

## **Memorandum on Education and Sports Sector Policy Review**

### **Introduction**

1. The Initiative for Social and Economic Rights (ISER) is a Non-Government Organization working on the Right to Education among other economic and social and rights. ISER extends its appreciation to the First Lady and Minister of Education and Sports for constituting the Education Policy Review Commission (EPRC) to look into the effectiveness and relevance of the Education Policy to the achievement of the country's education needs.
2. The review of the country's Education Policies has been long overdue. The outbreak of the COVID19 pandemic and its resultant effects on the education sector highlighted more challenges with the sector hence making the reforms in the country's education policy and programs more urgent.
3. Education is a public good and therefore the state is the primary duty bearer for its provision to all persons.<sup>1</sup> In equal terms, it is also a shared societal endeavor that requires an inclusive process for policy formulation and implementation.<sup>2</sup>
4. Government must be fully prepared and effectively plan to take on the high cost of delivering public goods such as education because of the wider benefits to societies and economies.<sup>3</sup> The importance of education does not need to be overemphasized, it facilitates the social and economic growth of individuals and society in general. Without the required state investment in provision of education, individuals on their own might not be in position to make the required investment thus depriving societies of their potential.<sup>4</sup>
5. Therefore, the hallmark of Uganda's education policy formulation should be geared towards enlisting the state as the primary duty bearer for the provision of education and adopting policies and programs that are geared towards ensuring equitable access to quality and inclusive education by all people and the inculcation of values and norms necessary for the country's social, political and economic growth.

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<sup>1</sup> SDG4 – Education 2030 Framework for Action: Ensure Inclusive and Equitable Quality Education and Promote Lifelong Learning Opportunities for All, para. 10 at [http://uis.unesco.org/sites/default/files/documents/education-2030-incheon-framework-for-action-implementation-of-sdg4-2016-en\\_2.pdf](http://uis.unesco.org/sites/default/files/documents/education-2030-incheon-framework-for-action-implementation-of-sdg4-2016-en_2.pdf) accessed on February 22, 2022

<sup>2</sup> Ibid, for instance, Civil society, Teachers and educators' unions, private sector especially the philanthropy, religious and cultural institutions among other all have a role to play.

<sup>3</sup> UNESCO. 2021. Global Education Monitoring Report 2021/2: Non-state actors in education: Who chooses? Who loses? Paris, UNESCO, p. 5

<sup>4</sup> Ibid

6. This memorandum focuses on the selected areas of the terms of reference of the Commission as discussed below;

### **Assessment of the relevance of the UPE and USE programs**

7. **Lack of a written policy detailing the what and how of both the Universal Primary Education (UPE) and Universal Secondary Education (USE) programs.** UPE was introduced in January 1997, following a political commitment by President Museveni that the Government would meet the cost of primary education of four children per family. This commitment was soon extended to allow all people that wanted to access primary education to do so. Ten years later, in 2007, the USE program was introduced to take on learners who were graduating from primary especially under UPE but could not proceed to secondary due to lack of fees. Although both UPE and USE are cornerstones of Uganda's primary and secondary education, there is no document detailing what they are and how they are supposed to be implemented.<sup>5</sup> Both the UPE and USE policies, like many other education sector policies are not written, they are mere pronouncements. This undermines measurement and evaluation of the level of progress. The Commission should consider making a recommendation on;

- a. ***Developing and disseminating a comprehensive policy on UPE and USE with targets and standards to guide implementation of the two programs***

8. **Promotion of private for profit education institutions was a major policy fault on the part of the Government White on Education.** The White Paper called for strengthening of partnerships in education service delivery. This was the foundation that gave way to the liberalization of the education in 1993. It was intended to allow the private schools supplement on the role of the state in providing education. It was also aimed at fulfilling the conditionalities of the Structural Adjustment Programs that introduced privatization, deregulation and market driven economy principles in the delivery of social services such as education. As a result of the policy reform in the 1990s, there has been astronomical growth in the number of private schools in the country. For instance, at the primary level, about 39% of the schools are privately owned and over 66% of the secondary

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<sup>5</sup> National Planning Authority (NPA), 2018, Comprehensive Evaluation of the Universal Primary Education (UPE) Policy, Thematic Report 1: Policy, Legal, Regulatory and Institutional Framework at <http://npa.go.ug/wp-content/uploads/2019/02/Thematic-Report-1-Policy-Legal-Regulatory-and-Institutional-Frameworks-080119.pdf> accessed on February 27, 2022

schools are privately owned.<sup>6</sup> However, the mushrooming of private schools has not been matched with an effective regulatory framework and as a result, the current number of private schools has gone beyond the capacity of the education sector to effectively regulate and monitor their operations. The weak regulation of the private sector in education has been amplified with the outbreak of the COVID – 19 pandemic and the resultant prolonged closure of all educational institutions, there has been an arbitrary change of business from private schools to other businesses such as real estate.

9. Encouraging private for-profit education provision was wrong education policy direction and the Ministry of Education and Sports has highlighted key regulatory challenges it is experiencing with the private provision of education in Uganda. These include; non-compliant management structures (lack of SMCs/BoGs); lack of formal employment contracts; poor infrastructure (school laboratories, Libraries & sanitation facilities); inadequate instructional/scholastic materials/science equipment; emphasis on academics, not holistic education; illegal boarding facilities; arbitrary, unauthorized fees increment; unethical competitive practices to attract learners.<sup>7</sup> The current blanket cheque to the entire public to found and operate private for and not for profit schools is unmanageable and cannot offer the greater good in terms of providing high quality education. There are a lot of myths that have been traded around to make private provision a superior model of delivery of education. These include; competition leads to improvement, private schools are better, private sector is a solution to education financing and finally that regulations can address all concerns about non – state provision. UNESCO has demystified all these myths about private provision of education and found them to be untrue.<sup>8</sup> The Commission should consider recommending to government to;

- a. Not leaving room to any business person that capital to start and operate a school. It should instead ensure effective regulation of the private provision of education such that only private schools that meet the basic requirements and minimum standards and comply with the human rights standards operate.**
- b. Ensure that no public funds are invested in private schools.**

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<sup>6</sup> Ministry of Education and Sports, Concept note on Formulation of a National Policy on Private Provision of Education in Uganda, 2019

<sup>7</sup> Ministry of Education and Sports, Formulation of the National Policy on Private Provision of Education in Uganda 2020 (Concept Note)

<sup>8</sup> See UNESCO, supra, p. 12.

## **Promoting partnerships in education provision.**

### **i. Public Private Partnerships**

10. The Government of Uganda first implemented a formal Public Private Partnership (PPP) in the provision of Universal Secondary Education (USE) Programme in 2008. The policy provides for low-cost private schools, in areas not served or underserved by public schools, to be contracted to enroll qualifying students at post-primary level (Secondary school and certificate awarding training institutions) at a specified unit cost met by the Government. The Government pays to the private school tuition costs for each of the enrolled students per school term and the school provides the education to the children.
11. This program has not succeeded in effectively reducing the significant obstacles impeding vulnerable and/or marginalized groups of students from accessing quality education; the quality of education in many PPP schools is significantly compromised, due in part to what many have deemed as insufficient capitation grant as well as a widespread shortage of resources including but not restricted to learning materials, basic infrastructure, and qualified teachers.<sup>9</sup> Lastly, there is significant accountability concerns in many PPP schools: current supervisory and regulatory mechanisms are both unclear and ineffective in many of the PPP program schools examined.<sup>10</sup> It was inappropriate for the government to engage in a PPP arrangement in the implementation of the USE program- however, it is important to note that government has since commenced the phasing-out of the scheme. The flaws and challenges exhibited in the current PPP that is being phased out should be a good lesson about inefficiency of government and the Commission should advise and guide;

***a. Government to ensure that PPPs in Education comply with the procedural and substantive human rights standards.***

### **ii. Government grant aiding**

12. The role of non – state (especially religious founded) schools in the delivery of education in Uganda is attributed to the historical foundation of formal education in Uganda. Upon acquiring independence, the state opted to take on the schools as government grant aided schools and the ownership still

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<sup>9</sup> Initiative for Social and Economic Rights (ISER) 2016, Threat or Opportunity: Public Private Partnerships in Education in Uganda at [https://www.iser-uganda.org/images/downloads/Threat\\_or\\_Opportunity\\_Public\\_Private\\_Partnership\\_in\\_Education\\_in\\_Uganda.pdf](https://www.iser-uganda.org/images/downloads/Threat_or_Opportunity_Public_Private_Partnership_in_Education_in_Uganda.pdf) accessed on February 27, 2022

<sup>10</sup> Ibid

remained with the religious institutions. The foundation bodies through the school governing committees and boards that governs the schools receive government statutory grants.<sup>11</sup> The government is responsible for ensuring that trained teachers are deployed; paying salaries and allowances to teachers; paying salaries and wages to all established non-teaching staff among others. Despite the government lifting the biggest burden in the running and operation of the schools, the loose partnership is not yielding to the intentions for which it was established. It is important to note that foundation bodies do not make any financial contribution in the running of schools, however their delegates (School Management Committees and Board of Governors) that manage the schools on their behalf charging exorbitant and high tuition and non – tuition fees despite all the government investment and them not making any financial contribution in the school. As a result, the government grant aided schools have become elitists and discriminatory to the children from poor and vulnerable backgrounds. The Commission should therefore consider recommending to the government to strengthen the accountability, monitoring and supervision of government grant aided schools. Specifically, the Commission should consider recommending to government to;

- a. Develop and issue Statutory Instrument to regulates both tuition and non – tuition fees in government grant aided schools.***
- b. Ensure that government grant aided schools are accessible and affordable to the population.***
- c. Interesting the Auditor General to prioritize the auditing of the expenditures of the government grant aided schools –UPE/USE and non UPE/USE.***

### **Exclusion in the education system**

13. Currently exclusion in the education system takes a number of forms including;

- i. School selection and admission eligibility criteria***

14. Many schools have their own selection and admission criteria. In lower classes like primary one- to be admitted, the learner must be subjected to admission exams to ascertain if they are fit for that particular class. Similarly, the education system currently excludes learners based on performance especially during transition from one level to another level. For example, there are set cut off marks for admission in certain schools (Including government aided schools) at different levels. This limits access to education for many

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<sup>11</sup> Education Act, 2008 Section 6, 7,8

learners who do not meet the selection criteria- denying them an opportunity to join schools of their choice the Commission should consider recommending to government to;

**a. Set up a centralized system of admission especially for government grant aided schools and also recommend to private schools to have a board that is in charge of admissions.**

**ii. Exclusion based on economic status**

15. Currently, about 64.6% households are either struggling or failing to meet school fees and requirement for their children.<sup>12</sup> This explains the high school dropout of 6 out of 10 persons leaving school due to high cost of education.<sup>13</sup> This is despite the Education and Sports Sector Strategic Plan<sup>14</sup> committing to deliver equitable access to relevant and quality education and training as a way of achieving the Sustainable Development Goals (SDGs). Specifically, SDG 4 seeks to ensure inclusive and equitable quality education and promote life-long learning opportunities for all. The high tuition and non-tuition fees charged by all schools defeats the spirit of the country's Vision 2040 and the Sustainable Development Goals (SDGs) of Leaving No One Behind. Therefore, the high school charges in schools does not only undermine the country's national development agenda but also amounts to exclusion and discrimination contrary to Article 21 of the Constitution of the Republic of Uganda. The current challenge of economic exclusion in access to education can be addressed by the commission recommending to the government to;

**a. Commit to finance UPE and USE programs to their full extent so as to eliminate non – tuition fees**

**b. Strengthen monitoring and supervision of the UPE and USE schools to ensure that there is no charging of non – tuition fees.**

**c. Regulate tuition and non – tuition in all non – UPE/USE schools including the private ones.**

**iii. Exclusion based on disability**

16. Children with disabilities are being left behind by efforts to improve education opportunities for all children in Uganda. About 16% of Ugandan children have a disability, this suggests that most children with disabilities are not able to attend school and that learners with special needs fail to transition from one

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<sup>12</sup> National Planning Authority (NPA) 2021, Towards Safe Opening of The Education Sector in Covid-19 Times: Technical Note, at <http://www.npa.go.ug/wp-content/uploads/2021/09/NPA-on-Reopening-of-Schools-AmidstCOVID19.pdf>, p. 12

<sup>13</sup> Uganda Bureau of Statistics (UBOS), 2021. Uganda National Household Survey 2019/2020. Kampala, Uganda; UBOS, p. 29 at [https://www.ubos.org/wp-content/uploads/publications/09\\_2021Uganda-National-Survey-Report-2019-2020.pdf](https://www.ubos.org/wp-content/uploads/publications/09_2021Uganda-National-Survey-Report-2019-2020.pdf) accessed on February 10, 2022

<sup>14</sup> FY 2017/2018 – 2019/2020

educational level to another.<sup>15</sup> The Ministry of Education and Sports has not been consistent in collecting and keeping data on the percentage of children with special needs who are in and out of school. Nevertheless, available data indicate that there are 2.5million children with disabilities in Uganda, of these, only 5% can access education within inclusive schools and 10% in special schools and annexes. UNICEF further reported that only 9% of CWDs at school-going age attend primary school, compared to 92% of all children, and only 6% continue to secondary schools. In addition to this, 19% of CWDs aged seven to sixteen have never been to school and 39% of those aged seventeen to twenty-two have completed fewer than four years of education.<sup>16</sup> The Commission should recommend to;

- a. ***Government to take all measures to ensure that all schools have facilities to reasonably accommodate the various special needs of learners***

## **Proposals for Reform in policy, planning, funding, access, management, quality and institutional and legislation**

### **Weakness in the Inspection Function of Primary and Secondary school**

17. The institutional and legal framework for school inspection is enshrined in the Education Act, 2008.<sup>17</sup> Currently, the Directorate of Education Standards (DES) is the government agency responsible for school inspection at the national level in conjunction with the district and municipal inspectors of schools at the local government level. This institutional framework presents a number of challenges. First, at the national level, the DES reports and accounts to the Permanent Secretary, Ministry of Education and Sports the overall technical person responsible for the delivery of education. This implies

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<sup>15</sup> World Bank, Special Needs Education in Uganda: Sustainable Development Goal (SDG) #4 Concerns Quality and Inclusive Education. Fact Sheet, 2020 at <https://www.worldbank.org/en/news/factsheet/2020/02/07/special-needs-education-in-uganda-sustainable-development-goal-sdg-4-concerns-quality-and-inclusive-education> accessed February 27, 2022

<sup>16</sup>Initiative for Social and Economic Rights, The State of Access to Education by Children with Disabilities in Bugiri District at [https://www.iser-uganda.org/images/downloads/State\\_of\\_access\\_to\\_education\\_by\\_children\\_with\\_disabilities\\_in\\_Bugiri.pdf](https://www.iser-uganda.org/images/downloads/State_of_access_to_education_by_children_with_disabilities_in_Bugiri.pdf) accessed February 27, 2022

<sup>17</sup> See s. 46 – 48 of the Education Act, 2008

that the Permanent Secretary is in charge of delivering education but also undertaking quality assurance. In effect, the DES is most likely to compromise on its findings to suit the interests of its supervisor. Equally, at the Municipal and District level, the inspectors report to the District/Municipal Education Officers.

18. Much as s. 48 of the Education Act requires the Directorate to incorporate the municipal and district inspectors as associate assessors in all its regional or national inspection programs, they can only do so as and when the situation warrants. It is also notable that reports of DES are not binding on the districts and they are not required to provide feedback on the actions taken on the report. Similarly, the law does not require the municipal and district inspector of schools to submit their reports to DES. The weakness in the existing law undermines quality assurance in the provision of primary and secondary education which is very vital in ensuring that all the planned actions and programs satisfy and meets the requirements for delivery of education.<sup>18</sup> Therefore, the Commission should recommended to the government to undertaking the following reforms;

- a. ***DES be established as an Autonomous body responsible for the inspection of all pre – primary, primary and secondary schools in the country.***
- b. ***The District/Municipal Inspector of Schools should be mandated to submit periodical reports to the DES.***
- c. ***The recommendations of the DES should be made binding on both Municipal and District Local Governments as well as the Ministry of Education and Sports. They should be required to provide action plans on the progress made in implementing the DES recommendations.***

### **Education financing and formula for allocation of UPE and USE capitation grants**

19. The introduction of UPE and USE programs was based on research findings by government and other agencies that fees were a barrier to access education by children from poor backgrounds.<sup>19</sup> Under both UPE and USE programs, school fees especially Parents – Teachers Association fees was abolished.<sup>20</sup>

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<sup>18</sup> Pallavi Khedkar & K.Pushpanadham, 2018, Quality Assurance System in Secondary Schools: School Inspection, LAP LAMBERT Academic Publishing, Mauritius, p. 15 [https://www.academia.edu/37689185/QUALITY\\_ASSURANCE\\_SYSTEM\\_IN\\_SECONDARY\\_SCHOOLS\\_SCHOOL\\_INSPECTION](https://www.academia.edu/37689185/QUALITY_ASSURANCE_SYSTEM_IN_SECONDARY_SCHOOLS_SCHOOL_INSPECTION) accessed on February 23, 2022.

<sup>19</sup> Ministry of Education and Sports, “A Comprehensive Report on Universal Post Primary Education & Training (UPPET/USE) & Universal Post O-Level Education & Training (UPOLET) National Headcount Exercise 2013”, Kampala, Education Planning and Policy Analysis Department, 2013

<sup>20</sup> S. 9 of the Education Act

The removal of the major barrier to access education resulted in increase in enrolment for instance in UPE from 2.7 million in 1996 to 3.1 million in 1997.<sup>21</sup> As of 2017, there were 8.84 million pupils in primary, of whom only 19.6% (1.73 million) are in private schools.<sup>22</sup> However, the public financing of the two programs has not kept at pace with the increase in enrolment and inflationary rates. The country's public expenditure on education as a percentage of the GDP is low, averaging at 2.8% and among the lowest in the Sub Saharan Africa region.<sup>23</sup> This has resulted in UPE and USE schools charging extra costs (non-tuition fees) disguised as teachers' allowance, examination, development fees among others to meet infrastructure and human resource gaps in schools.<sup>24</sup> In most cases these extra – costs are too significant to almost amount to school fees.

20. In addition to the education sector budget being insufficient, the formulae being used to allocate the capitation grants perpetuates inequality to some of the schools. The Ministry of Education and Sports uses a capitation grant formulae of; a minimum threshold (fixed grant) and a variable grant which is based on enrolment in schools. The variable varies between districts and as a result districts with high enrolment are getting more funding compared to those with less enrolment despite the poor learning outcomes and high level of vulnerability and poverty in such districts. As reported in the Auditor General's Value for Money report of 2016, the districts of Amudat, Kabong, Zombo and Nakapiripirit were receiving less than UGX 6000 as capitation grants per pupil annually which was far less the national unit cost of UGX 10,000 at the time compared to Jinja Municipal Council and Mbarara District that received more than the national unit cost of UGX 11,058 and UGX 10,160 respectively. For the case of USE, the capitation grant allocation is based on enrolment in schools. Both the UPE and USE programs are relevant in guaranteeing access to education especially for children from poor backgrounds. A number of reforms in education financing are needed and the Commission should recommend to the government;

***a. Develop a unit cost required to educate a child at all levels of education and government should commit to fund the UPE and USE as per the set and agreed unit costs.***

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<sup>21</sup> See National Planning Authority, 2018, Comprehensive Evaluation of the Universal Primary Education Policy (UPE) Policy, Thematic Report 1: Policy, Legal, Regulatory and Institutional Framework at <http://npa.go.ug/wp-content/uploads/2019/02/Thematic-Report-1-Policy-Legal-Regulatory-and-Institutional-Frameworks-080119.pdf> accessed on February 24, 2022 and

<sup>22</sup> Ministry of Education and Sports, 2019, Education and Sports Sector Analysis

<sup>23</sup> National Planning Authority (2018), Comprehensive Evaluation of the Universal Primary Education (UPE) program: Financing and Costing of UPE, p. 39 at <http://npa.go.ug/wp-content/uploads/2019/02/Thematic-Report-5-Financing-and-Costing-of-UPE-080119.pdf> accessed on February 10, 2022

<sup>24</sup> Ibid

- b. Strengthen data collection and management. All learners enrolled in school should be given identification numbers. This is for purposes of tracking enrollment, completion and dropout rates and wading out inflation of enrollment rate in order to get higher capitation grant allocation.***

## **Governance of the Education Provision at the National Level**

### **A. Department on Legal and Policy Formulation**

21. The Ministry of Education and Sports is the overall government body responsible for the education coordination and policy formulation. However, since the enactment of the Education Act, 2008 that mandates the Minister of Education and Sports to issue Statutory Instruments on a number of matters regarding education provision, there is hardly any Statutory Instrument on any matter regarding education.<sup>25</sup> This can be attributed to the fact that Policy formulation is not a standalone department and staffed with the required human resource. It is therefore important for the Commission to recommend for the establishment of;

- a. A fully fledged and adequately staffed Department on Legal and Policy Formulation in the Ministry responsible for education.***

### **B. Governance of Schools**

#### **i. Government Grant – Aided Schools**

22. Historically, formal education was started in Uganda by non – state actors.<sup>26</sup> Despite after the country obtaining independence and the state establishing public schools, it continued to rely on non – state schools in form of grant aiding to provide education.<sup>27</sup> It further entrenched the grant aided policy in the provision of education. However, the foundation bodies have a higher representation on the governing committees and boards compared to the government.<sup>28</sup> This has been subject to abuse as many of the foundation bodies through their bigger representation on the School Management Committees (SMCs) and Board of Governors (BoGs) for primary and secondary schools respectively charge high tuition and non – tuition fees despite the schools receiving human resources, text books and infrastructure funding from the government. The regulations that establish both the SMCs

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<sup>25</sup> S. 57 of the Education Act, 2008 mandate the Minister of Education

<sup>26</sup> Government White Paper on Implementation of the Recommendations of the Report of the Education Policy Review Commission entitled “Education for National Integration & Development” 1992

<sup>27</sup> Ibid

<sup>28</sup> Under both Second Schedule of the Education Act; The Education (Management Committee) Regulations and Third Schedule; The Education (Board of Governors) Regulations, for SMCs, the out of the 13 members including the head teacher, the foundation has 6 representatives. These include both the chairperson and vice chairperson of the Committee. Equally, out of the 13 members of the Board of Governors, the foundation body has 5 members, including the chairperson

and Board of Governors do not provide for qualifications for the members and mechanisms for their accountability to constituents they represent which is resulting either non – functionality for some of the committees or even taking decisions that are not in the interest of the communities they serve.<sup>29</sup> This necessitates the Commission to recommend for ;

- a. ***A review of the establishment and the membership of SMCs and BoGs to balance parents, foundation bodies and government control of the grant aided schools. The review should also provide for qualifications of the members of the two governing bodies of the school and framework for the providing accountability.***
- b. ***Developing and issuing policies, laws and statutory regulations detailing the roles and responsibilities of foundation bodies in government grant aided schools***

## **ii. Private Schools**

23. Under s. 23 and 58 of the Education Act 2008, all schools including the private schools are required to have SMCs and BoGs for primary and secondary schools respectively. Just in the case of the government grant aided schools, the owners of the schools have a bigger representation compared to the communities. This does not give the community that consumes the services of the school a voice in the operations of the school;

- a. ***The representation on the SMC and BoGs for private schools should be revised to the level of offering the parents and the communities in which the schools operate a voice. This will strengthen social accountability in private schools.***

## **Policy planning on establishment of UPE and USE schools**

24. Currently, the government of Uganda through the Ministry of Education and Sports is implementing a policy of one UPE and USE schools per parish and sub county respectively. As of 2021, 92% of the parishes had Universal Primary Education (UPE) schools and 72% of the sub counties had Universal Secondary Education (USE) schools.<sup>30</sup> Although, it is true that the policy has increased access to primary and secondary education, its implementation is not necessarily translating into equitable access to education. This is largely due to a number of factors- including;-First, there are parishes or sub-counties that are either too big or with a high population to be equitably

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<sup>29</sup> See Initiative for Social and Economic Rights, 2019, Strengthening Governance and Accountability in Schools in Uganda: The Case for Review of the Education (Management Committee) Regulations and the Education (Board of Governors) Regulations of the Education Act 2008 at [https://www.iser-uganda.org/images/downloads/Strengthening\\_Governance\\_and\\_Accountability\\_in\\_School\\_%20in\\_Uganda.pdf](https://www.iser-uganda.org/images/downloads/Strengthening_Governance_and_Accountability_in_School_%20in_Uganda.pdf) accessed on February 25, 2022

<sup>30</sup> National Planning Authority (NPA), Towards Safe Opening of The Education Sector in Covid-19 Times: Technical Note, 2021 at <http://www.npa.go.ug/wp-content/uploads/2021/09/NPA-on-Reopening-of-Schools-AmidstCOVID19.pdf> accessed on February 25, 2022

served by one UPE or USE school respectively.<sup>31</sup> Secondly, in its current form, the policy breeds patronage and necessary creation of administration units since for a community to demand for establishment of primary or secondary schools, it has to either be a parish or sub county to qualify. The Commission should recommend to the government such that;

- a. The establishment of UPE and USE schools is informed by a needs assessment as opposed to targeting education service delivery provision to administrative units.***

### **Establishment of private schools**

25. Following the adoption of the Government White Paper on Education of 1992 that promoted strengthening of partnerships in education service delivery,<sup>32</sup> in 1993, Uganda liberalized the education sector to give a blanket permission and allow private actors including those for profit to supplement the government efforts in providing education. This was in compliance with the Structural adjustment programs which introduced principles of privatization, deregulation and market driven economy in the delivery of social services such as education.<sup>33</sup>
26. This policy shift resulted in an increase in the number of private schools in the country even outnumbering the public ones. At primary level, about 39% of the schools are privately owned, with about 21% enrollment rate of the learners.<sup>34</sup> The private schools share of primary education enrolment has been growing at an average of about 1% per annum over the last ten years.<sup>35</sup> At the secondary level, over 66% of the schools are private and these have been enrolling on average 51% of students.<sup>36</sup>
27. Unfortunately, the mushrooming of private schools has not been matched with effective regulatory framework and as a result the number of the private schools has gone beyond the capacity of the education sector to effectively

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<sup>31</sup> Initiative for Social and Economic Rights (ISER) 2019, "Status of Implementation of SDG 4 on Education: Is Uganda on Track?", p. 75 at [https://www.iser-uganda.org/images/downloads/Status\\_of\\_Implementation\\_of\\_SDG\\_4\\_on\\_Education\\_Is\\_Uganda\\_on\\_Track.pdf](https://www.iser-uganda.org/images/downloads/Status_of_Implementation_of_SDG_4_on_Education_Is_Uganda_on_Track.pdf) accessed on February 25, 2022

<sup>32</sup> Initiative for Social and Economic Rights (2016), Threat or Opportunity? Public Private Partnership in Education in Uganda, p. 3 at [https://www.iser-uganda.org/images/downloads/Threat\\_or\\_Opportunity\\_Public\\_Private\\_Partnership\\_in\\_Education\\_in\\_Uganda.pdf](https://www.iser-uganda.org/images/downloads/Threat_or_Opportunity_Public_Private_Partnership_in_Education_in_Uganda.pdf) (accessed on December 1, 2021)

<sup>33</sup> World Bank, Project Appraisal Document for Uganda Post Primary Education Training (PAD-UPPET). Adaptable Program Lending (APL1) Project (2009)

<sup>34</sup>Ministry of Education and Sports, Concept note on Formulation of a National Policy on Private Provision of Education in Uganda, 2019

<sup>35</sup>Ibid

<sup>36</sup>Ibid

regulate and monitor their operations and in most cases leading to non – compliance with the basic requirements and minimum standards as well as a number of standards, guidelines and regulations set by the ministry. The high and uncontrollable number of the private schools can also further be attributed to the legal framework that allow individuals and companies to start schools before seeking licenses.<sup>37</sup> It is therefore recommended that the founding of private schools should be controlled. This can be done by the Commission recommending to the government to;

- a. Establish a cap beyond which the number of private schools should not exceed. This can be managed through effective and efficient regulation and licensing of the private provision of education.***

### **School feeding program**

28. S. 5(2) of the Education obliges parents to cater for school feeding for their children. In furtherance of this, the Ministry of Education and Sports issued *Guidelines on School Feeding and Nutrition Intervention Programme: For use in Universal Primary Education (UPE) and Universal Post Primary Education and Training (UPPET) School Systems*. The guidelines are premised on school feeding programs in schools being a parents – led initiative in form of contributing either cash to the school management committees and Board of Governors to buy food or provide food items for their children. In spite of all this legal framework on school feeding, there is no national wide school feeding program in the country. This is attributed to the parents’ inability to provide the food. At least 70% of the population earn their income from agriculture<sup>38</sup>; however, the sector is largely subsistence, with 43% of the farmers engaged in subsistence farming which implies hand- to – mouth mode of production<sup>39</sup>.

29. It is notable that both the Education Act 2008 and the Guidelines that require parents to provide food for their children while at school are not in consonance with international human rights law that Uganda has ratified. General Comment No. 11 interprets “free of charge” in regard to education to imply accessing primary education without any charge on children and their

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<sup>37</sup> See s. 31 of the Education Act, 2008.

<sup>38</sup> Agriculture Sector Budget Framework Paper FY2018/19 – FY2022/23 <http://budget.go.ug/budget/sites/default/files/Sector%20Budget%20Docs/01%20Agriculture.pdf> (last accessed on January 21, 2019) accessed on February 25, 2022

<sup>39</sup> Budget Speech FY2018/19, P. 3

parents or guardians.<sup>40</sup> It further prohibits school charges imposed by government, the local authorities or the school, and other direct costs, which constitute disincentives to the enjoyment of the right and may jeopardize its realization.<sup>41</sup> This implies that all the basic necessities of education such as clean and safe drinking water and food should constitute part of the free primary education and not a cost on the children and their parents or guardians.

30. The cost of hunger on access to quality learning is high. The 7% of all repetition in school is associated to stunting which increases both the state and household expenditure on education.<sup>42</sup> It is further reported that stunted children have 1.2 years less in school. These state of affairs call for a sustainable and human rights compliant school feeding program;

***a. School feeding is an important component of access to education and quality learning and the government should consider taking on the cost of school feeding for learners in UPE and USE schools.***

### **Conclusion**

31. In conclusion, the inquiry into the effectiveness and relevance of Education policy comes rather timely at a point when harmonizing sectoral practices and understanding of implementation challenges is much needed. The efforts made by the Education Policy Review Commission (EPRC) are therefore most appreciated. The proposals given above are made in the hope that the education policy can be made better in the discussed aspects.

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<sup>40</sup> Committee on Economic Social and Cultural Rights General Comment No. 11: Plans of Action for Primary Education (Article 14). Para. 7. Available at [https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR\\_General\\_Comment\\_11\\_en.pdf](https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_11_en.pdf) accessed on February 25, 2022

<sup>41</sup> Ibid

<sup>42</sup> World Food Programme *et al*, The Cost of hunger in Uganda: Implications on National Development and Prosperity; Social and Economic Implications of Undernutrition in Uganda, Summary Report.