



UGANDA HUMAN RIGHTS COMMISSION

HUMAN RIGHTS ADVISORY ON THE RIGHT TO EDUCATION IN THE CONTEXT OF COVID-19

AUGUST 2020

1.0 INTRODUCTION

The Uganda Human Rights Commission (UHRC) is a National Human Rights Institution established under Article 51 of the 1995 Constitution with a general mandate of promoting and protecting human rights in Uganda. One of its core functions as provided for in Article 52 (1) is to monitor government's compliance with international instruments ratified by Uganda. The Commission in fulfillment of its mandate, has and continues to monitor the impact of COVID 19 on the right to education on learners. One of the strategies that the Commission employs towards infusing human rights principles and standards in private and public institutions is through the issuance of advisories. This advisory is therefore aimed at giving an assessment of the human rights situation in regard to the effects of COVID-19 on the right to education and making human rights-based recommendations on the pertinent issues.

1.1 BACKGROUND

The outbreak of coronavirus disease (COVID-19) has been declared a public health emergency of international concern and the virus has now spread to many countries of the world including Uganda. As this is a new virus, the world is still learning about how it affects children. What is known is that the virus can be fatal and it is possible for people of any age to be infected. Currently there is also no available vaccine for COVID-19. The COVID-19 pandemic has affected educational systems in Uganda, leading to the total closure of schools, universities and colleges. On 18th March 2020, His Excellency the President of Uganda ordered for the closure of education institutions in an attempt to contain the spread of COVID-19. Three million learners are currently affected due to the closure in response to the pandemic. The closure impacts not only students, teachers and families but also has far-reaching economic and societal consequences. The closure has also shed light on various social and economic issues, including student debt, digital learning, food insecurity and homelessness, as well as access to childcare, health care, housing, internet and disability services.

Protection of children and educational facilities is therefore particularly important, and precautions are necessary to prevent the potential spread of COVID-19 in education institutional settings. The measures taken by such institutions can prevent the entry and spread of COVID-19 by students and staff who may have been exposed to the virus. Since then, the public has been agitated about issues of education and what needs to be done. The Ministry of Education and Sport has also devised different strategies to support children in studying at home. This advisory therefore identifies a number of human rights concerns regarding the right to education during the COVID-19 pandemic and also provides advice on the human rights interventions that should be considered. The advisory also provides clear and actionable human rights guidance

for safe operations through the prevention of spread of COVID-19 in the Education sector.

2.0 LEGAL FRAMEWORK

2.1 INTERNATIONAL LEGAL FRAME WORK

Article 26 of the Universal Declaration of Human Rights (UDHR] provide that everyone has the right to education. That education shall be free, at least in the elementary and fundamental stages, and further that elementary education shall also be compulsory. The purpose of such education shall be for the full development of the human personality, strengthening of respect for human rights and fundamental freedoms and for promotion of understanding, tolerance and peace. Article 13 of the International Convention on Economic, Cultural and Social Rights (ICESCR] provides that education is both a human right in itself and an indispensable means of realizing other human rights. Article 14 of the ICESCR provides for the State's obligations to progressively realize the right to education. Articles 28 and 29 of the Convention on the Rights of the Child (CRC], Article 10 of the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW], Article 24 of the Convention on the Rights of Persons with Disabilities (CPWD] and Article 22 of the Convention Relating to the Status of Refugees all provide for the right to education for all learners without discrimination.

The States that ratify the afore-mentioned treaties are explicitly obligated to respect (not to interfere with) protect (prevent third parties from interfering with) and fulfill (actively take steps to create the conditions necessary for) the individuals' full enjoyment of the rights contained in those treaties. States are also required to take appropriate measures towards ensuring that education is equally accessible, available, acceptable and adaptable, while prioritizing the best interests of the child¹. Goal 4 of the Sustainable Development Goals (SDGs] provides for inclusive and equitable quality education and promotion of lifelong learning opportunities. The targets set for the achievement of this goal include: universal access to free, quality pre-primary, primary and secondary education; equal access to education; expanding education facilities and training of teachers in order to have quality teachers.

¹CESCR, General Comment No. 13: The Right to Education, UN Doc. E/C.12/1999/10, 8 December 1999, paras. 6, 7.

2.2 REGIONAL LEGAL FRAME WORK

The right to education for all is also provided for under the African (Banjul) Charter on Human and Peoples' Rights (Article 17), the Protocols to the African Charter on Human and Peoples' Rights and on the Rights of Women in Africa (Article 12), the African Charter on the Rights and Welfare of the Child (Article 11) and the African Youth Charter (Article 13). Agenda 2063 also provided for the right to education being a key to future development.

2.3 NATIONAL LEGAL FRAME WORK

The 1995 Constitution of the Republic of Uganda as amended provides for the right to free compulsory education under National Objectives and Directive Principles of State Policy V, XIV, XVII, XVIII, XXI and XXII, as well as Article 30 and Article 176 (1) which provide for the monitoring and inspection role of schools that was decentralized to local governments. Article 30 of the 1995 Constitution talks of all persons having a right to education. In addition, Section 4(1) of the Education (Pre-Primary, Primary and Post-Primary) Act 2008 states that the provision of education and training to the child shall be a joint responsibility of the state, the parent or guardian and other stakeholders hence, emphasizing the importance of collective efforts in attaining quality education for the learners. Furthermore, the Local Government Act 1997 as amended under Sections 96 and 97 provides for the monitoring and inspection of government projects like education at the district level. The Persons with Disabilities Act 2019 as amended provides that government has a duty to provide education for the persons with disabilities.

3.0 HUMAN RIGHTS CONCERNS AND ADVISORY

3.1 EXPLOITATION AND ABUSE OF LEARNERS

Although children are not considered to be most at risk of contracting COVID-19, they are among the most vulnerable to the 'secondary' social and economic impacts. The Government of Uganda acted quickly to put in place 'lockdown' measures to mitigate the spread of the outbreak. Accordingly, many of the core support structures for children are now closed. Educational institutions that normally provide a vital protection role as well as education have been shut since late March, and may remain closed for a lengthy period. Fifteen million children are therefore now out of school. Specialized protection facilities such as Child Friendly Spaces are also closed, while restrictions on movement have limited the outreach of case workers and para-social workers. However, although these measures have had commendable impact, they have also exacerbated other risks to children, which need to be addressed. The risks

include physical violence and sexual abuse, child labour and child marriage as well as a significant increase in protection risks for children, adolescents and youth during the COVID-19 period.

The Commission has noted that many children are not given a chance by their parents and guardians to study during the closure of educational institutions due to household chores and other work where children are involved. Some children are increasingly forced into hazardous and exploitative work intended to support their families. The Commission is also concerned about the high incidents of rape, defilement and sexual exploitation of learners during the closure of educational institutions. Moreover, it is now more challenging for children to report and get a response to violence, abuse and other protection issues. It is estimated that during lockdown, 80% of the parents have used violence to restrain children from straying too far from the home, including spanking and slapping. Children are also witnessing more arguments and fighting amongst parents, which can have enormous psychological impact on the children. Restrictions on public gatherings and movement mean that normal community reporting, NGO activities and referral pathways are also limited. The Commission is further concerned that disadvantaged, at-risk or homeless children are more likely not to return to school after the closure of educational institution is ended, and the effect may be a life-long disadvantage as a result of lost opportunities.

It should be noted that student drop-out rates tend to increase as a result of closure of educational institutions due to the challenge of ensuring that all students return to educational institutions once the closure has ended. This is especially true of protracted closures. Educational institutions are also hubs of social activity and human interaction. Therefore, when they are closed, many children and youth miss-out on social contact that is essential to learning and development.

The Commission therefore recommends that: -

- a) Government should ensure that child protection and mental health activities are adequately facilitated and incorporated into all COVID-19 response plans, and also acknowledged as being essential and lifesaving.
- b) Government should ensure that child protection activities including alternative care, case management and monitoring, out-of-school education are promoted and supported with more resources.
- c) Government should vigorously enforce the laws aimed at curbing violence against children and domestic abuse, and also prosecute the perpetrators of such abuses.

- d) The Ministry of Gender, Labour and Social Development together with Police should strengthen the child protection structures and reporting systems, including increased investment in the national child helpline system.
- e) Government should ensure that courts, Gender Based Violence (GBV) units and the Police Child and Family Protection Units (CFPUs) should be fully resourced and made effectively functional.
- f) Para-social workers should be adequately facilitated financially and with the relevant protective equipment in order to enable them move freely to support the victims of violence and abuse.
- g) Government should mount special sensitization to enable parents and guardians to monitor the movements and activities of their children effectively and to talk to their children about staying safe and how to manage their own expectations.
- h) Government should encourage and facilitate parents and guardians to report child abuse and exploitation of any kind to the appropriate authorities.
- i) Government should support the Sauti 116 National Child Helpline to continue operating in full capacity. In this respect, funding should urgently be provided for additional staffing and phone operation capacity in order to ensure that the helpline can operate 24 hours a day and seven days a week.
- j) The Ministry of Education and Sports and the Local Authorities should encourage parents to allow time to learners to revise and read their books, and to help their children to do and complete their educational assignments.

3.2 SELF-STUDY EDUCATION MATERIALS

The Commission notes with appreciation that the Ministry of Education and Sports (MoES) designed a Preparedness and Response Plan to COVID-19 with a focus on continuity of learning, among others. The Ministry worked with a consortium of different stakeholders and under the guidance of the National Curriculum Development Centre (NCDC), to develop standardised study lesson packages in the core subjects for primary and secondary levels, many of which have been distributed to learners. The Commission commends this initiative which is intended to keep the learners on course. However, the Commission notes that children with disabilities, and particularly those with mental, intellectual or sensory impairments, as well as those with visual impairment, the deaf or hard of hearing, children with acquired brain injuries as well

as children with autism spectrum disorders, have all been excluded from this self-study education programme.

The Commission also notes that learners spent only one month in their respective new classes at their educational institutions, and that most of the respective syllabuses had not been taught. As such, many students cannot study effectively enough on their own at home and with the high illiteracy among parents, many illiterate parents are unable to support the learners since they are not educated themselves. Parents are also concerned that there is no one to mark the learning materials worked on by learners from homes, which makes it hard to guide the students.

There is also concern that learners in pre-primary classes and particularly nursery, have not been catered for. The Commission notes that early childhood is the most critical time for positive intervention. Children's development during this stage is strongly affected by their environment, and that effect continues to exert a strong influence on the rest of their lives. It is therefore of the utmost importance that educational and life skills programmes are in place to support the early learners within their respective communities during the COVID-19 period.

The Commission therefore recommends that: -

- a) The educational material developed and distributed should be inclusive enough to cater for all children at different learning levels.
- b) Parents should be sensitized on how to support their children who are in early childhood or pre-primary educational institution while they study from home.
- c) The Ministry of Education and Sports should consider the possibility of carrying out child mapping with a view to establishing arrangements for grouping them based on their ages and level of education, so that teachers can at some stage be enabled to support small groups of learners, taking into consideration SOPs and the other Ministry of Health guidelines.

3.3 ADDRESSING ANXIETY AND THE MENTAL HEALTH OF LEARNERS

The uncertainty created by prolonged periods of confinement of learners at homes is leading to an increasingly stressful environment and anxiety for learners. The Commission notes that a number of students are anxious about their education and

they therefore need to be helped. It is important to note that teenagers in particular, may miss their friends very much and due to their adolescent brains, feel invincible and omnipotent in the face of the virus. In most cases, teenagers are wired for experimentation moreover without the ability to weigh up the long-term outcomes of their inadequately considered actions. This is because, they usually need to discover and may therefore impulsively decide to take risks. It is therefore necessary to provide relevant guidance in this regard.

The Commission therefore recommends that: -

- a) The Ministry of Education and Sports should provide to learner's information and facts about COVID-19 in order to help diminish their fears and anxieties around COVID -19 and support their ability to cope with any secondary impacts in their lives.
- b) The Ministry of Education and Sport should also address the relevant Mental Health/psychosocial support needs of learners, and also encourage the learners to discuss their questions and concerns.
- c) Government should ensure that child protection and mental health activities are adequately facilitated and incorporated into all COVID-19 response plans, regarding such activities as being essential and lifesaving.
- d) Learners should be informed and encouraged to realize that the COVID-19 lockdown period should not be treated as a holiday or a vacation but rather, it should be used for serious and meaningful study and learning of new useful life skills.

3.4 CHILDREN AND LEARNERS WITH DISABILITIES

It is important to note that the coronavirus lockdown has placed additional pressure on many families. It is particularly challenging in situations where one loses his/her job/work where one has no support network and has a child with a disability to care for. While parents and children across the country prepare for the mass experiment in homeschooling and online learning, these are challenging times for the parents of the children with special needs. The closure of educational institutions means that their children are missing not just their studies but also therapies. Children with disabilities and particularly those with visual and hearing impairment, may not be able to benefit from the digital or online teaching and learning.

The Commission therefore recommends that: -

- a) The Ministry of Education and Sports should ensure that there is adequate inclusion and meaningful participation for learners with disabilities in all their relevant educational programmes and activities provided during and immediately after the COVID-19 lockdown in order to ensure that none of such learners gets left behind.
- b) The Government should consider sending to all learners with disabilities video lessons and also supporting the families of such learners with the provision of smartphones, computers or broadband connection at home.
- c) Government should consider expanding further the social protection provision in order to make sure that vulnerable children have food and the other support provisions that they need during the COVID-19 period.

3.5 ACCESS TO INFORMATION FOR CHILDREN

The Commission notes that there is a lot of information being sent to the public but most of it is not age appropriate and understandable, especially for younger children; and further that children do not have many opportunities to ask questions and receive assurance. Children with special needs and disabilities are often left out. Many of the most vulnerable children cannot access much of the information that the normal children have access to. For example, only 6.6% of the rural households have internet access, and even radio facilities are limited in some rural areas and refugee settlements.

The prevalence of online information has also exposed children to other new risks. For those children who can access the internet, many of them are spending more time than ever before at home using laptops and phones. This has led to increased risks such as online child sexual exploitation – something that most Ugandan children are ill-informed about.

The Commission therefore recommends that: -

- a) Government should intensify the efforts for disseminating child-friendly information through creative materials, taking children's views and opinions into account.
- b) Government should ensure that Information, Education and Communication (IEC) materials on COVID-19 are accessible to all children and youth.

- c) The IEC materials should be translated into local languages (including those spoken by refugees), and also be gender-sensitive and suitable for children with disabilities such as those with sight or hearing impediments.
- d) Government should deliberately encourage all the news, information and local entertainment broadcasts by public and private media houses to include messaging on child protection risks, referral pathways and mitigation provisions.
- e) Government should encourage all media service providers to ensure that all the COVID-19 messages are targeted and contextualized for different age groups, e.g. adolescents; and that they also include information on the risk of early marriage and family planning.
- f) Government should support child-friendly government-led Risk Communication and Community Engagement (RCCE) campaigns which are age-appropriate. The campaigns should include child-friendly and inclusive messaging distributed through creative ways such as music, drama and illustrations as well as child-focused local radio and TV productions.
- g) Government should mount special campaigns to counter the widespread rumors, misinformation and fake news, which quickly spreads online and in communities and threaten children's lives if not addressed.
- h) Government should ensure that children's voices and opinions are represented in news and other programmes that are aired out by media houses. It is important that children have platforms to raise their voices, questions and opinions on the current situation. News shows and discussions should feature children and youth voices as well as adults.

3.6 CHARGING OF SCHOOL FEES DURING SCHOOL CLOSURE

After noticing that educational institutions may not be allowed to open soon, several proprietors of educational institutions have resorted to looking for available alternative means to continue the teaching-learning process, with many of them establishing communication online tools like Zoom, Microsoft team, google classroom and other such management systems. The Commission notes that some institutions have continued to charge school fees. Therefore, measure to prevent barriers to education need to be embedded in the annual action plans of national poverty reduction during

the COVID-19 period in order for learners to enjoy equal access to education opportunities during the COVID-19 period. Government should therefore take appropriate measures to ensure that all learners at all levels have equal access to education during the COVID-19 period.

The Commission therefore recommends that: -

- a) Government through the Ministry of Education and Sports should facilitate all the educational institutions to provide their services to the learners free of charge.
- b) Government should come up with and enforce regulatory measures for ensuring that the fees regimes levied during the COVID-19 period by all educational institutions are fair and manageable to all learners.
- c) The Ministry of Education and Sports should explore the possibilities of ensuring that all distance e-learning lessons are provided free of charge to all learners.
- d) Government through the Ministry of Education and Sports should ensure that private unaided and government aided educational institutions do not levy any penalty or surcharge fees over and above the school fees for non-payment of fees by learners on account of the lockdown, or to prevent any learners from the teaching opportunities provided.

3.7 OPENING OF SCHOOLS FOR CANDIDATES

Government had proposed to partially re-open educational institutions for the purpose of allowing candidates finalize their studies. While this would be a welcome initiative, the Commission is concerned about the risks that might be involved leading to the spread of the corona virus. The Commission is also concerned that the SOPs in place as developed by the Ministry of Health require handwashing, observance of a two-meter distance between learners and routine screening of learners and staff at critical control points for signs and symptoms of COVID-19, which most of the education administrators are likely to find a big challenge. Therefore, in case Government decides to implement the above-mentioned, efforts should be made to address all the potential challenges involved, in order to prevent the escalation of the corona virus which could be devastating particularly among the educational institutions.

The Commission therefore recommends that:

- a) Government should ensure strong coordination of the various sectors that are likely to be involved in arrangements for partial re-opening of educational institutions for candidate learners. For example, education and child protection systems would need to work hand in hand, so that the learners identified by teachers for being potentially at risk can be referred to the child protection system in good time.
- b) Sick students, teachers and other staff should not report to school.
- c) Educational institutions would be required to ensure safe operations and to enforce all the relevant SOPs including daily disinfection and cleaning of surfaces, proper sanitation and waste management facilities as well as environmental cleaning and decontamination procedures.
- d) All educational institutions should be provided with the latest facts and basic information about coronavirus including its symptoms, complications, transmission and prevention.
- e) Educational institutions should be encouraged to seek for credible and reliable information about COVID -19 from reputable sources like the Ministry of Health advisories. They should also be aware of fake information/myths that may be circulated by word-of mouth or through publications.
- f) The activities allowed during the partial re-opening period should not include assemblies, sports and games, and other events that may create crowded conditions.
- g) All educational institutions should be encouraged to establish procedures for seeking immediate medical attention for learners, teachers and other employees of educational institutions who may be suspected to be infected by corona virus. In this regard, they should work closely with the local health authorities and other relevant stakeholders in case students or staff become unwell, and also plan ahead, to work with local health authorities and other relevant stakeholders.

3.8 DISTANCE AND E-LEARNING PROGRAMMES

Government has launched long-distance and e-teaching/learning programme, through radios, televisions and print materials. Government has also promised to give free radio-sets to all homesteads with learners and printed educational materials to all learners. Online learning has become a critical lifeline for education, as institutions

seek to minimize the potential for community transmission of corona virus. Technology can enable teachers and learners to access specialized materials well beyond textbooks, in multiple formats and in ways that can bridge time and space. Some educational institutions are already conducting classes via video telephony software such as Zoom.

Government itself is currently focusing on digital schooling in order to support learners continue with their education during this period. Lessons are currently aired out on radio and television. The Commission also notes that some educational institutions are conducting online schooling through zoom and webinars. The Commission is however concerned that even though this is a good innovation, many learners have been left out due to the fact that their parents cannot afford the internet or electronic gadgets such as tablets, computers and phones and the cost of data involved. Lack of access to technology or fast, reliable internet access or good connectivity, can prevent the learners in rural areas and from disadvantaged families from enjoying their right to education. For students without electricity and internet at home, this increases the difficulty of keeping up with such distance learning.

The Commission therefore recommends that: -

- a) The Ministry of Education and Sports should use long distance learning programs and open electronic educational applications and platforms that institutions and teachers can afford to use conveniently in order to reach all learners and limit the disruption of education.
- b) Government should consider the use of both high-technology and low-technology solutions based on the reliability of local power supplies, internet connectivity, and the digital skills of teachers and students. These could include integrated digital learning platforms, video lessons as well as broadcasting through radios and TVs.
- c) Government should closely work with the Uganda Communication Commission to negotiate with telecom companies for a zero-rate policy on the internet for academic materials for learners, or negotiate for the reduction of the internet fares so that the internet is affordable to all learners.
- d) Government should implement special measures to ensure that learners with disabilities and those from low-income backgrounds have access to distance learning programmes.

- e) The Ministry of Education and Sports should plan together with the relevant stakeholders the programme for distance learning in order to determine more effectively the possible duration of closure of educational institutions, and to decide whether the distance learning programmes should focus on teaching new knowledge or enhance students' knowledge of prior lessons, or both.
- f) The Ministry of Education and Sport should plan the schedule of distance learning according to the specific situation of the districts, level of studies and the needs of students and parents.
- g) The Ministry of Education and Sport should blend the appropriate available approaches and limit the number of applications and platforms. The blended tools or media should be available to all learners, both for synchronous communication and lessons, and for asynchronous learning.

3.9 HOME SCHOOLING AND PARENTAL SUPPORT

The learners' performance hinges critically on the learners themselves and their parents or guardians maintaining close relationships with teachers. Parents have been asked to facilitate the learning of their children at home. However, the Commission notes that many parents are struggling to perform this role, particularly parents with limited education and resources. This particularly affects the learners from disadvantaged backgrounds, who may not have the parental support needed to enable them learn on their own. The Commission also notes that Uganda still has many illiterate parents who are not in position to support their children's education. Many working parents are also more likely to have challenges in finding time to support their children's distance learning; or their employment is likely to be affected negatively.

The Commission therefore recommends that: -

- a) Government should develop solutions with a view to addressing the psychosocial challenges involved in distance learning, such as mobilizing available tools to conveniently connect schools, parents, teachers, and learners with each other.
- b) Government should support communities to ensure appropriate regular human interactions, enable social caring measures, and address possible psychosocial challenges that the learners may face when they are at home.
- c) The Ministry of Education and Sports should provide the necessary support to teachers and parents on the use of digital tools, including training or orientation

for both teachers and parents in order to enable them to prepare appropriate basic settings involving use of the media required to provide live streaming of lessons.

3.10 BALANCING THE RIGHTS AND RESPONSIBILITIES OF CHILDREN DURING THE COVID-19 PERIOD

Human rights are not necessarily contingent on the exercise of one's responsibility. They are innate and universal. Therefore, there is no requirement on the part of a child to for example, demonstrate a responsible attitude in order to 'earn' an entitlement to education. Nevertheless, there is a direct and complex relationship between rights and responsibilities, rooted in the reciprocal and mutual nature of human rights.

All children have the right to education and therefore, to learning. Therefore, all children are entitled to an effective learning environment in multiple spaces, not just the school setting. The Commission has noted with concern that most children are basically involved in performing different activities in their homes, like gardening, farming and other chores at home, and they have therefore been compelled to miss the learning opportunities that are being provided during the COVID -19 period. Many such learners have therefore lost hope in education hence, some of them are involved in child labour, working as labourers on other people's gardens or farms, or working as maids in other people's homes. Therefore, Government needs to urgently and seriously address such problems.

The Commission therefore recommends that: _

- a) Government should encourage parents and guardians to continue developing children's personalities, talents as well as their mental and physical abilities to their fullest potential.
- b) Parents and guardians should be encouraged to promote respect for human rights and fundamental freedoms, and to prepare children for responsible lives with the values of peace, patriotism, tolerance, equality and friendship.
- c) Government through the Ministry of Education and Sports should ensure that all learners access COVID-19 related information from a diversity of sources.
- d) Parents and guardians should be encouraged to ensure that the best interests of children are a primary consideration.

- e) Parents and guardians should be encouraged to promote respect for the evolving capacities of children in the exercise of their rights.
- f) Parents and guardians should be encouraged to respect the right of children to rest, leisure, play, recreation, and participation in arts and culture even during the current period of COVID-19 when they are at home.

CONCLUSION

The right to education is a core fundamental right for every child because it instills hope for a brighter future for all children. The disruption of the academic calendar by the COVID -19 has therefore created serious challenges for learners, especially those from rural areas, girls, children with disabilities and refugees. Therefore, the measures that are suggested above are important for implementation if Uganda is to prevent a great number of its learners from dropping out of the education system. Accordingly, the Uganda Human Rights Commission has prepared this advisory in order to give guidance on human-rights based responses and interventions so as to minimize the adverse effects of COVID-19 on learners, teachers and the education system at large. The advisory is also intended to promote coordination and collaboration among education stakeholders and other agencies for more effective responses in ensuring safety and continuity of learning and eventually a smooth transition to the normal school programmes.