

# **EVALUATING THE EDUCATION ACT, CAP 247 AND ITS REGULATION OF PRIVATE EDUCATION IN UGANDA: LEGAL STRENGTHS AND SHORTCOMINGS**

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## I. Introduction

Natural and legal persons are allowed to found and run schools. International human rights law mandates states to respect the liberty of parents and guardians to choose for their children schools, other than the public ones, provided the other schools comply with the minimum educational standards laid down by the state.<sup>1</sup> Indirectly, protecting the liberty of persons to found and operate schools. The same international human rights law provision is also reiterated in domestic law. Individuals, religious bodies and other nongovernmental organizations are free to found and operate educational institutions on condition that comply with the country's educational policy and maintain national standards.<sup>2</sup>

In Uganda, the right of non-state actors to participate in the provision of education, though aligned with international human rights obligations, also has deep historical roots. Formal education in Uganda was started by non – state actors, the missionaries even before the British colonial rule.<sup>3</sup> This is the basis upon which religious institutions especially the Catholic and Anglican church continue to play a significant role in the delivery of education in Uganda.<sup>4</sup> Later on, other religious bodies such as Muslims, Orthodox, the state and eventually the communities, non-government organizations and entrepreneurs also started and operated schools.<sup>5</sup> This historical legacy is reflected in the Constitution, which expressly provides that individuals, religious bodies, and non-governmental organizations may found and operate schools.

The Education (Pre-Primary, Primary and Post-Primary) Act, 2008 (hereinafter “the Education Act”) is the principal legislation governing the regulation of private provision of Pre – Primary, Primary and Post – Primary (secondary) education in the country. The Act categorizes educational institutions into four groups: government-founded institutions, government

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<sup>1</sup> UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, United Nations, Treaty Series, vol. 993, p. 3, 16 December 1966, Article 13 (3) <https://www.refworld.org/legal/agreements/unga/1966/en/33423> [accessed on 10 March 2025]

<sup>2</sup> Government of Uganda, Constitution of the Republic of Uganda, 1995, as amended, Objective XVIII(III) of the National Objectives and Directive Principles of State Policy.

<sup>3</sup> Ministry of Education and Sports, National Education Accounts Report Uganda, 2016 at [http://uis.unesco.org/sites/default/files/uganda\\_nea\\_report-2016-en.pdf](http://uis.unesco.org/sites/default/files/uganda_nea_report-2016-en.pdf)

<sup>4</sup> Initiative for Social and Economic Rights (2021), Context Analysis and Policy Mapping on Existing Legal and Policy Framework on Inclusive Primary Education (Unpublished).

<sup>5</sup> Ibid.

grant-aided institutions, private institutions (both profit and non-profit), and non-formal education centres.<sup>6</sup> It defines a private school as one not founded by Government and which does not receive statutory grants from Government.<sup>7</sup> This paper focuses on private institutions—both profit and non-profit. The Act further outlines Uganda’s education system as comprising four levels: pre-primary, primary, post-primary education and training, and tertiary or university education. The Act also sets out the system of education that is composed of four levels, namely; pre-primary education; primary education; post-primary education and training; and tertiary and university education.<sup>8</sup>

Particularly on private provision of education and training, the Act contains Part VII – Special Provisions Relating to Private Schools. With provisions relating to: requirements for establishment of a private school: licensing and registration of schools;<sup>9</sup> cancellation of registration in case of non – compliance to the established standards: Appeals committee for the disgruntled school proprietors; placement of the school under statutory management; management of private schools. This is in addition to other provisions in the Act that also deal with private provision of education.<sup>10</sup>

In 2008, the MoES was restructured to create the department of Private Schools and Institutions Department to cater for the mushrooming private schools that had even outnumbered the government schools.<sup>11</sup> The department is charged with the overall coordination, regulation, policy formulation and guidance on all matters regarding these private schools and institutions.<sup>12</sup> Pursuant to the foregoing roles, the department has so far issued the Guidelines For Establishing, Licensing, Registering and Classification of Private Schools/Institutions in Uganda.<sup>13</sup> However, these guidelines are administrative in nature and do not possess the binding force of law, thereby limiting their enforceability against non - compliant private school proprietors.

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<sup>6</sup> Government of Uganda, Education (Pre – Primary, Primary and Post – Primary) Act, cap 247, hereinafter, Education Act, section 3.

<sup>7</sup> Ibid section 7.

<sup>8</sup> Ibid, Section 11(1).

<sup>9</sup> Ibid, sections 32 – 45.

<sup>10</sup> Ibid, see for instance sections 4, 11 & 58 among others.

<sup>11</sup> Ministry of Education and Sports, Home – Private Schools & Institutions at <https://www.education.go.ug/private-schools-institutions/#:~:text=The%20Private%20Schools%20and%20Institutions%20department%20is%20charged%20with%20the,these%20private%20schools%20and%20institutions>

<sup>12</sup> Ibid.

<sup>13</sup> Ministry of Education and Sports, Guidelines for Establishing, Licensing, Registering and Classification of Private Schools/Institutions in Uganda.

This paper makes an analysis of the effectiveness of the Education Act, in regulating the private provision of education in Uganda. It highlights the areas of strength that simply requires effective implementation and the gaps that need to be closed to strengthen the legal framework.

## **II. Areas of strengths in the law that only require effective implementation**

### **a. Freedom to found and operate private schools**

The Act puts in effect the International Human Rights Law and the Constitutional guarantees of the freedom of persons to found and operate schools. However, the right is qualified. There is a requirement to comply with the established education basic requirements and minimum standards. This is intended to protect the character and integrity of education as a public good. At the point of applying to be granted a license for operation of a private school, the following requirements must be fulfilled: building plans, lease offers, agreements and land titles to demonstrate legal right on the school land and in case of registration, ownership of the land; inspection of the completed buildings and approval by appropriate authorities; undertaking to recruit qualified head teacher and teachers with adequate terms and conditions of service.<sup>14</sup>

The additional requirements have further been elaborated in the Guidelines on Licensing of Private Schools. It should be noted that the permission to establish and operate a school is granted in two phases. The first phase is the grant of license to operate a school on a provisional basis for two years subject to compliance and meeting of the rest of the basic requirements. After two years, the school will proceed to the second phase where it will obtain registration. A school owner who has been running on a provisional basis will be required to make an application for the classification of the school and the application will contain the following: the name of the school owner; the type and range of education provided; the classes, standards and forms to be provided; a list of staff with their qualifications; permanent location of the school evidenced by land title or copy of tenancy; the available capital for the established school; the name of the head teachers and the respective qualifications.<sup>15</sup>

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<sup>14</sup> Education Act, *supra*, Section 32 (3).

<sup>15</sup> *Ibid*, Section 34 (1).

Classification is a precursor to registration and schools are classified according to their classes, standards and forms.<sup>16</sup> Where the school has completed its period of provisional license of two years and does not meet the required conditions for classification and registration, the provisional license can be extended for a period of one school year.<sup>17</sup> In case of confirmation of compliance, the school is properly run under the two years period of provisional license, the school is issued with a certificate of registration and classification.<sup>18</sup>

In essence, although the law provides for freedom of establishment and operation of private schools, the right is qualified. An intending private school owner must comply with the established procedure for school licensing and registration of a private school and other obligations that may arise after.

## b. Governance structures in private schools

The law empowers the Minister or District Education Officer to issue instructions to school owners on aspects of management of schools with a view to safeguarding the interests of the pupils or students and every school owner is under an obligation to comply with such instructions.<sup>19</sup>

More importantly, it is a requirement for all schools, including private ones to have School Management Committees (SMCs) for primary & Board of Governors (BoGs) for secondary schools.<sup>20</sup> It can be inferred that the rationale for having governance structures in all the schools is intended to achieve social accountability and participation of the users of the private education services in the decision-making process of the school.<sup>21</sup>

SMCs and BoGs are established pursuant to sections 4, 29 & 58 of the Education Act, wherein Regulations are to be issued to provide for the composition, term of office, funds of the school among others. SMCs and BoGs act as the link between the school and government and the parents. Indeed, the Regulations were issued and are part of the Act under Schedule

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<sup>16</sup> Ibid, Section 35 (2).

<sup>17</sup> Ibid, Section 35 (3).

<sup>18</sup> Ibid, Section 35 (3).

<sup>19</sup> Ibid, Section 45(3).

<sup>20</sup> Ibid, Section 29(1).

<sup>21</sup> See Initiative for Social & Economic Rights (2018), Citizen Participation in Local Government Service Delivery Processes in Uganda, Kampala at [https://iser-uganda.org/wpcontent/uploads/2022/07/Citizen-Participation\\_in\\_Local\\_Government\\_Service\\_Delievry\\_Processes\\_in\\_Uganda.pdf](https://iser-uganda.org/wpcontent/uploads/2022/07/Citizen-Participation_in_Local_Government_Service_Delievry_Processes_in_Uganda.pdf) accessed on October 6, 2025.

2 & 3 to the Act. However, the Regulations largely apply to government grant aided schools not private schools making their implementation to face challenges.

The structure of the SMCs and BoGs in terms of appointment, composition and functions is largely based on a grant – aided model of delivery of education. Under that arrangement, SMCs and BoG of primary and secondary schools respectively are composed of representatives from foundation bodies, old students, parents, lower local governments (sub counties or Divisions), upper local governments (Municipal or District Councils), teaching staff. The same constituencies are supposed to be represented when constituting the SMC or BoG of a private primary or secondary school which the proprietors of such school find unfair to them it amounts to assigning the role of governance and administration of their schools to outsiders.

As a result, there has been high rate of non – compliance by private schools.<sup>22</sup> With those that have complied and established the SMCs and BoGs remaining largely none – functional but simply ticking off the box. Alternatively, issuing specific regulation for establishment and functionality of SMCs and BoGs in private primary and secondary schools respectively would have been the most appropriate as opposed to a one – size fits all which is inapplicable. Since sections 4, 29 & 58 of the Act empower the Minister to issues regulations on the management of primary and secondary schools such as private schools.

### c. Regulation of school fees in all schools including private schools

A school owner is allowed to charge such school dues as the SMC or BoG may prescribe.<sup>23</sup> However, the school fees charged by the school owners is subject to regulation by the Minister in charge of education. The law obliges the Minister responsible for education from time to time to issues regulations regulating school fees in all schools in the country.<sup>24</sup>

Several human rights and policy consideration can be deduced from the above obligation of regulation of school fees by the minister. First, the economy consideration that the cost of goods and services keep on changing thus the requirement to issue regulations from time to time either to require reduction in the school fees or allowance of increment considering

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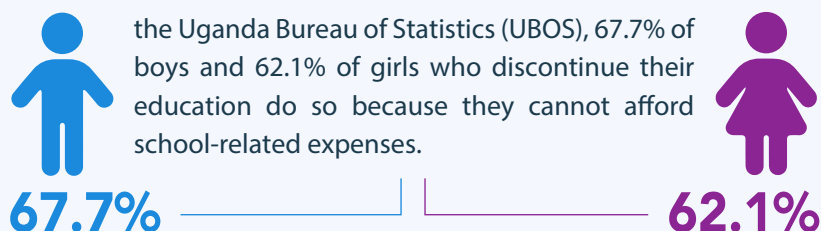
<sup>22</sup> Initiative for Social and Economic Rights (2016), Threat or Opportunity? Public-Private Partnerships in Education in Uganda, p. 36 at [https://iser-uganda.org/wpcontent/uploads/2022/05/Threat\\_or\\_Opportunity\\_Public\\_Private\\_Partnership\\_in\\_Education\\_in\\_Uganda.pdf](https://iser-uganda.org/wpcontent/uploads/2022/05/Threat_or_Opportunity_Public_Private_Partnership_in_Education_in_Uganda.pdf) accessed on October 6, 2025.

<sup>23</sup> Education Act, supra, Section 45 (2).

<sup>24</sup> Ibid, Section 4 & 58.

the economic conditions at the time. Second and very important, the acknowledgement of the character of education as a public good. This calls for protection of its integrity from all forms of private and commercial interests. The regulation of school fees is intended to ensure that private actors do not take advantage and exploit the parents and guardians with exorbitant school fees.

Research conducted by various entities, including government agencies, has shown that the high cost of education is the leading cause of school dropouts in Uganda. According to the *Uganda National Household Survey 2019/20* by the Uganda Bureau of Statistics (UBOS), 67.7% of boys and 62.1% of girls who discontinue their education do so because they cannot afford school-related expenses.<sup>25</sup>



However, since the enactment of the Act in 2008, the Minister in charge of education has not issued any regulations on school fees later alone on any matter as empowered by the Act. As a result, parents in some schools are grappling with exorbitant school fees.

#### d. Consequences for none – compliance with the provisions of the law

Like any other law, the Act establishes sanctions for none – compliance with the law by private providers of education. The sanctions are not in any order of sequence but can be discerned from the reading of the provisions of the law as discussed below;

The first sanction is closure of the school upon failure to meet the requirements for registration following the completion of the provisional license period or cancellation of registration. The Permanent Secretary (PS), Chief Administrative Officer (CAO) or Town Clerk (TC) is empowered to order for closure of a school that does not meet the conditions for classification or registration after completing the two years provisional license upon application for classification and registration.<sup>26</sup>

<sup>25</sup> Uganda Bureau of Statistics (UBOS), 2021. Uganda National Household Survey 2019/2020. Kampala, Uganda; UBOS.

<sup>26</sup> Ibid, Section 35 & 37 (1).

Secondly, inspectors of schools in any district, municipality or city council can issue Notice of Unsatisfactory management of school to school owner. This is provided in section 46 of the Education Act. This notice arises where, upon inspection of a private school, the Inspector of Schools forms the opinion that the institution is being conducted or managed in an unsatisfactory manner. In the notice, the inspector is required to indicate the timeframe within which the school owner has to act on the measures recommended the by inspector.

Thirdly, the Minister or District Education Officer may order the school to be put under the statutory management. This is provided under section 43 of the Education Act. The subjection of the school to statutory management arises after the PS, CAO or TC orders that a private school be closed, and instead the Minister or District Education Officer in consideration of national interest order for re – opening of the school but under statutory management. This is after giving the school owner a fair hearing. Such consideration may happen in instances were the closed school is the only one in the location or with limited school facilities to sufficiently serve the community.

Fourthly, cancellation of classification and registration and closure of schools by the PS, CAO or TC. This is provided under section 37 of the Education Act and conditions that may give rise to the closure of the school include; the school not fulfilling the requirements such as building plans, lease offers, agreements and land titles to demonstrate legal right on the school land and in case of registration, ownership of the land; inspection of the completed buildings and approval by appropriate authorities; undertaking to recruit qualified head teacher and teachers with adequate terms and conditions of service; the school is being conducted or managed in contravention of the Act; the school ceasing to function as a school; or the school owner failing without reasonable cause to comply with the requirements of the notice served upon him or her by the Inspector of Schools.

However, section 37 (2) of the Education Act requires that the PS, CAO or TC shall make or cause to be made all necessary inquiries and shall give the school owner an opportunity to be heard. By operation of law, PS, CAO or TC are administrative offices, therefore they are required to observe the rules of natural justice before exercising their powers to cancel the classification and registration of schools. However, where a school is ordered to close immediately in the interest of health or security of the pupils, the school owner is under an obligation to comply immediately and there is no room for complying with principles of natural justice.<sup>27</sup> The order of closure can only be challenged only where security and health of the learners was not the basis for which the school was closed.

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<sup>26</sup> Ibid, Section 37 (4).

Lastly, it is a criminal offence for any private school owner who does not comply with the provisions of the Act. There are several actions of a private school owners that are criminalized. These include; establishing or maintaining a school which is not classified and registered in accordance with the law; operating a school whose classification and registration is cancelled; administering a school as part of an extension of an existing registered school.<sup>28</sup> Such a person commits an offence and the criminal punishments are prescribed therein.<sup>29</sup> Also, under section 52 (2) of the Act, there are consequences for not complying with the school fees regulations issued under section 58 (g) of the Act. It is a criminal for any school to levy school charges beyond the amount prescribed by the Minister in the Regulations.

### e. Oversight mechanism on the powers of the PS, CAO & TC

As established above, the Act grants several powers onto the PS, CAO & TC such as closure of non – compliant schools albeit not absolute. However, to avoid abuse, the powers are subject to checks and balances through an appeal mechanism. Where a PS, CAO or TC; refuses to classify a school; requires an extension to an existing school to be classified as a new school; closes the school or cancels the classification or registration of the school orders for its closure, the aggrieved school owners is entitled to the right of appeal to the Appeals Tribunal within the stipulated period of time.<sup>30</sup> However, the Appeals Tribunal envisaged under the Act has never been operationalized. Consequently, aggrieved school proprietors are effectively deprived of a specialized statutory appellate mechanism and are compelled to seek redress through judicial review proceedings before the courts of law, which are often costly and procedurally complex. Those who have sought to challenge such decision have opted to file their actions in the courts of law under judicial review applications.<sup>31</sup>

Despite the progressive provision of the Act regarding regulation of private provision of education, some of the provisions in the law face none – implementation challenges. For instance, the school fees regulations and the Appeals Tribunal that is mandated to handled appeals of aggrieved school owners have never been established.

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<sup>28</sup> Section 41.

<sup>29</sup> Section 52 (1).

<sup>30</sup> Section 40.

<sup>31</sup> Bridge International Academies (k) Ltd v Attorney General, Misc Cause No. 160 of 2016.

### III. Existing gaps in the law

#### a. Lack of set minimum initial and operational capital requirement for private schools

In order to guarantee the delivery and access to quality education, there are established minimum standards for both primary and secondary schools. Some of the general requirements include; proof of ownership or lease of land on which the school/institution is to be situated or tenancy agreement that is valid for at least (5) five years for a secondary school and 8 years for a primary school (in case of hired buildings) which must have been designed and constructed for purposes of a school; enough land for expansion, playgrounds, school garden and physical education (urban schools may be considered as special cases); a development plan particularly for the license period, and proof that 10% of the development plan funds are available.<sup>32</sup>

Particularly for the primary schools, some of the requirements include; A qualified Headteacher not below Grade V Teaching Certificate in primary education, and must be registered with the MoES; and all teachers registered and /or licensed with MoES.<sup>33</sup> Whereas for the secondary schools, there should be a trained and qualified Graduate Head teacher registered with the MoES and with not less than 5 years of continuous teaching and with a registered and / or licensed with Ministry of Education and Sports. A minimum of 7 teachers working full time, 3 of whom must be science and mathematics teachers registered with MoES.<sup>34</sup>

The fulfillment of above conditions requires funds. Under the general requirements, there is proof of availability of 10% of the development plan funds. Although section 45 (5) of the Education Act requires every school owner to prepare an annual budget estimates for the school and avail it for inspection when required by an inspector of schools or a Ministry of Education official, it does not address the issue.

Education is a vital good for both the individuals and society. It requires some of the basic and non – negotiable requirements otherwise the school won't meet the criterial of a being a school. It is therefore important that a minimum initial and operating capital threshold

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<sup>32</sup> Ministry of Education and Sports, Guidelines for Establishing, Licensing, Registering and Classification of Private Schools/Institutions in Uganda, P.6.

<sup>33</sup> Ibid, P. 9.

<sup>34</sup> Ibid, P. 10.

should be established. Such that the inspection of the annual budgets of schools are based on an established benchmark to confirm the private schools' capacity to comply with established minimum standards of education.

## b. Lack of restrictions on utilization of school funds and properties

Other than the earlier stated provision of the requirement for every school owner to prepare an annual budget estimates for the school, there are no rules on utilization of school funds mainly generated through school fees. In 2014, the President directed the Education Ministry to cease the Public Private Partnership (PPP) scheme in the implementation of the Universal Secondary Education (USE) over allegations of misuse and abuse of the capitation grants that were being provided to the private schools to implement the USE program.<sup>35</sup> A research report that assessed the PPP scheme in the implementation of USE in Uganda established that much as the Memorandum of Understanding signed between the government and the Private schools required the funds allocated to the schools to be used specifically for teaching and learning purposes, that was not being followed.<sup>36</sup>

Furthermore, it is not uncommon for school proprietors to use school property as collateral for personal or commercial loans, in the absence of any statutory safeguards regulating the financial management of educational assets. Yet there are no mechanisms to ensure that loan amount is used for the benefit of the school. Even where the loan is not invested in the school, it is the school fees that is used to pay back the loan that the school did not benefit from and in case of failure to facilitate the loan, the lender forecloses. The media has reported cases where the school properties have been foreclosed in the middle of term and learners left stranded.<sup>37</sup> The regulatory framework should have restricted the use of school properties as collateral only for mortgages intended to benefit the school. Relatedly, there should have also been an established threshold of the profits that should have been ploughed back in the school.

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<sup>35</sup> Daily Monitor, "Govt to stop funding to 800 private USE schools," Wednesday, January 17, 2018 — updated on January 13, 2021 at <https://www.monitor.co.ug/uganda/news/national/govt-to-stop-funding-to-800-private-use-schools-1736078> accessed on October 1, 2025.

<sup>36</sup> Initiative for Social and Economic Rights (2016), *supra*, p. 35.

<sup>37</sup> Alex Tumuhimbise, "St Christine PS Kakumiro shut due to bank loans, Daily Monitor," Tuesday, February 07, 2023 at <https://www.monitor.co.ug/uganda/news/national/st-christine-ps-kakumiro-shut-due-to-bank-loans-4114482> accessed on October 1, 2025.

### c. No comprehensive guidance on school winding up procedure

The constitution of the Republic of Uganda gave a broad window for starting and operating a school. Objective XVIII of the National Objectives and Directive Principles of State Policy allows individuals, religious bodies and other nongovernmental organizations to found and operate educational institutions if they comply with the general educational policy of the country and maintain national standards.<sup>38</sup> Relatedly, Section 32 of the Act also allows persons, communities or organizations to start and operate schools. With this broad allowance for ownership of schools, natural persons either solely or through partnerships, companies, communities, non – governmental organizations, religious institutions, among others are owning schools in Uganda.<sup>39</sup>

Just like any other business, private schools also face setbacks and some of them even end up closing. However, there is no comprehensive legal framework to guide in case of winding up of school business. There are two provisions in the Act that appear to deal with the issue – change of ownership or closure of private schools. First, there is a mandatory requirement that no school owner shall change the ownership of the school without the prior approval in writing of the PS, CAO or TC.<sup>40</sup> Secondly, a school owner of a classified and registered school that remains closed at the instance of the owner for a period exceeding thirty working days, other than during normal school holidays, is required to immediately notify the PS, CAO or TC.<sup>41</sup> In the notification, the school owner is required to; give reasons for the closing of the school; the period during which the school is likely to remain closed.<sup>42</sup>

A critical regulatory gap arises from the silence of the law regarding the specific actions to be undertaken by the PS, CAO, or TC upon receiving notifications of school closure or change of ownership. For the case of schools owned by companies, it can be taken that the legal regime in the Companies Act takes effect in regard to winding up. While for natural individuals and communities, it remains unclear of the steps that are supposed to be undertaken to protect the interests of stakeholders especially the learners and parents who in most cases would have paid their school fees.

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<sup>38</sup> Government of Uganda, Constitution of the Republic of Uganda, 1995, as amended, Objective XVIII of the National Objectives and Directive Principles of State Policy.

<sup>39</sup> See for instance, Ministry of Education and Sports (2017), Education Abstract 2017, pp 14, 28, 54 at <https://www.education.go.ug/wp-content/uploads/2019/08/Abstract-2017.pdf> accessed on October 6, 2025.

<sup>40</sup> Education Act, Section 38.

<sup>41</sup> Ibid, Section 44.

<sup>42</sup> Ibid, Section 44 (a) & (b).

Often, schools have closed and left learners without education continuity. Such cases were common during the COVID19 pandemic. Following the prolonged closure of schools for a period of two years, some of them could not reopen, those that reopened closed in the middle of term leaving learners without transition plans to other schools.<sup>43</sup> There is need for legal guidance to ensure that such schools handles their liabilities to the satisfaction of their creditors especially the learners and parents or guardians.

#### d. Regulatory capture in private provision of education

There is a conflict of interest in the regulation of private provision of education in the country. There is no bar to own and operate private schools on teachers and head teachers in public or government grant aided schools, technical and political officials in local governments and the ministry responsible for education. This weakens the regulation of private provision of education since the officials that mandated to undertake enforcement and proposition of education policy reforms are key players in the sector.

However, part of the implementation reforms for the education and health sub – programs in the National Development Plan IV (NDP IV) seeks to address the issue of conflict of interest. The reform plans to address conflict of interest in the provision of education and health services by banning all employees in these sectors from operating private schools and health facilities.<sup>44</sup> This is a progressive implementation only that it only covers the employees and leaves out the policy makers such as ministers. Under the Education Act, the minister is given broad subsidiary powers to issues regulation on various aspects regarding pre – primary, primary and post – primary education such as regulation of school fees. This makes the minister the appointed regulator with the assistance of the technical team (employees in the local governments and ministry) who make policy recommendations and proposals that the regulator translates into regulations – subsidiary legislation. Therefore, not including such a central position among those barred from owning and operating private school is counter to the spirit of addressing conflict of interest in the regulation of private provision of education. It also important to note that the implementation reform in the NDP IV remains a mere proposal on paper until it is actualized in law.

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<sup>43</sup> See for instance URN “Tears, anguish as East High School Ntinda abruptly closes.” Observer, January 14, 2022 at <https://observer.ug/news/tears-anguish-as-east-high-school-ntinda-abruptly-closes/> accessed on October 1, 2025.

<sup>44</sup> National Planning Authority (2024), Fourth National Development Plan (NDP IV) 2025/26 - 2029/30, p. 217.

## e. Lack of restrictions on Advertisement

Compared to other professional services such as medical and legal services that are explicitly prohibited from advertising, there is no prohibition of private schools from advertising.<sup>45</sup> Whenever the Uganda National Examination Board (UNEB) releases national examinations for primary and secondary (senior four and senior six), the media is always awash with performance records and jubilation of students and their teachers and school administrators.<sup>46</sup> Some schools even go to the extent of publishing results of each learner in the media. Also, at the start of each academic, the media – both electronic and print – carry advertisements calling upon the general public to enroll children in their respective schools.

It is until recently that the Ministry responsible for education made an attempt to address the concern of the publication of the UNEB candidates' results in the media. The ministry reasoned that publication of the students' national results in the media breaches the legal provisions regarding the right to privacy and causes undue stress, anxiety, harassment and stigma.<sup>47</sup> It further reminded the school administrators of their duty to uphold and protect the rights and welfare of the children.<sup>48</sup> Particularly, the ministry directed schools to desist from using their candidates' examination results for advertising and marketing purposes and instead ensure that examination results are communicated privately to the students and their parents or guardians.<sup>49</sup>

Notwithstanding these interventions, the directives were issued through an administrative circular by the PS of the MoES, which lacks the force of subsidiary legislation and is therefore not legally binding on private schools, rendering compliance largely discretionary. More critically, in the same circular, the ministry allowed schools to publicize the general performance summary without revealing name or photographs of individual candidates.<sup>50</sup> This does not solve the problem. Schools will continue advertising and marketing using candidates' performance under the guise of sharing general performance. Such actions not only amount to exploitation of learners' efforts but also dilute the sanctity of education as a common good.

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<sup>45</sup> See for instance, Government of Uganda, The Advocates (Professional Conduct) Regulations, Statutory Instrument 267—2, Regulation 25.

<sup>46</sup> Daily Monitor, "Video – Kampala Performance: Mixed reactions to 2024 PLE results," Friday January 24, 2025 at <https://www.monitor.co.ug/uganda/video/kampala-performance-mixed-reactions-to-2024-ple-results-4899998> accessed on October 2, 2025.

<sup>47</sup> Ministry of Education and Sports (2025), Ban on Publication of Candidates' National Examination Results in the Media, Circular No. 6/2025.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

## IV. Conclusion and Recommendation

The Education Act Cap 247 contains progressive statutory provisions for the regulation of private education in Uganda; however, several of these provisions remain inadequately implemented, while others require substantive legislative reform to address emerging regulatory challenges within the rapidly expanding private education sector. While others require reform and introduction of completely new provisions to deal with some challenges in the sector. There is need for the minister responsible for education and Parliament to take actions towards strengthening the legal framework;

### *a. The Minister responsible for Education;*

- Develops and implements the School fees Regulations to make private education in the country affordable and accessible.
- Issues separate Regulations for SMCs and BoGs of private schools.
- Issues statutory instrument to establish the Appeals Tribunal and also determine the appeals to be entertained by the Tribunal.

### *b. Parliament of Uganda and Minister responsible for Education should amending the Education Act to;*

- Introduce provisions that strictly bar employees and policy makers in the education sector from owning and operating private schools including through their proxies.
- Strictly bar schools from undertaking any form of advertisement and marketing.
- Provide for the initial and operating minimum capital requirements for private schools.
- Provide for annual threshold of profits that can be withdrawn from the coffers of the school by the school owners.
- Strictly bar private school owners from using school properties as collateral for loans that are non – beneficial to the schools.
- Provide for the procedure for winding up of the school business including those owned by natural persons and communities.



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