (1995:22-24; Verhellen, 1997:27), Flekkoy and Kaufman, and R. Hart 1992)<sup>89</sup>, some cases of child labor are interpreted as participation and are common among countries that are economically deprived. These cases include; child prostitution, the military, street vending and the exploitation of small children in industries. According to article 32<sup>90</sup> of the UNCRC child labor is neither acceptable nor regarded as an opportunity for the child to participate and develop useful skills.

According to Afua Twim - Danso, participation in armed conflict and in any exploitative labor, due to coercion or the need for survival is negative participation. Positive participation of children on the other hand, is that which conveys principles that relate to

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<sup>86</sup> The African Charter on the Rights and Welfare of the Child: an assessment of the legal value of its substantive provisions by means of a direct comparison top the convention on the rights of the child. –Michael Gose 2002

<sup>87</sup> W. Ncube: The African Cultural Fingerprint?pg 22

<sup>88</sup> Op.cit pg 42.

<sup>89</sup> JOURNAL ISSUE 7 2003/2004 Jim Lurie 2003- IUC Journal of Social Work theory and Practice -Tension between protection and participation rights. (The opinions of Lansdown, (1995:22-24; Verhellen, 1997:27), Flekkoy and Kaufman, and R. Hart 1992)

<sup>90</sup> Article 32: The government should protect young people from work that is dangerous or might harm their health or their education.

children voluntarily engaging in a process that is meaningful. According to him, the participation of children,

*‘...should be an on going process of... active involvement in decisions that affect their lives...the genuine participation that gives children the power to shape both the process and the outcome. Children’s participation in this case involves the exercising of one’s rights for the best interest of one’s self’.*<sup>91</sup>

This was echoed by Roger Hart when he said:

*“Children need to be involved in meaningful projects with adults. It is unrealistic to expect children to suddenly become responsible, participating adult citizens at the age of 16, 18 or 21 without prior exposure to the skills and responsibilities. An understanding of democratic participation, together with the confidence and competence to participate can only be acquired gradually through practice; it cannot be taught as an abstraction”*<sup>92</sup>.

Thus it is the lack of shared understanding and agreed definitions that have made it harder to put the concept into practice.

### **2.3.2. The varied conceptions and perceptions of the weighting values of children, their views and decisions.**

The main weighting values of the children’s right to participate are six<sup>93</sup>. They include childhood, age, maturity, ability, competency and the best interest of the child. However, different societies conceive each one of them differently. This has led to varied definitions of each weighting values and to varied meanings of the concept in the different societies.

The perception attached to the weighting values shapes the environmental outcome for participation. This may either be enabling or disabling for the right of children to participate in decision making. Childhood and maturity for example, are defined differently under the law and the traditional and cultural ideological frameworks. In societies where law takes precedent, childhood is defined according to age or the time

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<sup>91</sup> Op cit. pg 24.

<sup>92</sup> Op cit. pg 11.

<sup>93</sup> Six participation parameters: childhood, age, maturity, ability, competency and the best interest of the child, Flekkøy, M. G. and N.H. Kaufman (1997)



someone has lived on earth. According to the UNCRC (1989) a child is any person below the age of 18 years unless defined earlier.

At the domestic arena, the age of criminal liability is 12 years in Uganda. However the children's statute defines the child as anybody below the age of 18 years. This means that children between 12 and 17 years inclusive are answerable for any criminal acts they commit and thus be subjected to penalty sentences which may amount to abuse of child rights. In societies where the traditional/cultural values take precedent, the definitions of childhood and maturity attach little importance to age. On this Ncube (1998) had this to say,

*“In the African cultural context, the determination of childhood has little to do with age but with the physical capacity to perform acts that are normally reserved for adults (e.g. initiation ceremonies or marriage)”. After an individual achieves the prescribed test of maturity he or she is considered mature and qualifies to participate in decision-making processes”.*

The ‘best interest of the child’ principle is equally controversial<sup>94</sup>. It is an amorphous concept from which it is difficult to flesh out common criteria relating to questions of ‘when to serve it’ and ‘how to serve it’ during the decision making process. However, it is a useful weighting value when responding to issues of child participation with regard to whose interest it is serving.

The ‘competency debate’ <sup>95</sup>(1992) complicated the legitimate use of the ‘competence value’. According to Flekkøy and Kaufman (1992), the argument on competence is legitimate only when it is not used as a rationalization for unreasonably limiting children's participation rights. They rejected the double standards where children had to demonstrate their competence before their participation whereas the adults did not have to prove their competence.

The impact of these conceptual variations on the weighting values has been the development of controversial interpretation of the ‘rights standards’ identified under the

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<sup>94</sup> [Evaluation of the best interest of the child](http://www.save-the-children.org/italy-tp://strnieriitalia.com/briguglio/immigrazione-e-asilo/2002/apriete/rozzi-interesse-minore-en.html) by Elena, Rozzi , Save the children Italy-tp://strnieriitalia.com/briguglio/immigrazione-e-asilo/2002/apriete/rozzi-interesse-minore-en.html

<sup>95</sup> Op.cit pg 34

‘final standards of common achievement’ This has made it harder children’s participation in decision making in most of the matters that concern them to hold good for all children equally, in all places, and at all times. Thus the controversial perceptions of the weighting values currently at work are inclined towards prohibiting children from participating in the decision making process.

### **2.3.3 Conflict between parental rights and Children’s participation rights**

The rights of parents or legal guardians’ over children include the duty to provide care, appropriate direction and guidance in the exercise of the rights of children in a manner consistent with their evolving capacities<sup>96</sup>. The right of children to participate in decision making process includes guarantees to be heard on all matters which affect them, and to have their opinions taken seriously<sup>97</sup>

According to the study in Bergen<sup>98</sup> (Norway1995), conflict between parental and children rights to participate in decision making process arose when it came to practical application of both rights in the real world. The study shows that the children are rarely contacted on the grounds of protecting them from having to talk about difficult situations<sup>99</sup>. The parents and guardians believe that too much responsibility and too much participation can be harmful to children. The children need to be protected from participating in difficult decision-making situations or from feeling pressure to express their views on painful or controversial matters.

But Boyden <sup>100</sup> (1997) does not subscribe to this kind of thinking. For him children must be consulted. He said,

*“If children are old enough to collect fodder and fuel, look after siblings and work for waged labour they are certainly old enough to consult about decisions which affect their development”*

A distinction of the two rights becomes necessary. According to a Norwegian White Paper<sup>101</sup> (1995) for the Children’s Ombudsman, the protection rights focus on child’s innocence and vulnerability and the need for protection against various potential dangers.

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<sup>96</sup> UNCRC: Article 5: To provide, in a manner *consistent with the evolving capacities of the child*, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

<sup>97</sup> *ibid*: Article 12 States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

<sup>98</sup> Christiansen, Havnen, and Havik: Norwegian child protection setting 1998

<sup>99</sup> *Op. cit.* 38.

<sup>100</sup> Boyden 1997 p 222 Consultation with and Participation by affected populations’ humanitarian action-Srilanka.

<sup>101</sup> Norwegian White Paper (1995:26)

They are passive rights which are exercised by adults in the best interests of the child. The participation rights on the other hand, focus on a child as an independent and active individual, with own status in legal matters. They are active rights exercised by children acting on their own behalf with real influence in decision-making process.

The above model places children's rights in a developmental context where different rights have different importance at different ages. Thus the younger the child, the greater the need for their protection, and the participation rights increase in importance as the child ages and matures. However in the real world the protection rights of the parent take precedent over the participation rights of the children. This is because their participation is interpreted as a state of intrusion into the jurisdiction of the family head and a threat to parental authority.

According to Lansdown (1995), it is the 'inaccurate perceptions of childhood and an exaggerated sense of children's vulnerability which often undermine their right to participate. This practice ends in a "self-confirming cycle" where, the predominance of the protective rights inhibits the development of appropriate recognition of children's real capacity for participation...'<sup>102</sup>

Tucker, (2002) on the other hand argued differently on parents' involvement in children's education. According to him, the single greatest determinant of a child's educational attainment is the parental involvement. Without this key ingredient, children simply cannot do well'<sup>103</sup>.

It has been difficult therefore for parents to appropriately balance their involvement in their children's decisions with their duty to provide care, appropriate direction and guidance on matters that affect their children.

#### **2.3.4 Parental / adults exclusionary premises and prejudicial point of views.**

The parents/adults exclusionary premises and prejudicial point of views on children's participation in decision making on all matters that affect their lives emanate from the existing society's social, cultural political and legal structures. According to Cox (1996)

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<sup>102</sup> Op.cit pg 32.

<sup>103</sup> [www.keepmedia.com/showItemDetails.do?item\\_id](http://www.keepmedia.com/showItemDetails.do?item_id) – Educational progress can't happen without help of children.

and Qvortrup (1994), most traditional and cultural set up relegate children to the world of the mute<sup>104</sup>. They are regarded as chattels, the property of their parents and looked down upon as ‘human beings in the making’, ‘to be seen but not heard’ and whose lack of autonomy is natural.

Similarly, E. Mabusela (2003) argued that within that set up, the forms of family relationship that exist, ‘are stratified and role expectations are clearly defined’<sup>105</sup>. Thus in some communities there are structures that do not allow children to speak among adults without permission, and if they did it could bring disgrace on the parents and is therefore punishable. Due to this skewed structural set up of the society, the children’s potential for participation is under-valued and ignored. In addition the children lack political and economic resources which are the sources of power.

During the 1990 World Summit for the children however, Kofi Annan opened the participation chapter for the children to participate in matters that affect them. During the summit he said:

*“...The children’s presence transformed the atmosphere of the United Nations and our usually measured and diplomatic discussions; they introduced their passions, questions, fears, challenges, enthusiasm and optimism. They brought us their ideas, hopes and dreams. They gave life to the values of the convention on the rights of the child. And they contributed something only they could know: the experience of being young in the 21<sup>st</sup> century, in a time when HIV/AIDS continues to grow at a devastating rate; at a time when unprecedent wealth co-exists with extreme poverty; in a time when rights of children, while almost universally recognized are abused systematically and daily through out the world”<sup>106</sup>.*

This speech reflects the practical meaning to the three phases of participation i.e., to speak, to participate and to have the children’s views taken into account. It flagged the signal to enhance the facilitation of children’s enjoyment of the right to participate in decision making process on all matters that concern them. It meant that children are to be

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<sup>104</sup> Op.cit.pg 32

<sup>105</sup>[http://www.sahrc.org.za/approaches\\_to\\_child\\_participatio.htm](http://www.sahrc.org.za/approaches_to_child_participatio.htm) E. Mabusela: ‘Approaches to Child Participation’. Accessed on 24 July 2003-

<sup>106</sup> Kofi Annan, UN Secretary General: World Summit for Children, 1990

perceived not as mere recipients of knowledge, but rather as active players in the development of their nations.

### **2.3.5 Disharmony between the right of children to participate and the right to education.**

The aims of education and the system that respects the child's human dignity<sup>107</sup> were articulated by the UNCRC 1989 and emphasized by subsequent children's conventions (ACRWC). According to the Curriculum Development Workshop on Human Rights, Justice and Peace (2003, CDWHRJP), education gives children the opportunity to develop their talents and abilities to full potential in many ways: 1. gaining confidence and self-esteem; 2. developing their initiative and creativity; 3. gaining life skills and take informed decisions. It is at this stage that the right to education begins to mean the right to citizenship. During this process, the children's participation takes on a special dimension where they are perceived not as mere recipients of knowledge, but rather as active players in the learning process in order to achieve citizenship and all it entails<sup>108</sup>.

In practice however, there is no sync between the right to education and the right to participation in decision making. During implementation the two rights ran in opposite directions such that the methods used are mostly directive or teacher centered approaches. The education system does not facilitate the promotion of self-reliance and active participation of children which are essential conditions for learning and decision making through life.

### **2.3.6 The Colonial bequests and participation in education**

According to Katarina Tomasevki (1999)<sup>109</sup> Uganda's education system reflects a history of affiliation to three main religions of the Catholic, Anglican and Islam. Similarly the children attend schools that are affiliated to their religion and to which their parents have connections. For example, if the nearest local primary school is affiliated to an Anglican Church but the child is a catholic, the parent will opt to take the child to a catholic school which may be far away. This is rooted in the colonial legacy which the colonialists

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<sup>107</sup> UNCRC: article 28: You have a right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this.

<sup>108</sup> Op.cit pg 12.

<sup>109</sup> Katarina Tomasevki, (1999): Report submitted by Special Rapporteur On the right to education Addendum mission to Uganda 26 June-2 July 1999, ECONOMIC, SOCIAL AND CULTURAL RIGHTS-E/CN.4/2000/6/Add.1

helped to build. While religion is a determinant factor parents use in choosing schools and subjects of study for their children, it is a challenge to the right of children to participate in decision making because the parents do not solicit for the children's views about the choice of the school or subjects.

### **2.3.7 The education decisions and the financial implications.**

It is obvious that quality education decisions have financial implications. The low income levels of most families however cannot allow the children to freely choose schools and subjects with high financial implications. Most often the parents are obliged to choose schools and subjects that fit in with their income. In Uganda most parents have limited resources and could hardly afford to pay school fees and provide other scholastic requirements. It is therefore common for the parents to decide the schools and subjects for their children based on their financial ability regardless of children's preferences.

### **2.3.8 Poverty and child participation.**

Participation in decision making assumes availability of several options that children can choose from. In the face of poverty these children have few or no options at all. The same scenario applies to parents/adults such that when a rich man approaches them for their minor daughters' hand in marriage, they don't refuse. An official with ABEK (Alternative Basic Education for Karamoja Uganda); ably remarked

*'Back in the villages you find a very old man can admire a lady of say 17 or 18 years once he says he wants to marry that girl "the parents' just give her away without her consent because the family needs the animals.*

### **2.3.9 Inappropriate approaches and structures to children's rights**

The initial campaigns/awareness approaches to introduce and promote children's rights in Uganda were inappropriately applied. This was first reflected when facilitators were sent out to sensitize the communities before they were trained. Then during the community sensitization, they tended to emphasize children's rights and gave little attention to their responsibilities. This painted a bad picture in the eyes of many people particularly parents

and teachers. Therefore the idea that children should participate in decision making found an already biased environment towards children's rights.

### **2.3.10 States' obligations on the right of children to participate in decision making.**

Under the terms of the UNCRC the state has the ultimate responsibility for ensuring that children's rights are implemented even if it has delegated the responsibility and the practical work to organizations at regional or local level including private schools or hospitals. The state therefore has the onus of making appropriate legal frame works and structures to facilitate the children's participation in the decision making process.

On the ground however there is little that has been done in designing the appropriate legal frameworks, approaches and structures to facilitate children's right to participate in decision making are inappropriate.

### **2.3.11 The inappropriate legal framework.**

The lack of a common meaning for the concept the 'right of children to participate in decision making' and the varied conceptions and perceptions of the weighting values for children decisions, due to the varied traditions and cultural ideological frameworks have partly contributed to the design of an inappropriate legal frame work. This has been compounded by poverty, which limits the children's access to health care, education and housing. These two factors play to block the children's "rights to active participation". However, fighting for the children's right cannot be simply achieved through a legal frame work that overlooks the economic, social, cultural and political barriers to children's involvement. What is needed in this situation is an effective legal framework that has the backing of wider social and economic policies that ensure the well being of families and children.

## **2.4 Conceptual framework.**

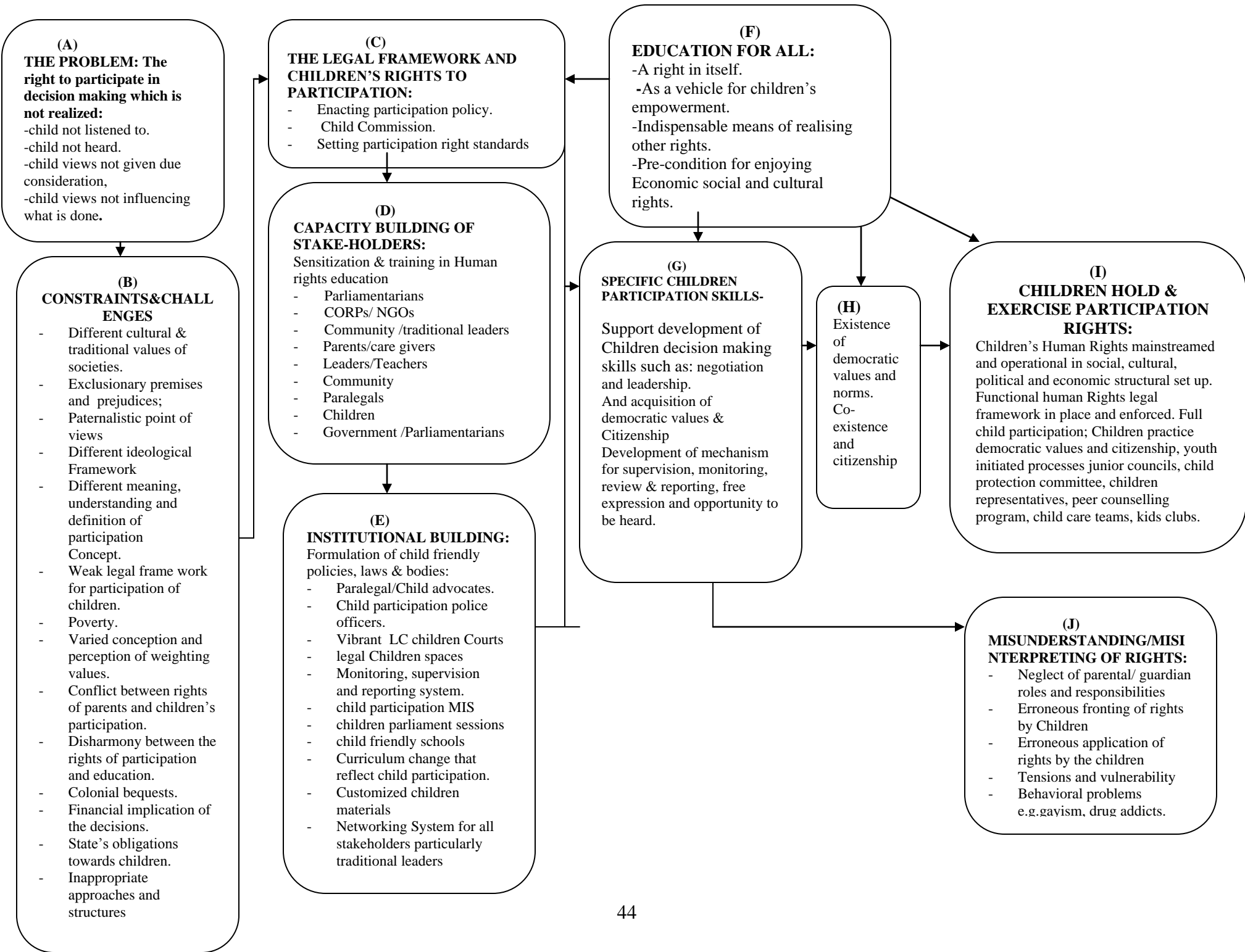
The conceptual framework includes the following variables: the dependent, the independent, the implementation, the bridging, and the constraint and latent variables.

The dependent variable is box I and represents the main aim of getting children to enjoy their right to participate in education decision making. There are four independent

variables in boxes C, D, E, F and G. These represent the main strategies for fostering the aim of getting children to enjoy their right to participate in decision making. They also contain the implementation variables of specific activities to be carried out under each strategy. The bridging variable is box H, located between boxes F and I. It represents communication, the child friendly democratic values and norms translated into positive practices of co-existence and citizenship.

The constraint variables are boxes A & B, which impact as challenges to children's enjoyment of their right to participate in decision making on matters that affect them including education. Until they are eliminated the aim in box I cannot be attained. The latent variable is box J that reflects the possible negative effects of children's participation. These include misunderstandings and misinterpretations of rights, children vulnerability, tensions, behavioral problems, discrimination, and derision, physical safety and emotional wellbeing. Care will be taken during implementation to address these issues which may lead to latent variables.





**A: The problem:**

The conceptual framework commences with the identification of the problem in box (A) which is the failure of getting children to enjoy their right to participate in education decision making. It is the right that is not realized. This problem is a constraint variable which reflects the existing situation caused by the constraints in box B. These constraints impact as challenges on the right of children to enjoy participation in education decision making on educational matters

**B: Constraints to participation in decision making:**

Box (B) represents the constraining variables to the realization of having children to enjoy their right to participate in education decision making. These include: different cultural and traditional values of societies, exclusionary premises and prejudices; paternalistic point of views; varied meaning, understanding and definition of participation concept; different tradition and cultural ideological framework; weak legal frame work for facilitating participation of children in decision making; poverty; varied conception and perception of weighting values; conflict between rights of parents and the children's right to participation; disharmony between the rights of participation and education; colonial legacy; financial implication of the decisions; State's obligations towards children and inappropriate approaches and structures. These challenge the children's right to participate in decision making on educational matters.

**C: Legal and Policy framework.**

Box (C) represents the independent variable. It is the precursor for providing the enabling environment for the relevant interventions to realize the aim of getting children to enjoy their right to participate in education decision making in Box I. The child Commission is a legal organ to facilitate clear conceptualization, perception and implementation and monitoring of the right of children to participate in education decision making. It is also responsible for articulating strategies for operationalising and mainstreaming the participation right of children in all development sectors and with special emphasis on

education sector. The legal formulation of the strategies in boxes D, E, and F is conceptualized by the Commission.

#### **D: Capacity building Interventions**

Box D represents an independent variable of capacity building strategy for education and awareness creation on Human rights education including children rights for all stakeholders to address the constraints in (B). This would involve the definition of approaches and development of strategies and content for creating awareness, first to people who go the community, second, to the communities, specifically the traditional leaders and lastly the children. The community facilitators will include; the parliamentarians' paralegals and community resource persons and NGOs to facilitate the grass root implementation. The community members will include; the parents, guardians, local and religious leaders, the school authorities, and children. The purpose is to eliminate the traditional and exclusionary premises and paternalistic points of view these adults hold against children's participation in decision making.

Strategy D maps out the implementation variables. These are activities delineated for implementation to eliminate the challenges that hinder children from participating in decision making process. The following activities are carried out: the assessment and analysis of stakeholders' knowledge and practices in Human rights promotion and protection to identify the gaps and the sensitization and training of stake holders in Human rights education based on the gaps identified. This establishes the awareness and knowledge base and prepares the stakeholders including children to embark on establishing and implementation of institutional building strategy.

#### **E: Institutional building interventions:**

Box (E) represents an independent variable of institutional building strategy which synergizes with the capacity building initiatives in box D and policy enactments in box C. It involves setting up systems, structures and creation of an enabling environment

(existence of participation bases) in which children freely speak, participate and to have their views taken into account.

Strategy (E) also maps out the implementation variables. These are activities delineated to create the appropriate legal, political, social, cultural and economic environment to foster the right of children to participate in all matters including education decision making. The activities carried out include: the formulation of child friendly policies, laws, bodies/spaces, paralegal and child advocates support system, strengthened local council courts and mechanisms for monitoring, supervision and reporting to parliament and networking with all stakeholders particularly traditional leaders.

It is of paramount importance to work closely with traditional leaders. This will ensure that they are well-informed and supportive of child participation efforts, as their support is critical to community-buy-in. It is necessary to discuss societal values that suppress children's voices, and to engage them in community meetings to talk about what child participation is going to look like in community structures.

#### **F: The right to Education.**

Box F represents an independent variable for empowering the children with knowledge, skills, and the attainment of values which are necessary for children to participate in decision making. It is a right in itself and is an indispensable means of realizing other rights. The right to education is also a pre-condition for enjoying many economic, social and cultural rights and a vehicle for empowerment and vital for safe guarding children from exploitation. The main activities will include; school curriculum changes and include child participation guides, customizing children materials, school assemblies, school speech/open day's prayer gatherings, cultural and youth and parents/child counselling sessions, workshops/ conferences, and the use of child to child approach.

#### **G: Specific children's participation skills, Values and norms.**

Box (G) represents an independent variable for special skills to enable children participate in decision making process in matters affecting their lives including education. The skills

acquired include negotiation and leadership, self-esteem, a sense of self worth, assertiveness, and confidence they help children at risk to recognize danger signs and, as much as possible to take preventive action.

Under strategy G the child commission involves children in the supervision, monitoring, and reporting on the participation process.

### **H: Existence of Democratic Co-existence and Citizenship**

Box (H) represents a bridging variable. It is located between the independent variables G, E, and F and the goal I. It contains the values and norms for democratic co-existence and citizenship for both the children and adults. These sustain the participation process in decision making for children in their educational matters. There is a total paradigm shift, and change of adult's mindset such that they begin to question the relevance and appropriateness of the cherished traditionally held beliefs.

### **I: Children hold and practice rights to participation in decision making in education**

Box (I) represents the dependent variable which reflects the goal where children hold and practice their right to participation in all matters that affect them including education. The participation bases are all in place and the participation norms and values are fully mainstreamed and entrenched in the social, cultural, political and economic fibers of the society. The relevant fora for advocating and for enjoyment of right to participate in education decision making are in place. These include; youth initiated processes, junior councils, child protection committee, children representatives, peer counselling program, child care teams and kids clubs among others. The children are speaking, participating and their views are being taken into account.

### **J: Unintended - misunderstanding and misinterpretation of rights:**

Box (J) is the unintended or latent variable. It represents the unintended but negative factors which may arise from the interventions. They may include the parents misunderstanding of children's participation rights and negligence of their responsibilities

and duties of protecting and providing for their children. Similarly the children may misinterpret the implications of their rights and instead disregard the advice their parents and guardians make in their best interest. It is recommended that during implementation care is taken to safeguard against the unintended out come.

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.0 Introduction**

This chapter outlines the methodology used in research design, population and sample selection in the area. It also gives data collection techniques including the questionnaire, in-depth interviews and focus group discussions for primary data. A desk review of human rights instruments, Internet surfing, magazines, newspapers, reports and publications, public records, statistics, census reports, text books and journals were used for secondary sources of data.

The research survey was carried out using social survey tools, and the analysis was made using the Statistical Package for Social Scientists (SPSS) to provide the descriptive statistics presented in the tables. The chi-square test is used to test the hypotheses from which conclusions were made. The problems encountered during the study are highlighted below.

#### **3.1 Research Design**

The research design was based on a sample which was selected using the random method. This study used a survey design with both qualitative and quantitative methodologies of data collection. Quantitative methods led to empirical data collected through quantifying certain phenomena that were related to the objectives such as the number of children who participated in decision making against those who did not. Qualitative methods were used to obtain data through in-depth interviews, focus group discussions and structured questionnaires. Examples include: - the degree of children's participation, reasons for involving them and the problems associated with participation.

#### **3.2 Study area and target population**

The area of study was secondary and primary schools in Mukono district. Mukono district is located 20 km east of Kampala. It comprises of four counties of Buikwe, Buvuma

islands, Mukono and Nakifuma. It is situated along the Kampala-Jinja highway that links Uganda to its eastern neighbour, Kenya.

Mukono District has an estimated population of over 800,000 people, according to 2002 housing and population census results. Most of the residents are traders, small-scale entrepreneurs, employees of the public service and Non Governmental Organizations (NGOs). The district is a cosmopolitan with diverse cultures with several secondary and primary schools. It was therefore deemed suitable for the study.

### 3.3 Sample size and selection

This study covers 176 respondents selected from six schools and four local communities in Mukono district. Using random sampling, a cluster in each school was selected proportionate to the location of the county. The schools included; three primary schools (Nsanja, Joy, and Abate primary schools) and three secondary schools (Ntinda View College, Mpoma secondary school and Mukono Town Academy). This selection was intended to explore the urban and rural perspectives on the right of children to participate in education decision making in order to get a balanced view.

In the selected schools, 25 students were chosen using simple random sampling from class lists making a total of 150 respondents for the structured interviews. The head teachers from each school were selected as key informants for interviews, while the parents and local leaders were chosen for focus group discussions. Table 3.1 shows a summary of respondents who participated in the study.

**Table 3.1: Category and number of respondents who participated in the study**

Category of respondent	Number of respondents
Parents	20 (15 women & 5 men)
Head teachers	6 (4 women 2 men)
Students/Pupils	150 (113 girls and 37 boys)
<b>Total</b>	<b>176</b>

*Source: Researcher's sampling scheme*



### **3.4 Data collection techniques**

Both primary and secondary data were collected to form both the qualitative and quantitative aspects.

#### **3.4.1 Primary data**

The primary data was collected using three major data collection techniques which were; structured questionnaires, in depth interviews and Focus Group Discussions (FGDs).

##### **3.4.1(i) Structured Questionnaires**

The interview method was aided by use of questionnaires (See: Appendix B), which were administered to the 150 students/pupils. The questions were both closed and open-ended questions. These were intended to capture issues such as; the extent to which parents give children freedom to choose schools, reasons for not involving children in decision making, as well as the challenges they face in an effort to enjoy their right to participate in decision making generally and in education matters in particular.

In the questionnaires and research guides, care was taken to exclude specific questions on policies and laws. This was due to lack of capacity to handle legal issues by the respondents and the researcher.

##### **3.4.1 (ii) In-depth Interviews**

Interview guides were designed and administered to the head teachers of the selected primary and secondary schools in Mukono district. These were intended to get additional comparative data from the questionnaires. This tool was administered to the key informants because they directly interact with students/pupils in choosing schools for the next level.

### **3.4.1 (iii) Focus Group Discussions (FGDs)**

Parents and community leaders were mobilized for group discussions through local councilors. Five FGDs were conducted to compare with the data generated from the questionnaires. These were; Kakira, Kisowera, Kojja, Lugazi and Mukono town groups. The FGDs were a complement of 4 - 6 people. The researcher in consultation with the supervisor used a Focus Group Discussion guide. The principal researcher moderated the discussions and recorded the deliberations. The FGDs helped to generate data about the extent to which parents influence children's career, choice of schools and subjects.

### **3.4.2 Secondary Sources**

The main sources of secondary data included the following: - internet surfing, magazines, newspapers, reports and publications, public records, census reports, textbooks and human rights instruments. The information from the above sources was used to enrich the primary data.

### **3.5 Data Analysis**

Data collected was analyzed using a computerized programme of Statistical Package for Social Scientists (SPSS). Further analysis was done on variables like the degree and the level of children's participation in decision making. The weighting of the challenges was done qualitatively using distinctive terms "paramount" and "primary" to qualify the extent of the challenges. The Chi-square was used for testing of hypotheses while the descriptive approach was used for qualitative forms of data. Data analyzed was presented using tables and other appropriate statistical diagrams as well as photographs. Quotations relevant to the study subject were incorporated verbatim to depict the raw ideas in their original form.

### **3.6 Validity and reliability of instruments.**

The reliability of the questionnaire was established by conducting a pilot study of 20 respondents in selected schools. This was done to validate some of the questions that were used in the questionnaire and afterwards they were amended in the main study. The

reliability of the instruments was done in order to measure the proportion of the variability in the responses to the survey as a result of differences in the respondents. This was done using Cronbach's Alpha formulae below:

$$\alpha = \frac{k \text{Cov/Var}}{1 + (k - 1) \text{Cov/Var}}$$

Where:

- K** is the number of items on the survey
- Cov** is the average inter - item correlation
- Var** is the average item variance

Using SPSS software, it was revealed that Alpha ( $\alpha$ ) = 0.5105 meaning that the variables that were taken to measure the challenges facing the rights of children to participate in decision making were well correlated and therefore suitable to fit the purpose.

### **3.7 Problems encountered**

A number of problems were encountered, first, the study was dealing with a contentious issue and the teachers viewed the researcher as a person instigating rebellious tendencies in children and hence her intentions were doubted. They also feared that the findings might be used to tarnish the image of the schools that gave negative responses. This was reflected by resistance in two schools, Kojja Senior Secondary School and Ntenjeru primary where the researcher was initially denied access to respondents. Furthermore, the parents were hostile to the idea of child participation in general citing bad influence from peer pressure, disrespect and disobedience. The researcher however, implored to the participants and received cooperation from respondents in Mpoma, Lugazi, Ntinda View College, Joy, Nsanja Primary School and Mukono Town Academy.

Secondly, the study involved children of various ages, (ranging from 08 years to 18 years) of both sexes and varied cultures and backgrounds. The respondents were hesitant and shy to open-up in the beginning. This was especially evident with the orphans in Joy primary school. The researcher therefore employed pro gender data and peer friendly collection

techniques. For example, boys and girls were made to sit separately which made respondents comfortable. In Lugazi, prefects and non-prefects were interviewed separately.

Finally, it was hard to contact some targeted respondents because they were engaged in other commitments to meet the socio-economic needs. Therefore, the researcher had to make several visits.

## CHAPTER FOUR

### FINDINGS AND INTERPRETATION

#### 4.0 Introduction

This chapter presents the research findings and interpretation of the study. It is guided by a set of objectives of the study.

The questionnaires and FGD interview guides focused on the implementation of the right of children to participate in choosing schools, subjects of study, career and in design and enforcement of rules at school. The literature review conceptualized the ‘final standard meaning of common achievement’ of the right of children to participate in education decision making, its legal framework, the three participation bases and the phases describing the sequence of the enjoyment of the right to participate in decision making.

#### 4.1 Background and characteristics of respondents

The data on socio-economic characteristics of the respondents was presented in order to give a status of the study respondents. These characteristics included the structure of respondents in terms of gender, age and type of school. Table 4.1 presents the percentage distribution of respondents by nature.

##### 4.1.1 Type of respondents in the study

Respondents for structured questionnaires were selected from both primary and secondary schools shown in table 4.1 below:

**Table 4.1: Type of respondents in the survey**

Type	Frequency	Percentage (%)
Secondary School Students	100	66.7
Primary School Pupils	50	33.3
<b>Total</b>	<b>150</b>	<b>100.0</b>

*Source: Field research findings*

According to table (4.1), 66.7% of the respondents interviewed were secondary school students while 33.3% were primary school pupils. The majority of respondents were secondary school students. The objective was to bring out age, capacity, competence and understanding of questions.

#### 4.1.2 Gender composition

Table (4.2) reveals the gender composition. 76.7% of the respondents interviewed were females while 23.3% were males. There were more females than males because the number of females in the schools and the villages was bigger.

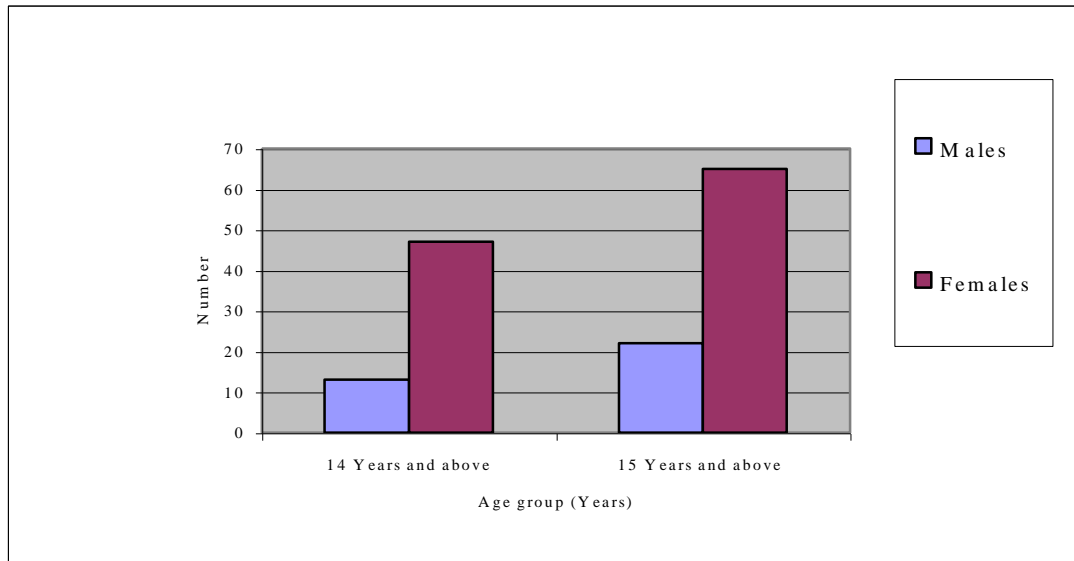
**Table 4.2: Gender distribution of respondents**

Sex	Frequency	Percentage (%)
Female/girls	115	76.7
Male/Boys	35	23.3
<b>Total</b>	<b>150</b>	<b>100.0</b>

*Source: Field research findings*

Although the respondents were selected with a target of one to one, the overall gender ratio of females to males was three to one. The ratio in schools is represented in Figure 2 below.

**Figure 2: Gender consideration of respondents by age group.**



**Source:** Data derived from the research findings.

The study findings revealed that the ratio of females to males interviewed was high. The above ratio was attributed to the population characteristics in schools, for instance, in Mukono Town Academy, in a class of senior three students there were only 18 boys out of a total of 57 students.

**Age distribution of respondents:**

**Table 4.3: Age distribution of respondents**

Age group	Frequency	Percentage (%)
15 Years and above	87	58
14 Years & below	60	40
Non response	3	2.0
<b>Total</b>	<b>150</b>	<b>100.0</b>

**Source:** Field research findings

In reference to age, the respondents reflected a representation of 58% of 15 years and above and 40% of the category of children below 14 years as shown in figure 2 above.

#### **4.2. To trace for the meaning of the “children’s right to participate” in education decision making and its legal framework.**

The information below represented the findings on the first objective of the study. The findings were from the desk review of selected Human rights instruments and complemented the field findings. The instruments included the UDHR 1948; ICCPR 1966; ICESCR 1976 and the UNCRC 1989 at the international level; the ACHPR 1981 and ACRWC 1990 at the regional level and the Constitution of the Republic of Uganda 1995; the Education Act Cap 127; the Children Act Chapter 59; the Local Government Act Cap 243; the Penal Code Cap 120 and the Uganda Human Rights Commission (UHRC) at the national or local level.

It was revealed that the UNCRC and ACRWC provided the ‘final standard meaning of common achievement’ for the concept and its corresponding mandate to promote and protect it. Both aspects are imbedded in the same articles. Standard meaning contained three categories of children’s participation rights. These were the **primary, social and the substantive participation rights** in the following articles: 7, 8, 12, 13, 14, 15, 16, 17, 18, 23, 28, 29, and 31(UNCRC) and 31(ACRWC). Also included are the weighting values namely childhood, age, maturity, ability, competence and the best interest of the child.

The review findings indicated that the rights of children to participate in their decisions begin to function only when the participation bases<sup>110</sup> have been established and are working. These form the enabling environment to support the three-phase participation process and sequence of the enjoyment of the right to participate in decision making. These are to speak, participate, and to have the children’s views taken into account.

It was revealed that there was little growth in the participation bases in the field. The little growth was in the awareness and knowledge base. The growth of both the institutional

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<sup>110</sup> 1. awareness and knowledge base  
2. institutional building and access to services base,  
3. Acquisition and application of negotiation and decision making skills.



building base and acquisition and application of negotiation and decision making skills base was not insignificant. Based on findings from three specific areas presented below, it was revealed that the children had a high awareness and knowledge base:

**4.2 (i) Knowledge of respondents on the process of decision-making.**

The findings on respondents’ knowledge about the process of decision-making revealed that children had adequate knowledge of the process of decision making on education matters (70.7%, in Table 4.6). They mentioned methods such as; “discussions and consultation” which are steps through which decisions are arrived at to confirm this finding.

**4.2 (ii) Knowledge of respondents on the right ‘to choose a school.**

The findings revealed that, children had a relatively good knowledge on the right to select schools of their choice (66.7%, Table 4.4). The children were in agreement that they knew that they had a right to ‘participate’ in this exercise. The 33% of respondents however, indicated that they don’t practice the right, because it belonged to their parents. They reported that their parents had the right over them and therefore were responsible for making decisions on their behalf.

**Table 4.4 Choice of schools**

<b>Response</b>	<b>Frequency</b>	<b>Percentage (%)</b>
Yes	100	66.7
No	50	33.3
<b>Total</b>	<b>150</b>	<b>100.0</b>

*Source: Data interpreted from the research findings.*

#### 4.2 (iii) The level of awareness based on education level

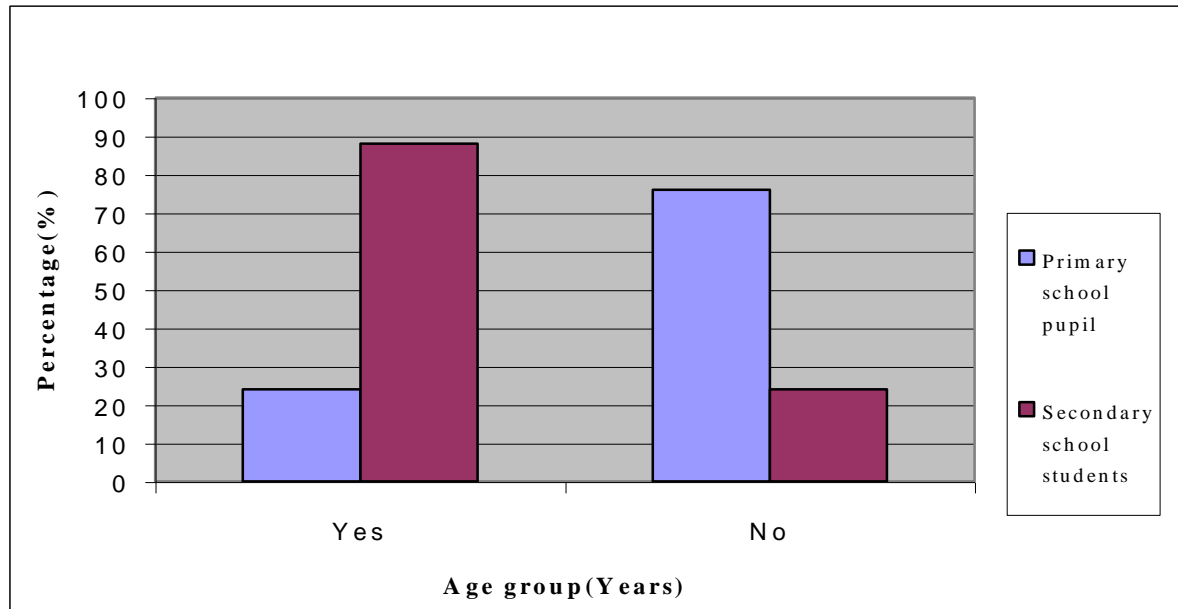
The findings revealed that there was a higher degree of awareness among children in secondary schools (88%, Table 4.5 and figure 4) on their rights to choose schools of their choice than with children in the primary schools (24%, Table 4.5 and figure 4). A high percentage of the primary school children did not know that they had a right to participate in selecting schools of their choice (76%, Table 4.5 and figure 4). This was also confirmed by responses of children in Nsanja primary school whose parents decided for them which schools to join. The awareness of children in secondary schools was high because of the access to information and interactive initiatives on children rights among others.

**Table 4.5: Awareness of rights by children to choose own schools by level of education**

Level of education	Do you think you have a right to participate in the choice of schools you want to join?		
	Yes	No	Total
Secondary School Students	88 (88.0%)	12 (12.0%)	<b>100</b> <b>(66.7%)</b>
Primary School Pupils	12 (24.0%)	38 (76.0%)	<b>50</b> <b>(33.3%)</b>
<b>Total</b>	<b>100</b>	<b>50</b>	<b>150</b>

*Source: Field research findings*

**Figure 4: Comparisons of children’s rights by level of education**



**Source:** *Data from research findings*

Further findings on the awareness levels indicated that the awareness and knowledge base for adults on children’s right to participate in decision making in education was low. This was discerned from responses of all three FGDs of Kisowera (Obukkadde Magezi), Kakira and Kojja. At home it was revealed that there was heavy handedness of parents over children education decisions.

#### **4.2(iv) Adults’ awareness on Human rights**

The findings from the FGD indicated that they knew of rights that promote values in people to respect others as human beings. Further more, they indicated that some of these rights such as; right to life, shelter, clothing, health and education were intrinsic in our traditional cultures. Despite the positive stance, the general acceptance of children’s rights especially the rights to participation was guardedly negative.

Further findings indicated that the conception and interpretation of both the rights standards and the weighting values in the standard meaning were varied and were shaped by social, cultural, economical, political and legal environment under which they were operating.

This makes the standard meaning to vary from group to group and children participation to mean different things to different groups.

The UN convention sought to set an agenda on children's rights, it provided no robust mechanism to ensure these rights were implemented or upheld by the national governments. In the field, it was revealed that the Uganda policies and laws on children's rights are limited in scope and depth and are not backed up by wider social and economic policies that ensure the wellbeing of families. These limitations have impeded the provision, promotion and protection of a full spectrum of the participation rights in the standard meaning.

The social participation rights (the right to education) as opposed to primary and substantive participation rights were distinctively implemented and upheld by the government. The Universal Primary Education Program 1997 (UPE) provided the right to education (for the primary pupils. The Universal Secondary Education program 2006 (USE) provided the right of education for the secondary students'. It was revealed that both programmes have inadequate facilitation i.e. participation institutions and opportunities for primary and substantive participation rights, to build a vibrant enabling environment (participation bases) for children to 'express their views freely', (speak) to be heard' (participate) and to have their views given 'due weight' (views taken into account).

Finally the standard meaning of the concept the 'right of children to participate' in education decision making was delineated from selected Human rights instruments and with it, its inherent weaknesses. The full spectrum of the participation rights are contained in the 'final standard meaning of common achievement' for all peoples and nations to implement and to uphold. The legal frame work for its promotion and protection and the corresponding participation bases are also weak.

### 4.3.0 Level of Children participation in education decision-making

The information below represents the findings on the second objective of the study. It examined the level (scope and depth) of the respondent's practices and involvement in the decision making process on education matters in the following specific areas of study.

#### 4.3.1 Choice of schools.

The summary results in Table 4.6 were children's responses to the question; "*Did your parent consult you before bringing you to this school?*"

**Table 4.6: Interpretation by level of education**

Level of education	Did your parents/guardians seek your opinion before bringing you to this school?		
	Yes	No	Total
Secondary school students	68 (70.1%)	29 (29.9%)	97
Primary school pupils	36 (72.0%)	14 (28.0%)	50
<b>Total</b>	<b>104 (70.7%)</b>	<b>43 (29.3%)</b>	<b>147</b>

*Source: Field research findings*

The study revealed that, the majority of children (70.1%) were consulted by their parents on the choice of school. Parents' consultations were slightly more with the primary school children (72. %) than with the secondary school children (70.1%). This level of participation is positive and at rang five of Harts ladder where the children "are being consulted and informed"<sup>111</sup>.

The evidence from FGDs indicated however that a majority of parents influenced the selection of schools for their children from advice of friends and their experiences of studying in the same schools or their fore fathers. This is a legacy from the colonial era.

<sup>111</sup> Appendix A: Harts ladder of participation.

These parents admitted that they did not find it vital to involve their children in education decision making process (**Figure 5: Kisowera FGD**).

**Figure 5: Parents of Kisowera in FGDs about child rights to participation**



*Source: Photograph taken during FGD at Kisowera with parents*

Through the FGDs, parents indicated that the whole idea of children’s participation in decision-making was an interference with the natural course, where parents have been bringing up their children. A cross- section of them argued that they invested time to search for good schools for their children. One of the parents from Kakira FGD said:

*“As parents, we like our children more than you. You should only help us in disciplining and facilitating them to learn. The problem with you (policy makers) is that when one person in the village refuses to give her/his children food you generalize that parents in Mukono deny their young ones food. If I produced the kid and took care of that kid how can I deny that kid food when it is grown up? It is you (policy makers) that make them disobedient”*

### **4.3.2 Choice of subjects.**

During the Kisowera FGD it was revealed that participation in choosing subjects of study as a right in education matters was not properly appreciated. The children said it was practically impossible for them to choose their own subjects of study either in primary or in secondary school levels because the major subjects of study were provided for by a government policy. The children also revealed that even at the advanced level of education, teachers and parents continued to decide for them the choices over their preferred subjects of study.

The parents said that they consulted teachers and relatives for guidance to choose subjects of study for their children when need arose. According to them, it was in the interest of parents and ultimately the government for children to succeed in life. Also the Lugazi FGD, the majority of the parents revealed that teachers' decisions take centre stage in education decision-making which left no opportunity for the children to express their views on the subjects of their choice.

### **4.3.3 Provision of opportunities for participation.**

In the Kisowera FGD the findings indicated that in most matters, the parents denied children the opportunities to participate in decision making. This stance was based on the old adage that "*Obukkadde Magezi*", which means that decision-making, was directly proportional to age. This argument was complemented by two responses from Kakira and Kojja FGDs. The respondent in Kakira said;

*"Children do not take part in paying school fees, let the owner of the money decide".*

The Kojja parent added;

*"If the state wants to implement such things like, letting children decide for themselves, then it should take them from us, otherwise, under my roof my law operates".*

#### 4.3.4 Children’s participation in making school rules and regulations.

The results in Table 4.7 were children’s responses to the question; “*Did the school authorities seek your views in making school rules and regulations?*” Their responses to this question are given in the table below.

**Table 4.7: Responses on school rules and regulations for ages < 14 and > 15 years.**

<b>Response</b>	<b>Frequency</b>	<b>Percentage (%)</b>
No	103	68.7
Yes	45	30
Non responses	2	1.3
<b>Total</b>	<b>150</b>	<b>100</b>

*Source: Field research findings*

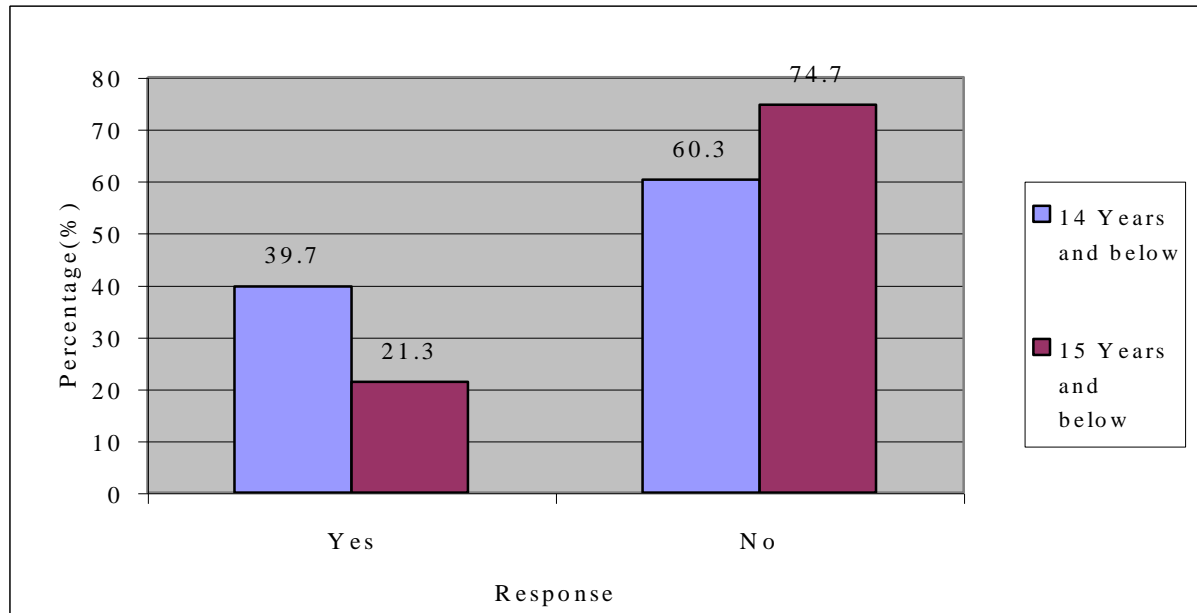
The study revealed that the majority of children (68.7%, Table 4.7) were not consulted in making school rules and regulations. However, most of the children interviewed indicated that they were not interested in participating in the process of making school rules and regulations. Other children had reservations with sitting on the same table with teachers to discuss school rules and regulations. One of the boys in Abate argued:

*“Do you expect a student to respect a teacher after they have both been on the same table discussing the same law?”*

According to the children in Mpoma secondary school, some of the school rules and regulations are cultural such as children not speaking up to elders. However, from the participation rights point of view such beliefs were an impediment to children’s participation.



**Figure 6: Responses on school rules and regulations below 14 and above 15 years.**



**Source:** *Data from research findings*

The graph above indicated that in general children of all ages were not really consulted, (14 years and below (60.3%) and (15 years and above (74.7%) compared to those who were consulted 39.7% and 21.3% respectively probably due to the legal antinodes that surrounds it.

A teacher at Abate primary school argued that, to involve children every year is time wasting and therefore they introduced a system where students fit in or else leave the school. However, a head teacher of Ntinda view School reported that, they had put in place a method that allowed students to participate in making school rules and regulations in a democratic way.

Another finding was that some teachers welcomed the idea of having the children's participation in decisions that affect their education. For example; the teachers at Joy primary school indicated that they supported the idea of children taking part in their education decisions when she said:

*“That is all what we train them for. The only problem is that children want to carry forward the methods employed at home to school, otherwise when*

*they are here they have no option but to participate in taking decisions or else they will be blamed for the mistakes there in.”*

The majority of teachers at Joy supported this argument, but noted that the decision making skills were not equidistant among all the children.

#### **4.3.5 The Strikes in schools and decision making**

The results in Table 4.8 were children’s responses to the question; “*Do you think rampant strikes in schools are due to denial of children to participate in school decision making?*”

Their responses to this question were given in the table below.

**Table 4.8: Strikes in schools and decision making**

<b>Response</b>	<b>Frequency</b>	<b>Percentage (%)</b>
Yes	102	68
No	43	28.7
Non response	5	3.3
<b>Total</b>	<b>150</b>	<b>100</b>

**Source:** *Field research findings*

The findings in the above table indicated that the majority of the children (68 %, Table 4.8) believed that when children are denied involvement in school management it results in strikes. The same argument was confirmed by Mukono Town Academy student respondents during the brain storming sessions.

From the above, there was very little substantive evidence to indicate that the factors relevant for fostering the right of children to participate in decision making were evolving significantly. The environment for the right of children to participate in decision making was mostly disabling due to the crippling social, economic, cultural, political and legal challenges. These were the exclusionary premises and prejudicial points of view held by

adults (Kisowera FGD) poverty (Kakira FGD), inappropriate approaches and structures to children's participation in schools and at home (Mpoma school), the colonial legacy (Kojja FGD), little political will and inappropriate legal framework (National instruments) among others.

However, according to the desk review findings, in Uganda and other European and African countries there are some interesting initiatives taking place to indicate a build up of adult interest to get children involved in decision making processes. This became apparent since the World Summit for Children in 1990. It was revealed that the children and young peoples' participation was beneficial to children, their families, community, the school, development workers and the nation for democracy.

#### **4.4.0 Challenges facing child participation in decision - making process.**

The information below represents the findings on the third objective of the study. It identified the challenges faced by children in the enjoyment of the right to participate in education decision making. These challenges were established from the review findings of selected human rights instruments and the field research with children, teachers and the parents.

The challenges identified include: the varied interpretation of children's right to participate in decision making; the varied conceptions and perceptions of the rights standards and the weighting values of children's decisions; Conflicts between parental rights and the right of children to participate; the parental/adults exclusionary premises and prejudicial point of views; Disharmony between the right of children to participate and the right to education.; the colonial legacy; inappropriate approaches and structures; poverty; the disabling environment for decision making, the rigid state policy and the inappropriate legal framework.

#### **4.4.1 The varied interpretation of children's right to participate in decision making.**

The responses from the FGDs revealed that the 'standard' meaning captured on the right of children to participate in education decision making was at variance with that of Mukono district. They revealed that the parents from different societal back grounds saw children's right to participate in decision making process differently. The right of children to participate in decision making with the Kojja FGD meant that one has to become an adult first by performing acts that are normally reserved for adults, such as initiation ceremonies. To the parents, this was the main avenue to adulthood and the right to participate in decision making.

The right of children to participate in decision making with the Kakira FGD meant that only those with the resources were to participate. For example, one parent remarked that since children do not take part in paying school fees they should let the owners of the money decide.

The students from Nsanja regarded participation in decision making to be a parents' and the teachers' prerogatives without their interference. They said that as children they had to keep their part of not talking back to adults. They also thought that it was disrespectful for children to sit with teachers on the same table to discuss a law. For teachers, it meant taking decisions and responsibilities on behalf of children, which go with the common belief that they were the authority of knowledge.

#### **4.4.2 The parental/adults exclusionary premises and prejudicial point of views.**

The parents interviewed in the Kisowera FGD revealed that children had little capacity to make decisions on matters affecting their lives. They attributed the poor performance of children to talking in class and trying to pick arguments with their teachers. They also revealed that the family and the traditional social stratifications demanded that children do not talk before their parents because if this happened it would bring disgrace on the parents and was punishable.

Some parents interviewed revealed their willingness to promote their children's right to participate in education decision making if this was the right course to take for children to better their well-being. In return, the parents expected their children to respect them including their decisions.

#### **4.4.3. Conflict between parental rights and the right of children to participate.**

The responses from FGD in Lugazi indicated that there was conflict between parents' rights and the right of children to participate in decision making. One aspect the parents argued about was that of giving away their under age young daughters in marriage. The parents said that this was done in their best interest of protecting them from getting spoilt before they are sexually active. These decisions conflicted with the definition of children, their right to speak, to participate and to have their views taken into account.

#### **4.4.4. Varied conceptions and perceptions of weighting values of children's decisions/views.**

The conceptions and perceptions of the weighting values are controversial and therefore varied. In Mukono, the findings indicated that age was the most controversial. As a place of many different tribes, whose traditional and cultural ideological frameworks were also different, the perception of age was shaped differently. The Moslem respondents in the Kojja FGD believed that a child as young as 14, 15 or 17 is a mature person for marriage. The Christian section of the group believed otherwise. For them a child was mature for marriage only if she was above 18 years. The visits to the four villages of FGDs therefore revealed that there were difficulties in harmonizing the varying conceptions and perceptions of childhood, age and best interest of the child.

#### **4.4.5 The colonial legacy.**

The respondents in all the FGDs gave similar opinions over which schools they sent their children. Most of the parents reported that they preferred taking their children to schools where they had studied or to schools which were inclined to their faith. The children's choice of schools was not considered.

#### **4.4.6. Disharmony between the right of children to participate and the right to education.**

The Children interviewed revealed that during their learning, teachers exerted excessive authority over them. They said that this was based on the belief that the teacher knows- it - all. They also reported that they were coerced to leave the decision making powers to teachers and parents to select for them schools, subject combination and the school rules. The children indicated that this created resentment in a lot of children because it blocked them from expressing their views on issues of school management and on student's discipline. They said this was the cause of strikes.

The findings further revealed that the state have dictated the subjects to be undertaken by students as matter of policy. The policy required a mandatory study of science subjects by all students in lower secondary schools. The children were not allowed the choice of opting out to subjects of their preference and competencies and in line with their preferred careers. One student in Mpoma School said:

*"If the government cannot get jobs for all of us why should it dictate subjects for us?"*

Another in Lugazi commented:

*"It is my future, and I have to lead it the way I want".*

#### **4.4.7 Poverty and the financial implications of decisions**

The parents of Kisowera revealed that children had no resources to facilitate the decisions they make. They argued that, to participate in the decision-making process one has to have the financial muscles to accompany the decisions made. One respondent in Kisowera village shouted in anger that,

*"Don't you think parents will give up the financial support they have been giving the children if you make them decide on their education?"*

The children at Mpoma recognized their parents' limitation and said:

*"Our parents are still ignorant about such developments and implementing them in schools and homes will create friction between parents and their children".*

#### **4.4.8 Disabling Decision making environment**

The parents and teachers in the rural setup were reluctant to allow children to participate in education decision-making process. This was revealed by a majority of the children in Nsanja primary school. The children said they had little say when it came to taking decisions on education matters.

In the urban set-up of Mpoma and Ntinda View College schools, it was demonstrated that the children could freely express their views. Similarly, the teachers in Mukono Town Academy and Joy primary school were in favor of children's participation in decision making. One teacher in Mukono Town Academy said:

*“...Every child's development is unique. Their environment, including their social class and economic conditions, cultural norms as well as local or family conditions and expectations, influences how children grow and learn. A child's competency reflects the opportunities for participation-or the lack of them that they have had in earlier stages of life. In a negative and positive sense, each phase of childhood builds on one before.”*

Further findings revealed that Child peer pressure and adolescent excitement contributed to both a disabling and enabling environment. It became disabling when children got excited and easily influenced by friends without relevant skills on decisions they made. Their focus was mainly on competing with fellow peer members and losing focus. The parents argued that when children get excited they developed feelings of social equality with parents. One parent in Kojja said,

*"When you keep consulting the children, they will think you are incapable of making independent decisions: they will start thinking that they are equal..."*

#### **4.4.9. Limited bargaining power of children.**

It was revealed by the Children of Mpoma secondary school that if they tried to express their views to parents/guardian they would spoil their chances of support from parents. This

fear of losing support made them to accept all decisions including those in education. They said that constraints in resources hindered them from bargaining with their parents.

#### **4.4.10. Inappropriate approaches and structures.**

The responses from almost all three FGDs revealed that children's right to participate in decision making was not a bad idea but the way it was promoted. One of the aspects of confusion was on corporal punishment. The parents were given orders not to apply corporal punishment to discipline children. The parents claimed this was the only effective method known to them of disciplining children. Another aspect of confusion was the promotion of children's rights without correlating them with their duties and responsibilities. It is from here that most misunderstandings arose. One parent at Kojja gave an example that if a child did not spend the night at home it became his or her right to do so and the parent should not question, to him that was impossible.

#### **4.4.11. The inappropriate legal framework.**

The findings from Kojja brought out a case of inappropriate laws and policies where one LC 1 gave an example of one 17 year old boy who was taken to police for impregnating a girl. Despite being a child, the boy was sentenced as an adult. In this FGD, the moment the child rights were mentioned one parent remarked that once again the people who made their children big headed had come again. This indicated also that the community did not understand what is meant by the right of the children to participate in decision making process.

In conclusion, the challenges faced by children in the enjoyment of their right to participate in decision making in education matters process are formidable and needed a paradigm shift of adults mindset and to begin questioning the relevance and appropriateness of the cherished traditionally held beliefs, but which bar the resourceful ideas of children in decisions that are made. Children have to be appreciated as individuals in their own rights and as active players in decisions that contribute to their well being.



## CHAPTER FIVE

### ANALYSIS AND DISCUSSION

#### 5.0 Introduction

This chapter presents the analysis and discussion of the findings of the study in relation to the three objectives of the study. This was meant to bring out the challenges that truncated the process of getting children to speak, to participate and to have their views taken into account. In other words the children's enjoyment of the right to participate in education decision making.

#### 5.1 Discussion of results

##### **The meaning of the 'right of children to participate' in education decision making and its legal framework.**

The UNCRC and ACHPR provided the final spectrum of the meaning of the concept 'the right of children to participate' in education decision making and its promotion and protection legal framework. These are contained in the "Final standard meaning of common achievement" for all peoples and Nation.

The "final and standard meaning is consisted of three categories of participation rights: - the primary<sup>112</sup>, the social<sup>113</sup> and the substantive<sup>114</sup> participation rights. It also included the weighting values that give weight to the decisions/views the children made. These are childhood, age, maturity, ability, competence, and the best interest of the child.

The finding that these rights of children to participate in decision making begin to function only when there were participation bases was a significant one. The three categories of

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<sup>112</sup>UNCRC 1989: Articles 7 & 8: right to a name, identity and family.

ibid article 13: right to get and share information

ibid article 14: right to think and believe what you want and practice religion

ibid article 15: right to freedom of thought, conscience, religion, association and peaceful assembly

ibid Article 16: the right to privacy.

ibid article 17: right to reliable information

ibid article 18: Both parents share responsibility for bringing up children

<sup>113</sup>ibid article 23: care and support for disabled children

ibid article 28: right to education

ibid article 29: Education for development of child's personality and talents to the full

ibid article 31: right to relax and play and to join in activities

<sup>121</sup>ibid article 12: children must freely express their views in matters affecting them.

participation rights and the weighting values formed the implementation framework. Thus all actions relating to engaging children in initiatives, organization and institution responded to each of the rights in each category of the framework. They were these actions that formed the three participation bases namely, the awareness and knowledge base, the institutional building and access to services base and the application of negotiation and decision making skills and the decisions.

The three bases formed the enabling environment for the right of children to participate in decision making. They worked by supporting each category of rights to foster the actions in the first base drive, the implementation of the primary participation rights; the second base drove the implementation of social participation rights and the third based drove the substantive participation rights. These worked in unison to configure the three participation phases and frequency to the enjoyment of the right to participate in decision making. These are to speak, participate, and to have the children's views taken into account.

The findings reported that some growth in the participation bases was contributed by the provision of education for all at both the primary and secondary levels of education. This was the knowledge and awareness base. The report showed that there was a high knowledge and awareness base at the secondary school level; 66.7%, (Table 4.4), 88 % (Table 4.5), 70.1 % (4.6) respectively rather than at the primary school level 33 % (4.4), 24 % (4.5), 36(4.6) respectively.

This implied two things; first, that there have been deliberate efforts to promote the children's participation rights in education in secondary schools in Mukono. This was reflected in Mpoma secondary school where children reported that they had in place a method that allowed students to make school rules and regulations in a democratic way'. Secondly, the weighting values of age, maturity, competency, and ability became more practical with students in secondary schools unlike with pupils in primary schools. This confirmed the relevancy of the weighting values in facilitating and weighting the participation process and decisions in education.

An enabling environment has to have three participation bases. But Mukono schools had only one base among the children but none among the parents. This was an indication that as a first step the base was poorly rooted. Usually, the first step in building an enabling environment is the sensitization of adults about children's rights duties and responsibilities and to provide them with technical skills in order for them to effectively engage children in initiatives, organizations and institutions. The second step entails building the capacity of the young people to ensure that they are able to participate meaningfully in finding solutions to problems affecting them and their wider communities.

While it is prudent to say that the UNCRC (1989) and the ACRWC (1990) provided the 'final and standard meaning of the concept, each of the following selected human rights instruments made significant additions to it. These were the UDHR (1948); ICCPR (1966); ICESCR (1976) UNCRC (1989); ACHPR (1981); ACRWC (1990); the Constitution of the Republic of Uganda (1995); the Education Act Cap 127; the Children Act Chapter 59; the Penal Code Cap 120 and the Uganda Human Rights Commission (UHRC). These played to give the final standard meaning of achievement.

The finding that the conception and interpretation of both the rights standards and the weighting values were varied and therefore not static was another important finding. This situation resulted into three things: first that their meanings were shaped by social, cultural, economical, political and legal environment under which they were operating. Secondly, because of that, the standard meaning varies from group to group and thirdly that the right of children to participate in decision making meant different things to different groups.

These variations in the meaning began with the contradictions in the Bill of rights in its provisions on education. Articles 26(3) in UDHR and 13(3) in ICESCR for example contradicted the process of decision making for children which both Articles 12 (UNCRC) and 4(2) (ACRWC) advocated for on selecting the type of education they wanted. Thus, much of the present day practices on educational matters are following these two provisions.

As the “common standard of achievement” for all peoples and all nations”<sup>115</sup> the UDHR lacked specificity to children rights and its use of the generalized language lent ambiguity and vagueness to subsequent treaties. The UNCRC for example used the same general language in Article 1 where the actual age of the child was not emphatically set. It has been an uphill task therefore to harmonize articles 1 and 12 with the object of the UNCRC.

On the other hand, the different traditional and cultural ideological framework under which the rights are operating give varied conception, perception and interpretation to the rights standards (primary, social and substantive participation Rights and weighting values) within the ‘final standard meaning’. The outcome of this was that participation holds different meanings for different groups, this lack of shared understandings and agreed definitions have made it harder for national government to put in practice.

The Controversial criteria for defining the weighting values mentioned earlier have equally influenced the meaning and level of participation in decisions made. Thus determining childhood and maturity with age was a challenge and the literature provided no clear formula for making this determination. For example, age has been applied inconsistently in several of children’s policies and laws in Uganda.

In article 34(5) of the constitution (1995), protection from social and economic exploitations/employment was given to a child under the age of sixteen years; the Education Act Cap 127 defined the child as someone below 12 years; the juvenile in children’s Act 59 was defined as someone between 7-12 years; the Divorce Act Cap 249 defines a minor as a person less than 18 years of age; the Affiliation Act terminates child adoption at 16 years and the Adoption law in the children’s Act 59 as amended defined a person less than one year as an infant. This inconsistency has led to fluid definitions of the child person and the use of different measures and standards.

The final standards meaning of common achievement therefore is not common to all societies, neither is the concept of the right of children to participate in education decision making static that holds good for all children equally, in all places, and at all times.

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<sup>115</sup> Preamble UDHR (1948) (*Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948*)

The finding that there was lack of robust mechanism to ensure that national governments implement and uphold the rights of children was replicated in Mukono and Uganda in general. Both research methods revealed that the legal and policy provisions that promoted the participation rights of children in decision making were limited in scope and depth. Similarly, the wider social and economic policies that ensure the wellbeing of families and children were lacking. This limitation, from the outset was a central weakness of the UNCRC and was inherited by national states in their domestic arena.

The current children policies, laws and human rights bodies viz: the Uganda constitution (1995); the Uganda education Act 1970; the Uganda Children's Act Chapter 59; and the Uganda human rights commission merely innuendos the right of children to participate in decision making.. Consequently the enforcement has been correspondingly inconsistent.

Thus the greater percentage of parents in Kisowera FGD (70%), for example admitted that they did not find it vital to involve children in education decision-making.

Another parent further argued that they should be the ones to decide and not the children. He said;

*“Since children do not take part in paying school fees, let the owner of the money decide”. Another in Kisowera said, “If the state wants to implement such things like, letting children to decide for themselves, then it should take them from us if not, under my roof my law operates”.*

The above situation suggests two main requirements. First, the review of existing legal systems and policy with a child body subset to facilitate the promotion of children's rights and a special focus on the participation rights, in all sectors including education. This should respond to the legal gaps in terms of clarity, specificity, efficacy and implementation of children's participation rights. In addition, the development of the national child participation guide to create the right environment for children and young people's participation should be developed.

The meaning of the concept “children's right to participate” in decision making was an important aspect to the overall rights of the child. From the analysis of the legal provisions

in the human rights instruments viz the UNCRC 1989 and ACRWC 1990, it means the process of empowering children under a working framework where the three participation bases and the categories of participation rights work in sync and underpinned by consideration of the weighting values. This empowering process will involve the sequence of three phases of: - To speak, to participate and to have children's views taken into account.

However, due to the global changes in society which have disproportionate impact on children and the shrinking welfare nets in many societies, the participation concept demands for a new and deeper meaning which is not curtailed by weaknesses in policies and laws and should establish a new social contract in which children are right holders, who not only receive protection but also have participation rights in all matters affecting them.

## **5.2 The level of children's participation in decision making**

The level of children participation in decision making process in educational matters was established by discussing and analyzing the level (scope and depth) of children involvement in education decision making. The scope considered three aspects: the capacity of children to form viewpoints, the matter that is affecting the child" and the" due weight" given to the view point. In determining the depth, the Harts model was considered using the metaphor of a ladder.

### **5.2.1 Choice of school**

The revelation that the majority of the children, 70.7% (Table 4.6) were consulted by their parents on the choice of the school and the indication that the consultations were higher with pupils at the primary school (72%) showed that there was a registered participation of children in decision making on education matters. This finding deviates from the child participation literature on the African tradition that the parents do not allow young children to talk before them. It was also not in agreement with the responses from children of Nsanja primary school who confirmed that their parents decided for them which schools to

go to. This could be attributed to the fact that, children usually choose schools that are nearer to their homes and the fact that all their siblings have gone to the same school. On the other hand, the high degree of awareness by children in secondary schools could have been due to factors, such as having had access to information, and interactive.

Furthermore, the parents of Kisowera FGD (**Figure 5**) admitted that they did not find it vital to involve their children in education decisions. The FGD of Kakira indicated that the whole idea of children's participation in decision-making is an interference with the natural course, where parents have been bringing up their children. A section of parents argued that they invest time to search for good schools for their children. These events above showed that the environment was disabling for children participation.

### **5.2.2 Choice of subjects**

The finding on the selection of the subjects and careers revealed that there was no participation initiative in this area. The subjects were set by government as a matter of policy and on the basis that the state has the ultimate responsibility to ensure that children's rights are respected and applied in practice. What this means however is that children are perceived as recipients of knowledge and not as active players in the learning process. The revelation by parents in Kisowera FGD that they made consultation with relatives for guidance on the choice of subjects for their children when the need arose further condones the above view. Similarly, the adage that "*Obukadde magezi*", which implies decision-making is directly proportional to age, emphasized the exclusion of children.

### **5.2.3 Responses on school rules and regulations.**

The revelation that the majority of the children, 68.7% (Table 4.7) were not consulted by their teachers on school rules and regulations showed that there was little participation of children in decision making on education matters. This finding suggested that since the students were not used to participating in decision making they were not excited about taking part in making school rules and regulations. The findings were also in agreement with what one teacher in Abate primary school said that to involve children every year was a waste of time.

Making pupils to engage in participation at an early was also another challenge. Participation encourages participation, when children are introduced to participation early

in years, the subsequent years would not see participation as a waste of time. According to Woolf (2000)<sup>116</sup> the capacity of the child to form view points on the matter that affects that child, should be applicable to all children irrespective of age, class and education level. In fact even children in early infancy have been found to express preferences (Hart 2002). This is because the individuality of each child has to be taken into account.

#### **5.2.4 Responses on school strikes.**

The findings that 68.3% (Table 4.8) of students were not consulted revealed that the occurrence of strikes was a result of their not being involved in the management of schools. While all students did not see strikes as the best means of expressing themselves, they indicated this as an after effect of not being given the chance to participate in the decision making process in matters that affect their education.

According to De Waal and Temba (2002), this was a negative form of participation and therefore not true participation. It was also not in line with the four requirements<sup>117</sup> which Hart listed down for true participation nor were they learning any constructive skills. In other words the strikes were a representation of the non-participation level. It showed the extent to which the children will go with their demands in order to be part of the decision makers in education. De Waal and Temba (2002) added:

*“When young people are denied effective participation, they often turn to criminality or militarism”.*

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<sup>116</sup> Woolf Mitchell ‘ See But Still Not Heard?: The child’s right to participate’

1. <sup>117</sup> The children understand the intentions of the project
2. They know who made the decisions concerning their involvement and why
3. They have a meaningful (rather than decorative) role
4. They volunteer for the project *after* the project was made clear to them.

<sup>117</sup> Uganda -New vision of January 3<sup>rd</sup> 2005.



Most adults however continued to ignore these consequences, and this reflected the fact that the parents had not appreciated the advantages of children's participation. Hart and Landsdown explained it well: for adults who themselves have never felt empowered, it is hard to accept the importance of empowering children<sup>118</sup> In Abate primary school, a teacher disclosed that involving children in systems of making rules and regulations every year, 'is time wasting and the school had to establish a system of order that students have to fit in or else abandon the school. According to Eremu<sup>119, 120</sup> however (2005) there is need to design new participatory strategies to tame this new found method which students use to air their grievances.

In Joy and Abate Primary school it was revealed that some teachers advocated for allowing children to take part in decisions that affect their education. One teacher at Joy primary school reported that his school trains children to participate in taking decisions. This acceptance to involve children is a good step in the right direction.

The idea of rights in schools however should not be a sudden eruption but should be introduced systematically and in collaboration with parents, teachers, religious leader's local authorities, the security organs and policy makers. According to Afua Twim - Danso:

*'Participation should be an on going process of children's active involvement in decisions that affect their lives...the genuine participation that gives children the power to shape both the process and the outcome. Children's participation in this case involves the exercising of one's rights for the best interest of one's self'.<sup>121</sup>*

According to Hart,

*"Children need to be involved in meaningful projects with adults. It is unrealistic to expect children to suddenly become responsible, participating adult citizens at the age of 16, 18 or 21 without prior exposure to the skills and responsibilities involved. An understanding of democratic participation, together with the confidence and competence to*

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<sup>118</sup> Hart and Landsdown .2002 p10. Towards a Theory of children's participation.

<sup>119</sup> John Eremu: School strikes: New Vision, January 3<sup>rd</sup>. 2005 Uganda.

<sup>121</sup> Op. c it. pg 24.

*participate can only be acquired gradually through practice; it cannot be taught as an abstraction”<sup>122</sup>.*

To ascertain the participation level above, three aspects are considered: the capacity of the children, both secondary and primary to form viewpoints (“Capable of forming a view point”), what the children want (“the matter affecting the children”) and how the parents weight the view points of the children (“due weight”).

According to the UNCRC, a child who simply expresses his or her view point is not truly participating until his view point is given consideration. The question always is whether the child’s view point was given consideration (Hart 2002). Determining what sort of consideration qualifies as “due weight in accordance with the age and maturity of the child” is a challenge and the literature provides no clear formula of making this determination. In general however, giving “due weight” means progressively increasing the weight given to a child viewpoint (ibid). Figures in Table 4.4 are reflection participation however it is hard to say that these high figures are a reflection of the actual level of children’s participation on their choice of schools.

In the case of strikes (Table 4.8) on the other hand considerations of the three aspects did not even arise.

While the Harts Ladder put the level of children participation in choosing schools at rung five, i.e. “consulted and informed” the overwhelming evidence from the FGDs of Kisowera, Kakira and the responses of children of Nsanja primary school and Mpoma secondary school that parents did not find it vital to involve their children in education decisions showed otherwise.

The Harts’ four requirements of true participation<sup>123</sup>, indicated that level of children’s engagement in decision making in educational matters was not true participation. The consultation of the young children in figure 4.4 was a non-participation which involved; manipulation, decoration and tokenism. The strikes in Table 4.8 were negative participation because it did not lead to constructive decisions neither did it build decision making skills.

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<sup>122</sup> Roger Hart, 1992

<sup>123</sup> Op cit. pg 86.

### **5.3 Challenges to Children are right to participation in education decision making.**

#### **5.3.1. The varied interpretations of children's right to participate in decision making.**

The revelation made by the FGD in Kojja was that it was only the persons who performed acts that are normally reserved for adults that participate in decision making was an important indication on how parents interpret the participation of children in decision making. This was in line with the literature review reported by Michael Gose, that the traditional African culture views participation of children in terms of fulfilling duties and responsibilities of obedience and respect for parents and elders at all times.

This was further reinforced by the student respondents who said that, participation meant that children keep their position as children and that they could not respect a teacher after sitting together and discussing a law that would govern them. This submission by the students suggested that both the parents and the students had limited understanding of what children participation actually was and the lack of skills and knowledge on how to involve children within institutions or local governments.

#### **5.3.2 The parental exclusionary premises and prejudicial point of views.**

The parents in the Kisowera FGD revealed that their children had little capacity to influence decisions. The natural set up of families is such that children belong to the lowest social strata of the family and therefore obliged to obey and follow the decisions of those at the top and who are older. The tradition and cultural values on the other hand relegated children to the world of the mute, where they are regarded as chattels, the property of their parents or guardians and without the right to participate in decision-making.

Similarly, although the religious values did not feature significantly as a determinant to decision making, parents used it to make education decisions for their children. Most of the time parents were inclined to take their children to schools where they are religiously affiliated. This was a legacy from the colonial era and was contrary to the principle of child participation.

However, a process of ‘un-muting’ the child seemed to be gathering pace. In another FGD in Kakira the parents claimed that they were willing to allow their children to participate in decision making processes. But the fact that many parents still hold firmly onto their traditional values and family setup slows down the participation process.

### **5.3.3 Inappropriate approaches and strategies.**

The findings from three of the FGDs indicated that many parents would acquiesce to their children participation in decision making process if pressed to do so. However, the challenges highlighted in the literature review echoed with what was found in the discussions. The earlier process of advocating for children participation rights in Mukono caused the same confusion and misunderstanding as reported in the literature reviews. The approaches and strategies used to introduce and promote children right tended to emphasize children rights but gave little attention to their responsibilities. This made the children claim their rights with no regard for the responsibilities that go with those rights. Similarly, its acceptability was affected by the failure to target community resource persons, the traditional and cultural leaders including the FGD members as the first line of action

### **5.3.4 Limited bargaining power of children.**

Many children that were interviewed revealed that their parents were the ones to make the financial settlements for their education and parents had to decide for them on all education matters. This was an indication that children feared to voice their views to their parents in case they stopped funding their education. This came out clearly when one parent in the Kakira FGD said that since children did not take part in paying fees they had to leave the owner of the money to decide. This was an illustration that children had limited bargaining power because of their status as children. This challenge resulted from lack of access to resources which hindered them from bargaining with their parents on matters that affect them.

### **5.3.5 The rigid state policy on education.**

The findings indicated that pupils in primary school were supposed to study all subjects and students in secondary had to study science subjects. This is a state policy that emanated from its duty of providing education (Constitution of the Republic of Uganda, article 30) to children. The children felt that the policy of dictating subjects of study in schools was an impediment to their freedom of selecting subjects of their choice and competence. While this is good in terms of children receiving an all round education in both the sciences and arts subjects, it violated the children's rights to make their own decisions based on their ability and preferences.

In the Education Policy Cap 127 for example, the children were not even recognized as partners in education development. This reflected the invisibility of children to policy makers and their lack of status as individuals with equal status to adults as members of the human family and rights holders. As a large portion of the world's population, the children must be considered and involved when decisions are made. The governments and other stakeholders are therefore morally obliged to recognize the full spectrum of human rights for all children.

### **5.3.6 The inappropriate legal framework.**

Another outstanding revelation was on the National legal framework designed to foster the children's rights. According to the Kojja FGD both the laws concerning children participation and the meaning of the children right to participate in decision making were not clear. The confusion is evidenced during the judicial and administrative proceedings where the definition of age as a guide post for determining criminal liability was often misleading. According to the law, the age of criminal liability in Uganda is 12 years. But in the children statute the child is defined as anybody below the age of 18 years. This means that the child between 12 and 17 years inclusive was answerable for any criminal acts they commit and thus be subjected to penalty sentences which may amount to abuse of child rights. Such inappropriate legal framework is a challenge to children participation in decision making.

While a strong legal system is a requirement to ensure that children rights were implemented or upheld by government, it is also clear that fighting for children rights cannot simply be achieved through a legal framework that overlooks the economic, social, cultural and political barriers to children's involvement

### **5.3.7 Disharmony between the right to participate in decision making and the right to education.**

The revelation that teachers hold the mantle of authority over students in matters of education and the dictum that, the teacher knows-it all have impacted on the methodology of teaching. This has involved a one way flow of information from teachers to students which have had a debilitating factor on children's right to participate in education decision making. This has created a disharmony between the right to participate in decision making and the right to education in practice.

The use of child centered methods should be encouraged to provide support in learning and experiencing, avoiding simple repetition and memorization. This means that children should be given opportunities for active participation, decision making and responsibilities within the school in order to prepare them for life in a free democratic society. In this regard it is important to encourage the trend of ensuring students representation in school councils and disciplinary boards, the consideration of their views when the curriculum is being reviewed, the schedule in the school is being decided on or recreational activities are being promoted. It is equally relevant to ensure student participation in proceedings specifically relevant to them in particular, when decision on suspension or expulsion may be at stake.

### **5.3.8 Disabling decision making environment.**

The findings from the rural schools visited recorded reluctance from parents to allow children to participate in the decision making process in education matters but the opposite was true in peri-urban and urban schools. This pattern of events seemed to suggest that while the parents in rural setting tended to hold onto their traditional exclusionary practices

those of urban areas have tended to relax their traditional attachments to such practices. This explained the supportive comment of a respondent in Mukono Academy where one leader said that the environment in which each child grew was different and influenced participation in decision making either positively or negatively. In the urban setting opportunities for participation are available while in the rural setting they are squashed. This explained why the children in Nsanja primary school had little opportunity to participate because their environment was not conducive.

### **5.3.9 Child peer pressure and child/adolescent excitement.**

Arguably, the peer pressure can negatively or positively affect the behaviors of young persons. This revelation was made by the parents/adults in FGDs Mukono Town schools. According to them the young persons are under pressure to adjust to new challenges among which are: the need to belong, to be different, independent and competitive among other peers. These plus adolescent excitement, immaturity and pressures from fellow peers are the concoction which misleads the young persons when left to make their own decisions. These challenges confuse the children and make them restless and stressed. By deciding for them the parents are trying to safe guard their children from making difficult decisions.

In spite of the above, the adolescent period is important in a child's life and care should be taken to nurture their involvement in decisions to avert rebellious decisions. At whatever age children should be given an opportunity to express their views on issues that affect them. It is argued that once children are respected they reciprocate accordingly.

### **5.3.10. Poverty and the financial implications of decisions**

The finding that most education decisions have financial or social implications were mentioned by both children and adults that, to participate in decision-making process one has to have financial muscle to accompany the decisions made. The parents of Kisowera revealed that children had no resources to facilitate the decisions they make. It was also apparent that children growing in poverty often have limited access to social amenities such as health care, education, leisure activities, and housing. In this milieu one would

hardly expect these children to achieve their rights to active participation in the community. Because of limited resources, most parents in Mukono parents did not involve their children in education decisions.

The challenges faced by the children in the enjoyment of their right to participate in education decision making were arranged according to categories, and using the weighting value of x2 of each number of subjects that fit into each category. The cultural and social challenges impacted intensely on the right of children to participate in decision making process. These are trailed by legal and political challenges.

When arranged singularly and in their order of intensity the challenges were listed as follows:-1) the varied interpretation of the concept, ii) the parental exclusionary premises and prejudicial point of views; iii) the negative environment for decision making, iv) the inappropriate approaches and strategies, v) disharmony between the rights to participate and education, vi) child peer pressure and adolescent excitement. vii) the limited bargaining power of children, viii) the financial implications of decisions, ix) the inappropriate legal framework, x) the rigid state policy.

In conclusion, several factors determined the level and degree of children's participation in decision making in Mukono district. These are social, economic, cultural, political and legal barriers to children's involvement. Children and young people growing up in poverty with limited access to health care, education leisure activities and housing are hardly achieving their right to active participation in the community (UNICEF, 1989, article 23).

The cultural set up renders children invisible or insignificant in the decision making process in education matters. The weak legal system has resulted in disharmony in laws and policies that enhance children participation in decision making.



## **CHAPTER SIX**

### **CONCLUSIONS AND RECOMMENDATIONS**

#### **6.0 Introduction**

This chapter presents conclusions and recommendations based on the findings of the study. The main aim of the study was to identify the challenges faced by children in the enjoyment of their right to participate in education decision-making in Mukono district.

#### **6.1.1 CONCLUSIONS**

The functional meaning of the right of the child to participate in decision making is the process of empowering children under a working framework where the three categories of participation rights and participation bases (enabling environment) are synergized and underpinned by the consideration of the weighting values. In short, it is to speak, to participate, and to have views taken into account. These three phases describe the sequence of the enjoyment of the right to participate from a functional point of view. This is derived from the ‘final standard meaning of common achievement’.

The right of children to participate held different meanings for different groups in Mukono and lacked shared understanding and agreed definitions for implementation. This meant that the right of children to participate in education decision making did not hold good for all children equally, in all places, and at all times and therefore was not a static concept.

There was a disabling environment for the promotion and protection of the right of children to participate in decision making in education. The weak legal system including lacunas in the policies and laws on children’s rights, were partly to blame for this situation. Both the policies and laws have limitations in fighting for children’s right because they overlooked the wider social, cultural, economic and political policies to ensure the wellbeing of families and children.

The same limitations have also crippled the growth of the participation bases and this has resulted into a non significant level of children participation in education decision making both in scope and depth which was truncated to non participation level.

The strikes were a skewed form of participation it provided no constructive and empowering skills, nor instilled democratic values and citizenship. The majority of children did not get opportunities to express themselves, get heard and their decisions were not given due weight.

There were ten main challenges that obscured the children's right to participate in education decision making. Arranged according to categories, and using the weighting value of x2 of each number of subjects that fitted into each category the cultural and social challenges impacted intensely on the right of children to participate in decision making process. These were followed by the economic challenges and trailed by legal and political challenges.

There was conflict between the parents' responsibility for the care of children, and the right of children to participate in matters affecting their lives. This was mainly because of misunderstandings resulting from the traditional concepts of adult power.

The government of Uganda has not committed resources including the political will for the sensitization of adults and children on participation rights.

There has been a slow progress in promoting new methods of participation, including the use of information technology. This has made children to get limited exposure to different arenas of participation mainly on getting information about participation practices in other societies.

Finally, the children make up a large portion of the world's population, which indeed, must be considered and involved when decisions are made.

### **6.1.2 Recommendations**

The following recommendations address the challenges identified above. The goal is of having the children hold and enjoy their right to participate in decision making and in getting the government to implement and uphold these rights.

There should be a new and deeper meaning of the right of children to participate. This should establish a new social contract, one by which children are fully recognized as rights-holders who are not only entitled to receive protection but also have the right to participate in matters affecting them, a right which can be considered as the symbol for their recognition as rights holders. This implies, on the long term, changes in political, social, institutional and cultural structures.

There is need for national guide lines to be supported by field work kits with detailed practical ways to promote child participation at the various levels. Priority should be on sensitization.

Deliberate efforts should be taken to design curricular to teach child rights (as subjects or courses) in educational institutions right from primary schools through to tertiary institutions so that as a child grows to adulthood, they learn participation as a norm expected of everybody. The emphasis should mainly be the children.

The government should avail opportunities to children both at home and in school to develop life skills, negotiation skills, self -confidence, self-esteem and decision-making. There is need to develop political forums for children to have collective action and lobby politicians; address issues of diversity and representation within this.

There is need to examine our own attitudes and values about children's involvement. Any participative strategy will have a limited impact without attitudinal change.

There is need for a review of funding commitments to support children's consultation and involvement. This can only be done when there has been an established purpose and function of participatory practices.

The government should come up with strategies that rhyme with the developments in the world. For example, there should be the promotion of information technology as a new method to facilitate the children's right to participate in decision making.

The children human rights committee should be set up to review the legal weaknesses inherent at international, regional and domestic levels in order to plug the gaps and to set up relevant policies, laws and legal bodies and enforcement mechanisms on children's rights.

The government of Uganda must promote independent Human Rights Institutions for children such as the office of the Inspector General of Government for children and the Children's Commission of Human Rights. There should be a child desk in accessible points for designing appropriate programs and policies for the promotion of child rights.

At national level, the government should promote the comprehensive ratification of treaties related to children's rights and their incorporation into all domestic education legislation as fundamental conditions for ensuring the protection of children's participation rights in education decision making process.

The government should get prepared for a struggle against children's right to participate and therefore it should plan accordingly for the resistance.

There should be capacity building for stake-holder's skills in human rights education. This will involve providing skills to analyze causes/ constraints to children's right to participation in all matters that affect their lives and imparting values and norms that facilitate support for their participation. This would involve a thorough analysis and review of the available instruments and opportunities for the purpose of carrying out human rights education to all stakeholders. The stakeholders include the parliamentarians parent/care

givers, religious/cultural/political leaders, school authorities (teachers, PTA, SMC, and Boards of Governors), community members, children and paralegal for grassroots implementation

There is a need to work with International Organizations, including international financial institutions to strengthen the capacity of the government in meeting its obligations to provide universal education and in order to make children feel some level of independence from parents as they are making education decisions

The government should take into consideration vulnerable and marginalized rural children who need a special approach in it. This will ensure that the child is capable of forming his or her own views.

Building socially inclusive schools' community's relationship requires a focus on relations of power that lead to reduction in discrimination and inequality. This in turn requires multidisciplinary approach within and between schools.

Finally, it is important that the above interventions supporting children's right to participate in decision making are implemented in a multi-sectoral manner for optimum achievement however, a legal umbrella for Children's right to participate in decision making should be a priority to reduce the complexities to rights and their infringement.

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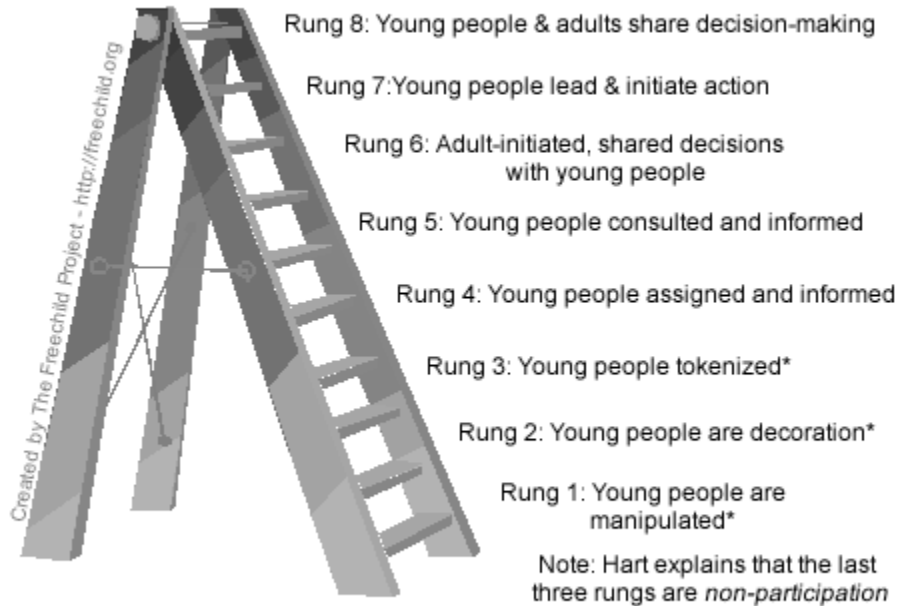
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## APPENDIX A

### Hart's Ladder of Young People's Participation

#### Roger Hart's Ladder of Young People's Participation



Adapted from Hart, R. (1992). *Children's Participation from Tokenism to Citizenship*. Florence: UNICEF Innocenti Research Centre.

### Degrees of Participation

#### 8) Young people-initiated, shared decisions with adults

This happens when projects or programs are initiated by young people and decision-making is shared between young people and adults. These projects empower young people while at the same time enabling them to access and learn from the life experience and expertise of adults.

#### 7) Young people-initiated and directed

This step is when young people initiate and direct a project or program. Adults are involved only in a supportive role.

## **6) Adult-initiated, shared decisions with young people**

Occurs when projects or programs are initiated by adults but the decision-making is shared with the young people.

## **5) Consulted and informed**

This happens when young people give advice on projects or programs designed and run by adults. The young people are informed about how their input will be used and the outcomes of the decisions made by adults.

## **4) Assigned but informed**

This is where young people are assigned a specific role and informed about how and why they are being involved.

## **3) Tokenism**

When young people appear to be given a voice, but in fact have little or no choice about what they do or how they participate.

## **2) Decoration**

Happens when young people are used to help or "bolster" a cause in a relatively indirect way, although adults do not pretend that the cause is inspired by young people.

## **1) Manipulation**

Happens where adults use young people to support causes and pretend that the causes are inspired by young people.

The 7 or 8 Debate:

Roger Hart's Ladder of Participation shows young people-initiated, shared decisions with adults as the top form of young people's participation, followed immediately by young people-initiated and directed. This is somewhat controversial an issue for many people working with and around young people. Essentially, the debate is which of these levels of participation is actually the most meaningful?

Many believe that shared decision making is most beneficial to both young people and adults. Others believe that young people are most empowered when they are making decisions without the influence of adults. Most often, this doesn't exclude adults but reduces their role to that of support.

Both arguments have merit; ultimately, it is up to each group to determine which form of decision-making best fits with the groups' needs.

## **Appendix B: Letter of introduction**

## Appendix C: Questionnaire for primary school pupils

**Makerere University**

**Faculty of Arts**

MA HRT Programme

The study is being carried out in Mukono urban and rural areas in Mukono district. This selection is intended to bring to the fore the urban and rural perspectives of children and stakeholders as regards the participation of children in education decision making. In order to receive data about the promotion and protection of children's right to participate in education decision making in Uganda it is pertinent to reflect the urban and rural settings of Uganda schools and education stakeholders in the research contents.

I am conducting a study on the "*Challenges facing children's right to participate in education decision-making*". Your responses are kindly sought to these questions. The information you give is purely for academic purposes and the recommendations made there from due likely to be beneficial to you and the entire business community.

I guarantee that your responses will be treated with utmost confidentiality.

Thank you very much.

### **1.0 Personal profile**

1.1 Name: .....

1.2 School:.....

1.3 Sex: .....

1.4 Religion:

(a) Moslem (b) Anglican (c) Catholic (d) Buddhist

Other.....

1.5 Age .....

### **2.0 Education**

2.1 Are you a Day Scholar? Yes..... No.....

2.2 When did you join this School?

2.3 Children have a right to participate in the choice of the schools they want to join  
Yes..... No.....

2.4 If yes, give some reasons?

.....  
.....

2.5 If no give some reasons?

.....  
.....  
.....

2.6 Did your parents/Guardian seek your opinion before bringing you to this school?

Yes..... No.....

2.7 Have you been to any other school?

Yes..... No.....

2.8 Why did you change school?

(a) It was the wish of my parents

(c) It was the wish of my guardian

(d) I decided to change

As regards changing schools, boys consulted more than girls

Yes (2) NO (3) Always (4) Sometimes

### 3.0 Family background

3.1 Does your mother and father stay together?

Yes..... No..... I am an orphan .....

Do you have a step mother at home?

Yes..... No.....

**4.0 School regulations**

Did the school authorities seek your views on the school rules and regulations?

Yes..... No.....

4.2 Do you think you have a right to be consulted on the above issue?

Yes..... No.....

4.3 If yes give reasons:

.....  
.....  
.....

4.4 If no give reasons:

.....  
.....  
.....

4.5 Do you think one of the reasons behind the rampant strikes in schools could be attributed to denial of the right of children to participate in the decision making in schools?

Yes..... No.....

**5.0 Subject Combinations**

5.1 Do you like the subjects you are taught at school?

Yes..... No.....

5.2 Do you think you have the right to choose the subject of your choice?



Yes..... No.....

**6.0 Career**

6.1 Do you think your parents are influencing the choice of your career?

Yes..... No.....

6.2 Do students have the right to choose the career they want to take up?

Yes..... No.....

6.3 If yes give reasons?

.....  
.....

6.4 If no still give reasons?

.....  
.....  
.....

**Thank you.**

Name of respondent (Optional).....

Date.....

Comment.....

.....

## **APPENDIX D: Questionnaire for Secondary students**

### **Makerere University**

#### **Faculty of Arts**

##### MA HRT Programme

I am conducting a study on the challenges facing children's right to participate in education decision-making. Your responses are kindly sought to these questions. The information you give is purely for academic purposes and the recommendations made there from due likely to be beneficial to you and the entire business community.

I guarantee that your responses will be treated with utmost confidentiality.

Thank you very much.

### **1.0 Personal profile**

- 1.1 Name: .....
- 1.2 School: .....
- 1.3 Sex: .....
- 1.4 Religion:  
(a) Moslem (b) Anglican (c) Catholic (d) Buddhist  
Other.....
- 1.5 Age .....

### **2.0 Education**

- 2.1 Are you a Day Scholar? Yes..... No.....
- 2.2 When did you join this School?.....
- 2.3 Do you think Children have a right to participate in the choice of the schools they want to join?  
  
Yes..... No.....
- 2.4 If yes, give some reasons?

.....  
.....  
2.5 If no give some reasons?  
.....  
.....

2.6 Did your parents/Guardian consult you before bringing you to this school?

Yes..... No.....

2.7 Have you been to any other school?

Yes..... No.....

2.8 Why did you change school?

- (a) It was the wish of my parents
- (c) It was the wish of my guardian
- (d) I decided to change

As regards changing schools, are boys consulted more than girls

Yes (2) NO (3) Always (4) Sometimes

### **3.0 Family background**

3.1 Does your mother and father stay together?

Yes..... No..... I am an orphan.....

Do you have a step mother at home?

Yes..... No.....

**4.0 School regulations**

4.1 Did the school authorities seek your views on the school rules and regulations?

Yes..... No.....

4.2 Do you think you have a right to be consulted on the above issue?

Yes..... No.....

4.3 If yes give reasons:

.....  
.....  
.....

4.4 If no give reasons:

.....  
.....  
.....

4.5 Do you think one of the reasons behind the rampant strikes in schools could be attributed to denial of the right of children to participate in the decision making in schools?

Yes..... No.....

**5.0 Subject combinations**

5.1 Did your parents /guardians and teachers influence your choice of subject combinations?

Yes..... No.....

5.2 Do you think you have the right to be choose the subject combination of your choice

Yes..... No.....

**6.0 Career**

6.1 Do you think your parents are influencing the choice of your career?

Yes..... No.....

6.2 Do students have the right to choose the career they want to take up?

Yes..... No.....

6.3 If yes give reasons?

.....  
.....

6.4 If no give reasons?

.....  
.....  
.....

**Thank you.**

Name of respondent (Optional).....

Date.....

Comment.....

.....