

ANALYSIS OF UGANDA'S 1992 GOVERNMENT WHITE PAPER USING THE TOOL "PLANNING TO FULFIL THE RIGHT TO EDUCATION"

Submitted by the Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) and the Initiative for Social and Economic Rights (ISER)

INTRODUCTION

The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) is an international non-governmental human rights advocacy organisation. Together with partners around the world, GI-ESCR works to achieve a world in which every person and community lives in dignity and in harmony with nature.

The Initiative for Social and Economic Rights (ISER) is an independent not-for-profit Non-Government Organization registered in Uganda working on social and economic rights in Uganda, including the Right to Education.

CONTEXT

This analysis of the *1992 Government White Paper on Education* has been conducted in response to Uganda's Education Policy Review Commission's request for formal views, comments, and proposals from the public on their Education and Sports Sector Policies. The analysis has been conducted against the standards of the [Abidjan Principles on the Right to Education \(Abidjan Principles\)](#), which gather and unpack the international human rights obligations States including Uganda have subscribed to in order to fulfil the right to education. The Abidjan Principles are structured in 10 Overarching Principles (OP) which are also divided in 97 Guiding Principles (GP).

The objective of this analysis is to assess to which extent the *1992 Government White Paper on Education* is aligned with the Abidjan Principles and international human rights standards, using the assessment tool "Planning to Fulfil the Right to Education", developed by the International Institute for Education Planning (IIEP)-UNESCO. This tool contains 17 Guiding Questions, created to facilitate the assessment of a government's education planning documents and to ensure that their plans and policies are aligned with the Abidjan Principles. In the following pages, a report is included for each of the 17 Guiding Questions that the tool provides, referencing the corresponding Abidjan Principles as OP (Overarching Principle) and/or GP (Guiding Principle).

The report on each of the 17 Guiding Questions is created in the form of “recommendations” and “questions” (when applicable). The “recommendations” section points to specific issues which should be taken into consideration by the Education Policy Review Commission when creating future education planning documents.

It is important to note that the 1992 Government White Paper did not plan strategies for public institutions. The Government relied on Government grant aided institutions to ensure the right to education, thus every one of the 17 Guiding Questions was analysed through this lens.

GENERAL RECOMMENDATION

Avoid repetition of the same issues. The future educational document can be structured by educational issue or by educational level. To ease understanding of all parties, make sure to add all corresponding information in the same place.

ANALYSIS

GUIDING QUESTION 1: DOES THE PLANNING DOCUMENT ADEQUATELY COVER THE STRATEGIES OR MEASURES PUT IN PLACE OR PLANNED BY THE MINISTRY OF EDUCATION TO ENSURE EVERYONE’S RIGHT TO PUBLIC EDUCATION (OP 2; GP 29)?

RECOMMENDATIONS

- Be **more specific** regarding strategies that concern **Government grant aided institutions**, and those that concern **private educational institutions as well**.
- Building from what was developed for Government grant aided institutions, **develop a public system** to ensure:
 - o The progressive provision of free, quality, **public** pre-primary education for all (GP 17a).
 - o The provision of free, quality, **public** primary education for all (GP 17b).
 - o The progressive provision of free, quality, **public** secondary education for all (GP 17b).
- The Government did not aim to provide public pre-primary education. This was left to the private sector, and the Government aimed to progressively ensure full supervision of those actors. Future planning documents, should, at a minimum, plan for the **progressive**

provision of free, quality, public pre-primary education (ensure at least 1 year of free public pre-primary education) (GP 17a).

- The Ministry of Education and Sports failed to provide free, quality public education to all due to a lack of available resources:
 - o The State should **publicly demonstrate that all efforts have been made to use all the resources at its disposal** to provide free, quality **public** education for all (GP 16a and b; GP 43a; GP 38). This includes domestic resources, and international assistance and cooperation.
 - o The reassessment of capacity gaps should be accompanied by a **detailed timeline** (including specific targets) to address them in the shortest possible time (GP 43c).

- The Government concurs with the Commission's view that education must be regarded as a basic human right. Yet, it states repeatedly "*for all Ugandan citizens*" (even though refugees are included in the initiatives of education for disadvantaged groups). The right to education should be ensured for everyone, irrespective of citizenship or migration status (GP 24), thus, it is key to **replace "citizens" by "for all"** in upcoming documents.

- **Compulsory education should be guaranteed for at least 9 years** (GP 17e).

- The White Paper states: "Government should be responsible for capital expenditure at all levels of education except the primary level" (p. 214). "Government has been sharing responsibility for capital expenditure with the community at almost all levels of education... it will continue doing so until the national economy becomes strong enough to enable the Government to shoulder full responsibility at post-primary level" (p. 215). For future actions, **primary level should always be prioritised**, and the rest of educational levels can be treated progressively (GP 17b). Specifically, priority should be given towards acquisition of land for schools, this is important in eliminating the syndrome of the government grant aided schools and the non – state actors that have undermined the provision of primary and secondary education through the charging of high tuition and non-tuition fees and other school requirements.

- **Monitoring system:**
 - o Analyse if the National Management Information System for Education is working properly, and ensure it captures comprehensive information from Government grant aided, public (if existent) and private educational institutions. The current Education Information Management Information System has a number of policy and institutional gaps and challenges.



- Ensure it is **neutral**, and it is provided with **adequate resources** (financial, human and other) (GP 83).
- If capacity and resources allow it, put in place **more frequent monitoring** and ensure all monitoring **data and results are publicly available** (GP 81 and 82).
- **Strategies to address the barriers and impediments** to ensure access to quality education for all (including positive action) (GP 35b), **should be complemented with:**
 - Child labour prevention policies, which set a minimum age of employment to 16 years old, to ensure that children and young individuals remain in school (GP 33). Particularly, regarding the extension of primary education from P7 to P8, the White Paper stated "Allow children ample time to mature sufficiently in readiness for the world of work or for formal secondary education" (p. 42). There should be child labour prevention policies in place, a minimum age of employment should be set and the language and ideas employed in educational documents should be aligned.
 - Provision and access to quality education for incarcerated children and youth.
 - Guarantee pregnant girls, young mothers, and married girls under 18 years of age, to remain in or return to school (formal system) without delay, instead of solely relying on the non-formal education system, as planned by the White Paper (GP 55d). Cite age of consent for marriage as per the Constitution of Uganda, which is 18 years of age, and include educational strategies to avoid early pregnancy.
- The State cannot allow children to be withdrawn from schools when parents are unable to pay PTA expenses. Steps must be set forth to **ensure that no individual is excluded from any public (in this case Government grant aided) educational institution based on the inability to pay (at all levels)** (GP 36).
- The Government should **establish a minimum in educational expenditure, and this must not fall below the level required by domestic or international funding commitments** (GP 15). The Commission recommended the Government to allocate at least 20% of its recurrent budget to the education sector, yet, the Government stated "*it is not possible to commit to any definite position on the percentage of national budget to be spent on education. As the economy improves and revenue increases, more and more funds will be allocated for educational development*".
 - Based on international benchmarks, States should commit at least 4% to 6% of their gross domestic product and/or at least 15% to 20% of their total public



expenditure to ensure the fulfilment of the right to education (UNESCO and Right to Education Initiative, 2019).

- Other international benchmarks recommend a reasonable allocation of budgets; for instance, the Global Partnership for Education (GPE) benchmark states that basic education (primary and lower secondary) should receive at least 45% of education spending (UNESCO and Right to Education Initiative, 2019).

GUIDING QUESTION 2: DOES THE PLANNING DOCUMENT ADEQUATELY COVER THE STRATEGIES OR MEASURES PUT IN PLACE OR PLANNED BY THE MINISTRY OF EDUCATION TO CONTINUOUSLY RAISE THE QUALITY OF PUBLIC EDUCATION AT ALL LEVELS (OP 2; GP 30)?

RECOMMENDATIONS

- **Curriculum:**

- Ensure inclusive, gender-responsive curriculum (14 a iii; 28).

For concise information about inclusive curriculum consult: <https://policytoolbox.iiep.unesco.org/policy-option/curriculum-development/#policies-for-children-with-disabilities>

- Key recommendations:

- Gender issues should be mainstreamed throughout the development of all curricula and all the subjects taught at each educational level, as well as through non-formal education and teachers' training curricula.
- The curriculum should be human rights compliant, including being free from stereotypes (GP 14c).
- The information or knowledge included in the curriculum must be conveyed in an objective, critical, and pluralistic manner (GP 31).
- Give due regard for applicable human rights law and standards, the right to freedom of thought, conscience, and religion, the rights of minorities and indigenous peoples, cultural rights (GP 55e).

- Co-curricular activities, including recreational activities, were cited for secondary education. It would be worth acknowledging and implementing them in primary education as well (GP 55f).

- **Teaching and Learning Materials:**

- Ensure inclusive (adapted for all learners), gender-responsive, high-quality teaching and learning materials (GP 28, 55i).

- **Rehabilitation of infrastructure:**
 - Ensure that all educational buildings and facilities are safe, adequate, accessible, and well-maintained (GP 14a.vi and 55i).
 - All infrastructure must be adapted for all learners, including girls, women, and learners with disabilities, taking into account factors such as learning space sizes and maintenance, sanitary and kitchen facilities, furniture, equipment, and disaster risk management (GP 55i).
- **Teacher's compensation, career pathway:**
 - The White Paper led the reader to understand that all strategies regarding the terms and conditions of employment and salary of teachers concerned only public servants. It would be worth specifying the conditions and training opportunities provided to contract teachers especially in private schools.
 - Pre-primary educators were not included in the 1992 professional promotional and salary structure. This should be acknowledged and addressed by the current Education Policy Review Commission (EPRC).
- Educational staff **labour rights** as well as their **freedom of association and collective bargaining** should be specified and respected (GP 14a.ii and ix, as well as 55e).
- **Teacher training:**
 - Ensure inclusive, gender-responsive pedagogy (GP 28). It would be recommended to mainstream gender and inclusion throughout all teacher training.
For concise information about inclusive pedagogy consult:
<https://policytoolbox.iiep.unesco.org/policy-option/classroom-practices/#policies-for-displaced-populations-and-host-communities>
- **Academic freedom** recognised, respected and encouraged in all tertiary institutions, should be extended to all educational levels (freedom of thought, conscience, religion, respect for the rights of minorities and indigenous peoples) (GP 55b).
- Efforts to provide an **adequate, safe learning environment**, as well as eliminate abuse/violence from all educational institutions, at all levels, should be put in place (GP 55i, k, l; 14a v, vi, vii).
 - The Government planned to put in place or implement strict legal measures aimed at safeguarding girls against sexual harassment and exploitation. It is key to analyse the current situation and pursue measures to address any kind of school-related gender-based violence (SRGBV).



- For concise information and strategies on how to address school violence, consult:
<https://policytoolbox.iiep.unesco.org/policy-option/school-violence/#policy-options-for-improving-equity-and-inclusion>
- Efforts throughout all levels of education concerning **disaster risk management** should be put in place (GP 55i).
- Analyse current pupil-to-teacher ratio (PTR), compare it with countries in the region and establish the most appropriate one. In primary education the targeted PTR by the year 2000 was 40 to 1 (maximum 50 pupils per class), while in higher education it was 11 to 1 (GP 55o). Analyse if such a disparity is disproportionate and tackle it within future documents.
- Developing gender-responsive policies is key (GP 21d). Efforts were included to ensure more opportunities for girls are provided in Polytechnic and UTCs, particularly by reserving places in certain technical subjects. It is key to analyse the impact of such a policy and implement more efforts if necessary in that sense.
- Addressing biased ideas such as "*Introduction of courses in Women Studies, Home Management, Food and Nutrition, Clothing and Tailoring, Interior Decoration, Health and Family Life, Computer Science and Electronics...introduced in universities as soon as possible*" (p. 168) is key.

QUESTIONS

- The importance of in-service teacher training was mentioned and adequate budgetary provisions were planned to be made annually for these courses, with the support of external assistance and local commitment. Does this training apply to all education levels?
- Speedy specialised training of Kiswahili teachers was planned. What about strategies to train teachers in the area language as well as the development of teaching and learning materials, to ensure effective instruction in rural primary institutions where that area language is chosen to be the medium of instruction?

GUIDING QUESTION 3: DOES THE PLANNING DOCUMENT ADEQUATELY COVER THE STRATEGIES OR MEASURES PUT IN PLACE OR PLANNED BY THE MINISTRY OF EDUCATION TO ENSURE THAT PUBLIC EDUCATION IS INCLUSIVE AND ACCOMMODATES THE UNIQUE TRAITS OF DIFFERENT GROUPS IN SOCIETY (OP 2; GP 31 AND 32)?

RECOMMENDATIONS

- It is key to employ an inclusive, gender-responsive language throughout education policies and documents:



- For practical guidelines on inclusive language consult: <https://www.apa.org/about/apa/equity-diversity-inclusion/language-guidelines>
- Things such as "natural physiological and psychological changes that occur in girls deter them from competing effectively with boys in academic performance in co-educational schools" should be deleted.

- Consider adding the following in the next White Paper/educational planning document:
"Direct all forms of education to the aims and objectives of education guaranteed by international human rights law (such as the full development of the human personality and the sense of its dignity, enabling individuals to effectively participate in society, be tolerant, live together, and have the capacity and critical thinking to elaborate and realise their own or collective life plan in an autonomous way)" (GP 8).

- The aim and objectives of teacher education should include the respect for diversity, gender-responsive teaching, and inclusive pedagogies.

- Make sure the training on screening mechanisms to detect any kind of special needs is provided to pre-primary teachers. Detecting disabilities from an early stage is key.

- Guarantee accessible educational institutions and programmes (GP 14b) and reasonable accommodation to meet different individuals' capabilities (GP 17d and 28). The initiatives regarding an integrative approach go along these lines. Yet, it is essential to go a step further and ensure the whole education system is accessible and inclusive (GP 28 and 34). Guarantee sufficient funds for that process as well as for provision of reasonable accommodation (GP 28 and 34). The recommendations mentioned in Guiding Question 2 concerning curriculum, teaching and learning materials, and teacher training can support this process.

- Safeguard the possibility of pluralism in public education (GP 31). Various strategies were put in place to foster national unity, such as a common language (Kiswahili), and prayers in schools. Yet, it is key to acknowledge other national languages and different religions, so that all students feel welcomed in schools.

- Complement activities and intermediate outcomes with a constant, effective, impartial, and adequately resourced monitoring system to ensure that public education is inclusive (GP 81 and 83). Track systemic disparities of educational opportunity or outcomes for at-risk groups in society (GP 25 and 81), or, in other words, the level of enjoyment of the right to education by vulnerable, marginalised, and disadvantaged groups within society

(GP 21c). In this sense, the data collection actions done for persons with special needs should be extended to all vulnerable populations (ensuring disaggregated data is of utmost importance).

GUIDING QUESTION 4: DOES THE PLANNING DOCUMENT ADEQUATELY COVER THE STRATEGIES OR MEASURES PUT IN PLACE OR PLANNED BY THE MINISTRY OF EDUCATION TO ENSURE ACCOUNTABILITY IN PUBLIC EDUCATION (OP 2; GP 32)?

RECOMMENDATIONS

- All measures to increase accountability and fight corruption should be applicable to all educational levels (GP 42).
- Since the education system relies heavily on Government grant aided institutions, it is key to put in place an accountable system which ensures the effective and expeditious allocation of adequate financial and other resources to those entities and the correct use of public funds (GP 34).
- Measures to address corruption, misuse of public funds, and others, must be complemented by an impartial, effective, adequately resourced, and constant monitoring system (GP 81 and 83).

GUIDING QUESTION 5: DOES THE PLANNING DOCUMENT ADEQUATELY COVER THE STRATEGIES OR MEASURES PUT IN PLACE OR PLANNED BY THE MINISTRY OF EDUCATION TO ENSURE THAT THE PUBLIC EDUCATION GOVERNANCE SYSTEM IS PARTICIPATORY (OP 2; GP 32)?

RECOMMENDATIONS

- Ensure that school governing bodies and PTAs are representative of all stakeholders/the community they serve (in particular, ensure the representation of marginalised populations) (GP 32). They should include, for example, parents, students, religious leaders, ethnic minority representatives, persons with disabilities (such as Disability People's Organisations (DPOs) representatives), women, migrants, refugees, and asylum seekers, among others.
- Implement a monitoring system allowing the stakeholders to access all the necessary information required for their full and effective participation in the decision-making processes (GP 83).

GUIDING QUESTION 6: DOES THE PLANNING DOCUMENT ADEQUATELY COVER THE STRATEGIES OR MEASURES PUT IN PLACE OR PLANNED BY THE MINISTRY OF EDUCATION TO ENSURE TRANSPARENCY IN PUBLIC EDUCATION (OP 2; GP 32)?

RECOMMENDATIONS

- Providing full and constant information on the money and material resources allocated should be extended to all levels of education (GP 83). Providing information to the public is key to guarantee transparency in education (GP 83).
- Strategies in place to review existing guidelines and procedures must foster an accountable, transparent system (GP 42).
- To complement the measures in place, ensure effective, constant and impartial monitoring systems (GP 81 and 83). Specify how often data is collected (GP 81) and ensure monitoring results are made public (GP 82).

GUIDING QUESTION 7: DOES THE PLANNING DOCUMENT ADEQUATELY COVER THE STRATEGIES OR MEASURES PUT IN PLACE OR PLANNED BY THE MINISTRY OF EDUCATION TO ENSURE THE REALISATION OF THE RIGHT TO EDUCATION WHENEVER A PUBLIC EDUCATIONAL INSTITUTION RECEIVES PRIVATE CONTRIBUTIONS (INCLUDING VOLUNTARY ONES) (OP 2; GP 39, 40, 41)?

RECOMMENDATIONS

- The Government appreciated and encouraged contributions made by the communities and private actors to educational institutions. Those strategies must be monitored and regulated, so that there is no impact on the realisation of the right to education (GP 39, 40, 41 and 81). The Government must ensure that any private funding or sponsorship to support Government grant aided schools is transparent and aims to reinforce the entire educational system (GP 41).
- The heavy reliance on the community for development expenditure, particularly of primary education, is alarming. This is due to the fact that the White Paper relied on Government grant aided institutions. If this continues to be the case (if no public system is developed or prioritised) then the Government should review the amounts provided by the community, particularly at the primary and secondary level, instead of what was planned (the Government stated that when resources were available, it would support development costs for post-primary levels). Moreover, all of those contributions should be complemented by adequate regulations and monitoring, so that there is no impact on the realisation of the right to education (GP 39, 40, 41 and 81).
- The Government vigorously encouraged the launching of productive activities and self-reliance projects in educational institutions aimed at raising resources locally for their

own development and maintenance. It is key to analyse the impact of such policies and if in any case it has led to the commercialisation of education in the past years (GP 39e). It is also key to accompany such measures by strict regulations.

- Overall, it is key to ensure that the involvement of private or community financial support to public education does not:
 - o Impact the governance of the institution or education system (GP 39a);
 - o Affect the content of the curriculum, pedagogical materials, methodologies, and practices (GP 39b);
 - o Interfere with the entitlement to register at the educational institution on a non-discriminatory basis (GP 39c);
 - o Lead to the commercialisation of public education (GP 39d);
 - o Lead to a conflict of interest (GP 39e).

GUIDING QUESTION 8: DOES THE PLANNING DOCUMENT RESPECT THE LIBERTY OF PARENTS OR LEGAL GUARDIANS TO CHOOSE FOR THEIR CHILDREN AN EDUCATIONAL INSTITUTION OTHER THAN A PUBLIC ONE, AS WELL AS THE LIBERTY OF NON-STATE ACTORS TO ESTABLISH AND DIRECT PRIVATE EDUCATIONAL INSTITUTIONS AS LONG AS THEY CONFORM TO THE MINIMUM EDUCATIONAL STANDARDS ESTABLISHED BY THE STATE? (OP 3; GP 47 AND 48)?

RECOMMENDATIONS

- The liberty of parents or legal guardians to choose for their children an educational institution other than a public one should be accompanied by a real freedom of choice. Parents and legal guardians should be provided the opportunity to select a **public institution**, a Government grant aided or a private one (The 1992 White Paper did not provide the option to parents or legal guardians to choose a public institution, since it relied only on Government grant aided institutions to provide education).
- While the planning document should respect the above-mentioned liberty, as well as the liberty of individuals and bodies to establish and direct private educational institutions, it must also guarantee that they are subject to limitations. Those limitations must be determined by law only in so far as they are compatible with the nature of these liberties and solely to promote the general welfare and the realisation of any other human rights (GP 48). In that sense, limitations in place must ensure:
 - o That private educational institutions do not supplant or replace public education, but supplement it in a way conducive to the realisation of the right to education for all (which was not the case, based on the strategies mentioned in the White Paper) (GP 48a).

- The exercise of those liberties by individuals and non-state actors does not create any adverse systemic impact on the right to education (GP 48c).

GUIDING QUESTION 9: DOES THE PLANNING DOCUMENT ADEQUATELY COVER REGULATORY AND OTHER MEASURES ESTABLISHED OR PLANNED BY THE STATE TO ENSURE THE RIGHT TO EDUCATION, INCLUDING WHEN PRIVATE ACTORS CONDUCT THEIR ACTIVITIES WITHOUT ANY STATE INVOLVEMENT OR CONTROL, OR WHEN THEY OPERATE INFORMALLY OR ILLEGALLY (SYSTEMIC-LEVEL MEASURES) (OP 3 AND 4; GP 48, 51, 52, 53)?

RECOMMENDATIONS

- Private, Government grant aided institutions have been the result of a lack of availability of free, quality, public education. The 1992 White Paper **did not take all effective measures to develop or restore universal access to free quality, public education as effectively and expeditiously as possible** (GP 50).
 - It is **key to reduce public subsidies to the private sector by prioritising funds towards the provision of quality public education** (GP 34).
- **The Government has allowed Government grant aided institutions to supplant and replace public education, and this should be addressed as a matter of priority** (GP 48c). Private actors must only supplement public education in a way that is conducive to the realisation of the right to education for all, with due regard for cultural diversity (GP 48a).
- Implementing appropriate measures to regulate all private actors involved in education must be a top priority. This should also apply to actors that conduct their activities without any state involvement or control, or when they operate informally or illegally (GP 17f, 51 and 52b).
- Monitoring measures in place to strengthen educational data must ensure that all private actors are identified (GP 51).
- Take into consideration the following:
 - Cap the number of private instructional educational institutions, considering that a disproportionate number of them could hinder the capacity of the State to realise the right to free, quality, public education (in so far as this measure is compatible with the liberty to choose and establish private instructional educational institutions) (GP 53a). This can be through established of threshold of the number/ percentage of private education institutions that are needed at all levels of education and targets for their reduction until eventual phasing out is made.



- Ensure that there are no conflicts of interest for any public official who is in a position to regulate private actors involved in education (GP 53b), especially political and technical officials in the education sector
- Ensure that no private educational institution or organised group of private educational institutions is in a position to unduly influence the education system (GP 53a).
- Ensure that the marketing, advertising, and other practices put in place by private educational institutions are not misleading (GP 53c). Particularly, stop all schools or media houses from publishing and advertising Uganda National Examination Board (UNEB) results.

GUIDING QUESTION 10: DOES THE PLANNING DOCUMENT ADEQUATELY COVER EXISTING OR PLANNED REGULATORY MEASURES TO ENSURE THAT PRIVATE EDUCATIONAL INSTITUTIONS ARE SUBJECT TO MINIMUM STANDARDS, CONSISTENT WITH THE STATE'S OBLIGATION TO RESPECT, PROTECT, AND FULFIL THE RIGHT TO EDUCATION (INSTITUTION-LEVEL MEASURES) (OP 4; GP 54 AND 55)?

RECOMMENDATIONS

- Regarding pre-primary education:
 - Government's intention to progressively ensure full supervision of pre-primary education (organised and managed by private actors only) must be fulfilled. This should be accompanied by strict and clear regulations, and minimum standards, to be respected by all private actors (GP 54 and 55).
 - Standards related to governance of private pre-primary institutions should be specified. They should include: licensing and registration process as well as withdrawal (GP 55a i) and reporting requirements (financial, operational quality information) (GP 55 aii).
 - Regulation of fees charged to students should apply to all pre-primary institutions, those run by private individuals as well as those implemented by local committees (the Government only planned to regulate fees for pre-primary institutions opened by local committees).
 - Minimum standards for buildings must ensure safe, adequate, accessible and maintained infrastructure (GP 14a and 55i).
 - Establish a maximum teacher/learner ratio, instead of relying on "manageable" class sizes (GP 55o).
- The clearance mechanisms planned for the registration of new private secondary institutions, as well as the planning guidelines for the development of higher education

institutions, should be extended to private institutions at all educational levels (GP 55a i). They should be complemented with licensing and withdrawal mechanisms (GP 55a i).

- The location planning and approval mechanisms prepared for secondary boarding schools should be extended to all private educational institutions, at all levels (GP55a i).
- Ensure that the Inspectorate of Education **controls the quality of education and guarantees that all educational institutions, including private ones, maintain certain standards** (for all educational levels) (GP 54 and 55). Guidelines for the improvement of academic standard and education quality should be provided to all educational levels, not just higher education (GP 54 and 55).
- Review and update of courses and curricula should apply to all educational levels, not just higher education (GP14a and 55e).
- Overall, it is key to specify if all the measures planned by the Government to improve the quality of education (at all levels) apply to all institutions, including private ones and not just Government grant aided institutions.
- All educational planning documents and the national minimum standards should address issues related to (the following apply to all levels of education):
 - o The governance of the private instructional educational institutions (GP 55a).
 - o Academic and pedagogical freedoms (freedom of thought, conscience, religion, respect for the rights of minorities and indigenous peoples) (GP 55b and 55e).
 - o Curricula, pedagogical material, methodologies, and practices (including appropriate time and expertise allocated within the curriculum for children to learn, while respecting their right to rest, leisure, play, and engage in recreational activities) (GP 55e).
 - o Secure learning environments, including disaster risk management and prevention (GP 55i).
 - o Safe learning environments (prohibition of corporal punishment, violence, abuse, sexual harassment, threatening, shaming, and bullying) (GP 55g, i, k and l).
 - o Safe, adequate, accessible, and maintained infrastructure (GP 55i).
 - o A maximum acceptable teacher/learner ratio (GP 55o).
 - o Staff and teacher training (GP 55e).
 - o Minimum professional qualifications of staff (GP 55e).
 - o Labour rights including working conditions, terms, and conditions of employment and salary (GP 55e). The COVID19 pandemic has amplified the need to offer



greater protection for both teaching and non – teaching staff working in private schools.

- Freedom of association and collective bargaining (GP 55e).
- Strict limitations to the suspension and expulsion of learners (due process, and the resulting reasonable and proportionate disciplinary measures, if any) (GP 55f).
- Forbid all forms of discrimination in private instructional education institutions (including in the conditions of enrolment and admission, fees charged for reasonable accommodation, etc.) (GP 55d).

GUIDING QUESTION 11: DOES THE PLANNING DOCUMENT ADEQUATELY COVER MONITORING AND ENFORCEMENT MECHANISMS PUT IN PLACE OR PLANNED BY THE MINISTRY OF EDUCATION TO REGULATE ALL PRIVATE ACTORS INVOLVED IN EDUCATION, INCLUDING THOSE THAT CONDUCT THEIR ACTIVITIES WITHOUT ANY STATE INVOLVEMENT, OR THAT OPERATE INFORMALLY OR ILLEGALLY (OP 4; GP 60, 84-90)?

RECOMMENDATIONS

- Specify if the Inspectorate of Education, and in particular the tools for inspection and supervision, as well as the monitoring of standards in educational institutions, apply to all educational institutions, including private ones (GP 60). Monitoring and enforcement mechanisms are key to ensure all private educational institutions comply with applicable standards and regulations (GP 60, 84-90).
- Specify if the Department of School Buildings and Facilities, which plans and supervises the construction and proper maintenance of school buildings and adequate provision of other facilities, also plans and supervises construction and maintenance for all private educational institutions, at all levels (GP 60).
- The mechanisms that ensure that all private pre-primary schools are registered, supervised, and inspected regularly should be applied to all private educational institutions, at all levels (GP 60).
- Consider the following:
 - Put in place measures to provide appropriate advice, support tools, and management assistance to private educational institutions so that they comply with the applicable standards and regulations (GP 60).
 - Ensure that private educational institutions are given adequate notice and a reasonable opportunity to comply with the standards and regulations (GP 60a).



- Cite the penalties to be enforced if non-compliance with standards and regulations persists (GP 60).
- Put in place measures to close private educational institutions following due process, if any of these institutions are unable or unwilling to comply with all standards and regulations (GP 60).
- Set forth measures to ensure the continued enjoyment of the right to education of all affected learners when a private educational institution is closed (GP 60b).
- Allocate adequate financial and other resources to the monitoring and enforcement mechanisms for the regulation of private actors (GP 34 and 84).

GUIDING QUESTION 12: DOES THE PLANNING DOCUMENT ADEQUATELY COVER EXISTING OR PLANNED REGULATORY MEASURES TO ENSURE THAT THE ACTIVITIES OF NON-INSTRUCTIONAL AND NON-EDUCATIONAL PRIVATE ACTORS (SUCH AS PROVIDERS OF LEARNERS' ACCOMMODATION, FINANCIAL INSTITUTIONS PROVIDING LOANS, AND LANDOWNERS PROVIDING SPACE FOR PUBLIC AND PRIVATE EDUCATIONAL INSTITUTIONS) DO NOT LEAD TO THE NULLIFICATION OR IMPAIRMENT OF THE RIGHT TO EDUCATION (OP 4; GP 58 AND 59)?

RECOMMENDATIONS

- It is key to mention regulatory measures that ensure that the activities of non-instructional and non-educational private actors do not lead to the nullification or impairment of the right to education (GP 58 and 59). Some regulations were already included in the White Paper regarding the rent and catering charges to protect students from exploitation by landlords and proprietors, as well as the maintenance for easy affordability of the costs of textbooks when produced by private actors.

Consider the following:

- Point out the regulations governing procurement and other relevant services. These should ensure that contracting with any private non-instructional educational institution does not adversely affect the enjoyment of the right to education (GP 74).
- Ensure that non-instructional and non-educational private actors respect the right to privacy, in particular of the learners and the teachers (GP 72).
- Reference the national regulations and policy frameworks that ban commercial advertising and marketing in public and private instructional educational institutions (GP 59).

GUIDING QUESTION 13: DOES THE PLANNING DOCUMENT ADEQUATELY COVER THE STRATEGIES OR MEASURES PUT IN PLACE OR PLANNED BY THE STATE TO ENFORCE THE

SUBSTANTIVE, PROCEDURAL, AND OPERATIONAL REQUIREMENTS THAT AN ELIGIBLE PRIVATE EDUCATIONAL INSTITUTION MUST RESPECT WHEN RECEIVING PUBLIC FUNDING? (OP 5; GP 64-72)?

RECOMMENDATIONS

- The White Paper relied heavily on Government grant aided institutions, yet it did not cite any substantive, procedural or operational requirements that they must respect to receive public funding.

The following aspects must be considered in order to provide public funds to those institutions and any other private institution:

Ensure the following substantive requirements are put in place (GP 65):

- It is a time-bound measure (GP 65a).
- The Ministry of Education and Sports publicly demonstrates that public funding is the only effective option to advance the realisation of the right to education in the situation in question (GP 65a).
- It does not affect, delay, or impede the development of a free **public education system** of the highest attainable quality (GP 65b).
- It does not create a foreseeable risk of any other systemic impact on the right to education, paying particular attention to obligations related to non-discrimination, equality, and non-segregation (GP 65f).

Ensure the following procedural requirements are put in place (GP 66):

- Adequate regulatory and/or policy frameworks addressing the due process, rules, and modalities for such funding are in place and followed (GP 66a).
- The Ministry of Education and Sports assesses and publicly demonstrates its capacity and intent to continuously monitor and regulate private educational institutions' ability to meet applicable standards (GP 66b iii).
- The process for allocating funding is transparent and non-discriminatory (GP 66c).

Ensure the following operational requirements are put in place (GP 67 to 72):

- If an eligible private instructional educational institution receives public funding, the standards and regulations that apply to that institution must impose at least the same educational, labour, and other relevant standards as those imposed on public educational institutions (GP 67).
- Public funding of eligible private instructional educational institutions is accompanied by a plan to phase out such funding, and is regularly re-assessed

- against the State's capacity to meet its obligations to realise the right to education (GP 68).
- Ex-ante, on-going and ex-post human rights impact assessments of the eligible private instructional educational institution receiving public funding must be made public and used to continually re-evaluate the contribution of the funding to the realisation of the right to education (GP 69).
 - The State should make the continued provision of funding conditional on the fulfilment of the required standards. Ensure that all contracts permit the State to withdraw from the funding without prejudice if any of the standards are not met, while ensuring the continued enjoyment of the right to education (GP 70).
- Overall, the Government must take all effective measures to overcome, as effectively and expeditiously as possible, the inability to deliver or manage any aspect of the provision of education services that justified funding a private educational institution (GP 68).

GUIDING QUESTION 14: DOES THE PLANNING DOCUMENT ADEQUATELY COVER THE STRATEGIES OR MEASURES PUT IN PLACE OR PLANNED BY THE MINISTRY OF EDUCATION TO PREVENT INELIGIBLE PRIVATE EDUCATIONAL INSTITUTIONS FROM RECEIVING PUBLIC FUNDING OR SUPPORT (OP 5; GP 73)?

RECOMMENDATIONS

- The White Paper relied heavily on Government grant aided institutions, yet it did not cite any strategies or measures to prevent ineligible private educational institutions from receiving public funding or support. The following aspects must be considered:

Set forth actions to prevent and prohibit the allocation of public funds to private instructional educational institutions that...

- Abuse the rights to equality and non-discrimination (e.g., by being selective; or expelling or sorting learners based on a socio-economic disadvantage or any other prohibited ground) (GP 73a).
- Are commercial and excessively pursue their self-interest (GP 73b).
- Charge fees which substantially undermine access to education (GP 73c).
- Do not meet any minimum standard applicable to private instructional educational institutions, or any other applicable human rights law or standards, or is not of adequate quality (GP 73d).
- Do not comply with their domestic or international financial obligations (GP 73e).
- Contribute to an adverse systemic impact on the enjoyment of the right to education or undermine the realisation of human rights in any other way (GP 73f).

- Set forth a regular, effective, impartial, and adequately resourced monitoring mechanism to ensure that the Ministry of Education and Sports does not fund or support, directly or indirectly, an ineligible private instructional educational institution (GP 84, 85 and 86).

GUIDING QUESTION 15: DOES THE PLANNING DOCUMENT ADEQUATELY COVER THE STRATEGIES OR MEASURES PUT IN PLACE OR PLANNED BY THE MINISTRY OF EDUCATION TO REGULARLY COLLECT DATA ON PRIVATE EDUCATIONAL INSTITUTIONS? IS THAT DATA USED TO GENERATE DATA-DRIVEN ASSESSMENTS WHICH LEAD TO SUBSTANTIVE IMPROVEMENTS IN LAWS AND POLICIES AFFECTING THE ENJOYMENT OF THE RIGHT TO EDUCATION (OP 8; GP 81, 82, 84-87)?

RECOMMENDATIONS

- Clearly specify if the strategies planned for the Department of Statistics and Data Processing to collect, process, analyse, compile and publish educational statistics on an annual basis concern private institutions as well (GP 85 and 86).
- Clearly specify if the comprehensive, periodic education surveys, aimed at providing detailed information for policy-making, planning and school mapping, will concern private educational institutions as well. Outcomes of assessments must be taken into account throughout the planning and policy-making cycle, so that they lead to concrete improvements in laws, regulations, policies, and practices (GP 82 and 87).
- Consider measuring the following:
 - o The actual and potential impacts of private instructional educational institutions on the enjoyment of the right to education (GP 85a).
 - o The systemic effect of the private instructional educational institutions in the short and long-term (GP 85a).
 - o The impact of the activities of private instructional educational institutions on the realisation of human rights (GP 85b).
- Assessments of private educational institutions must be:
 - o Constant, to measure how impacts on the right to education change over time as the private instructional educational institutions' activities and operating context evolve (GP 86a).
 - o Participatory, to involve all relevant stakeholders including children and other learners, parents or legal guardians, communities, teaching and non-teaching staff, education unions, and other civil society organisations (GP 86b).
 - o Publicly available, to ensure that all outcomes are easily accessible (GP 86c).

- Adequately resourced (GP 84).

GUIDING QUESTION 16: ARE THE RATIFIED INTERNATIONAL TREATIES RELATING TO THE RIGHT TO EDUCATION REFERENCED IN THE PLANNING DOCUMENT (OP 10; GP 91)?

RECOMMENDATIONS

- It would be key to analyse which of the following international standard-setting instruments have been ratified and include them in the future educational document:
 - UNESCO Convention against Discrimination in Education (1960);
 - UNESCO Global Convention on the Recognition of Qualifications concerning Higher Education (2019);
 - Convention relating to the Status of Refugees (1951);
 - UN International Covenant on Economic, Social and Cultural Rights (1966);
 - UN International Covenant on Civil and Political Rights (1966);
 - UN Convention on the Elimination of All Forms of Discrimination against Women (1979);
 - UN Convention on the Rights of the Child (1989);
 - UN Convention on the Rights of Persons with Disabilities (2006);
 - UN International Convention on the Elimination of All Forms of Racial Discrimination (1965);
 - UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990);
 - ILO's Minimum Age Convention No. 138 (1973);
 - ILO's Indigenous and Tribal Peoples Convention No. 169 (1989);
 - ILO's Worst Forms of Child Labour Convention No. 182 (1999).
- All ratified international treaties should be used in the development of educational planning documents and cited within the text.
- If the comments provided by the present document are taken into consideration, the future educational document should refer to related Guiding Principles (GP) or acknowledge that the Abidjan Principles were used during its development.

GUIDING QUESTION 17: DOES THE PLANNING DOCUMENT ADEQUATELY COVER THE STRATEGIES OR MEASURES PUT IN PLACE OR PLANNED BY THE STATE TO ENSURE COHERENCE ACROSS POLICY AREAS AFFECTING THE ENJOYMENT OF THE RIGHT TO EDUCATION (OP 10; GP 95)?

RECOMMENDATIONS

- The wide multitude of links and cooperation established between various relevant State institutions to implement the planned strategies mentioned in the 1992 White Paper must be applauded. It would be key to analyse in practice how that cooperation went on and if coherence was and is ensured across all policy areas affecting the enjoyment of the right to education (GP 91 and 95).
- Consider mentioning mechanisms in place to ensure all State institutions involved in education are aware of and observe the State's human rights obligations (and the Abidjan Principles) when fulfilling their respective mandates (GP 95).
- Consider working with civil society and National Human Rights Institutions to monitor coherence across policy areas impacting the enjoyment of the right to education (GP 94 and 95).

Contact

1. Ms. Salima Namusobya
Executive Director,
Initiative for Social and Economic Rights (ISER)
dir@iser-uganda.org
0772473929 / 0702473929
2. Zsuzsanna Nyitray
Programme Officer on the Right to Education
Global Initiative on Economic Social and Cultural Rights (GI-ESCR)
zsuzsanna@gi-escr.org
+36 20 911 8018