

**CHALLENGES TO THE REALISATION OF CHILDREN'S  
RIGHT TO FREEDOM OF EXPRESSION:  
A STUDY CARRIED OUT IN  
KABALE DISTRICT.**

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**A DISSERTATION SUBMITTED IN PARTIAL FULFILLMENT OF THE  
REQUIREMENT FOR THE AWARD OF A DEGREE IN LAW AT  
KAMPALA INTERNATIONAL UNIVERSITY**

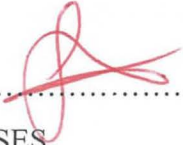
**JUNE, 2011**



**DECLARATION**

I MUSOKE MOSES do hereby declare that to the best of my knowledge and belief, this is my original piece of work and that it has never been submitted for the award of any credentials in any university or college or published as a whole or part.

I further declare that all materials cited in this dissertation which are not my own have been fully acknowledged.

Signed.....  
MUSOKE MOSES

DATE.....<sup>th</sup>20 / JUNE / 2011

**APPROVAL**

This dissertation is submitted with the approval of my supervisor.

Signed.....

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Date.....*20<sup>th</sup> / JUNE / 2011*

## DEDICATION

This work is dedicated to my beloved mother, Good Chance Jane for showing me the light of the day. It is also dedicated to my Aunt Resident State Attorney Tushabe Barigye Joyce, Uncle William and Dr. Dnyahikayo John and Tumusime Jane Rose for their tireless support to me.

## ACKNOWLEDGEMENT

This research work has taken a lot of my time and other resources to come to this final stage which was still enough and it has also involved some other people who have helped me to reach in this final stage.

I have made a substantial proportion of references from sources and literature both old and contemporary. I am therefore greatly indebted to the learned authors of those writings.

I am similarly grateful to my supervisor counsel Sophie Nakandi who read through this work in its entirety, advised and guided me accordingly. Her considered comments and criticisms were very helpful. I am thankful once again. I would also like to express special thanks to my lecturers most especially the Acting Dean Faculty of Law Mr. Sewaya and Counsel Annet Winfrey, Rev Fr Katamba for their encouragement and being so friendly to me right from my first year.

I am also indebted to fellow students and friends who shared with me some materials for this research. Most especially Miss Elizabeth Lubanga, Mr. Senjogera Moses, Kazinda Naafi and Mugisha Vincent for their material and spiritual encouragement and prayers for me. I am also grateful to my brothers and sisters Namusoke Amina, Namusoke Sarah, Namusoke Mariam, Arigaba Amanda, Ayebale Anita, Agaba Anold and Asiimwe Amon.

Above all I give thanks to the Almighty God who has endowed me with wisdom and whose strength and guidance alone have enabled me complete this work successfully.

## TABLE OF CONTENTS

DECLARATION .....	i
APPROVAL .....	ii
DEDICATION.....	iii
ACKNOWLEDGEMENT.....	iv
TABLE OF CONTENTS .....	v
LIST OF INTERNATIONAL LEGAL INSTRUMENTS .....	viii
LIST OF ACRONYMS .....	ix
ABSTRACT .....	x
CHAPTER ONE.....	1
1.0. INTRODUCTION .....	1
1.1. Background of the Study.....	2
1.2. Statement of the Problem.....	3
1.3. Definitions of Key Terms .....	3
1.4. Scope of the Study .....	4
1.5. Significance of the Study.....	4
1.6. Objectives of the Study.....	4
1.6.1. General Objectives .....	4
1.6.2. Specific Objectives:.....	4
1.7. Hypotheses.....	5
CHAPTER TWO:.....	6
LITERATURE REVIEW .....	6
2.0. INTRODUCTION .....	6
2.1. Challenges in the Protection of Children’s Right to Freedom of Expression.....	6
2.2. Major International Human Rights Instruments. ....	13
2.2.1. Universal Declaration of Human Rights. ....	13
2.2.2. International Covenant On Civil And Political (ICCPR).....	14

2.2.3.	American Convention on Human Rights .....	15
2.2.4.	United Nations Convention on the Rights of the Child [UNCRC] .....	15
2.2.5.	African Charter on the Rights and Welfare of the Child.....	16
2.2.5.	The 1995 Ugandan Constitution.....	17
2.2.7.	The Children’s Act Cap 59.....	18
2.2.8.	The Family and Children’s Right.....	19
CHAPTER THREE .....		21
RESEARCH METHODOLOGY .....		21
3.0.	INTRODUCTION .....	21
3.1.	Research Design.....	21
3.2.	The Area and Population of Study.....	21
3.3.	Sample Selection.....	21
3.4.	Methods of Collecting Data .....	23
3.5.	Data Analysis .....	23
3.6.1.	Quantitative Data Analysis.....	23
3.6.2.	Qualitative Data Analysis.....	23
CHAPTER FOUR .....		24
DISCUSSION OF FINDINGS .....		24
4.0.	INTRODUCTION .....	24
4.1.	Violation of the Voice of Children .....	24
4.2.	Demographic Characteristics of Respondents .....	26
4.3.	Children Understanding of Rights (Freedom of Expression) .....	27
4.5.	The opinions of adults in relation to children’s rights to freedom of expression. ....	28
4.6.	The opinion of the researcher in relation to children’s right to freedom of expression..	30
4.7.	Rights Identified By Children .....	32
4.8.	The Age at which Children can express their Views Freely.....	32
4.9.	The Age at Which Children can express their Views freely and Parental Obligations ..	35
4.10.	Practices that have impeded children’s right to freedom of expression.....	37
4.11.	The Perception of Cultural and Social Attitudes towards Children’s Rights.....	38

4.12. The Role of Community and Enforcing Mechanism .....	39
CHAPTER FIVE .....	42
CONCLUSIONS AND RECOMMENDATIONS .....	42
5.1. Proposed Solutions and Recommendations .....	42
5.2. Conclusion .....	48
BIBLIOGRAPHY .....	50
APENDICES .....	54
APPENDIX I: SELF-ADMINISTERED QUESTIONNAIRE (FOR ADULTS) .....	54
APPENDIX II: CHILDREN'S QUESTIONNAIRE/GUIDE .....	59



## LIST OF INTERNATIONAL LEGAL INSTRUMENTS

Universal Declaration of Human Rights

International Covenant on Civil and Political Rights

American Convention on Human Rights

United Nations Convention on the Rights of the Child

African Charter on the Rights and Welfare of the Child

## LIST OF ACRONYMS

ACPR	-	American Convention on People's Rights
ACRWC	-	African Charter on the Welfare of the Child
CRC	-	Convention on the Rights of the Child
ICCPR	-	International Covenant on Civil and Political Rights
LC	-	Local Council
NGO	-	Non-Governmental Organization
UDHR	-	Universal Declaration of Human Rights
UN	-	United Nations
UNCRC	-	United Nations Convention on the Rights of the Child

## ABSTRACT

The research carried out the study on challenges to the realization of children's right to freedom of expression, a case study in Kabale District. The reason as to why I choose this topic was because often times children's rights have been suppressed such as the right to freedom of expression under the guise of parental responsibilities.

The aims of objectives were divided into two groups. The general objective was to establish the challenges faced in the protection and realization of the children's right to freedom of expression. The specific objectives among others were;

To find out whether children understand their right to freedom of expression

To find out practices that encourage the violation of children's right to freedom of expression

To assess the parents' understanding of the right to freedom of expression of children with respect to age. All this is entailed in chapter one. Chapter two basically discusses literature review on children's rights.

Chapter three discussed the Research Methodology that was used to collect data and chapter four discussed the findings of the research study, where it was generally observed that Children's right to freedom of expression was hindered by cultural practices, parents looking at children as not competent, ill informed and immature among others.

Conclusion: It is very clear that different people have different attitudes concerning children's rights. The provisions are there but on the ground the practice is far from what is documented.

The researcher faced challenges in obtaining this information such as the cost of the project was expensive, the time spent in obtaining the information and the availability of books and updated materials on the subject was quite stressing.

## CHAPTER ONE

### 1.0. INTRODUCTION

Children are persons in their own right and consequently hold the right to freedom of expression just like adults. The United Nations Convention on the Rights of the Child (UNCRC) and the International Convent on Civil and Political Rights (ICCPR) affirm the child's right to obtain and impart information and to express his/her own view unless this would violate the right of others. "The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally; in writing or in print, in the form of art or through any other media of the child's choice"<sup>1</sup>.

This view is similarly re-enforced by the Universal Declaration of Human Rights (UDHR) and the African Charter on the Rights and welfare of the Child (ACRC)<sup>2</sup>.

The CRC provided for a specific standard for children and grants them the right to express their opinions and have that opinion taken into account in any matter or proceedings affecting them. It states that "state parties shall ensure to the child who is capable of forming his/her views the right to express these views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturing of the child"<sup>3</sup>.

This mandate is not only the right to hold and express opinions freely but also about the right to information and this is catered for in the CRC<sup>4</sup>. Children are free to exercise and express their views if they prefer to do so without being pressured, constrained or influenced in ways that might prevent them from freely expressing their opinions<sup>5</sup>.

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<sup>1</sup> Article 13 of CRC and Article 19 Of ICCPR

<sup>2</sup> Article 19 Of UDHR and Article 7 Of ACRC

<sup>3</sup> Article 12(1) Of CRC

<sup>4</sup> Ibid Article 17

<sup>5</sup> Article by Lewis Stephens, Deputy Executive Director Of UNCEF: At the Commission on Human Rights 1999.[http://www.unicef.org/CRC\\_bg\\_008.html](http://www.unicef.org/CRC_bg_008.html)

### 1.1. Background of the Study

The right to freedom of expression of opinion of children has generally been denied by parents. Subject to culture of the adult manipulation of the children, the convention does not set the age limit to which children can express their views. Adults have taken morality argument to limit expression of views or have thought children as infants incapable of having sensible opinion.

Children like adults are entitled to this right and it should be endowed to them. Parental responsibility remains that of guidance as to evolving capacities of children and their best interests. Generally, children's right to freedom of expression is still not respected by adults. Apart from the general restrictions of the right as put in CRC 13(2) or UDHR 19(3) of reputation of other people, national security public order, health or morals which apply to both children and adults. What has seemed clear to adults in connection to public morals is limiting children's access to pornographic literature<sup>6</sup>. More so children are denied a right to participate in decision making and this makes it difficult for them to decide what they think is best for them since parents have taken that responsibility.

The public including parents question the exercise of the right of expression of children basing on the facts that public decisions involve matters of policy, knowledge and practical ability or experience that children lack. They further contest that children lack capability for rational thought and logical reasoning like adults who are fully informed and competent. They justify this view to the effect that Article 18 of the CRC gives them the responsibility to give appropriate direction in their evolving capacities. Article 18 summarized and states that; parents or as the case may be legal guardians have the primary responsibility for the upbringing and development of the child. Thus basing on the above, the right to freedom of expression is manipulated in all aspects<sup>7</sup>. In judicial proceedings, children are forced to participate as witnesses even if the legal outcome may contravene the child's best interests. Children are rarely entitled to directly lodge complaints as victims even in cases where children have been ill-treated as sexually abused.

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<sup>6</sup> Ibid

<sup>7</sup> Franklin B.(1995) The case of children's Rights; A progress Report; in B. Franklin (ed) The Handbook of Children's Rights; Comparative Policy and Practice.(Rout ledge) p.4

Parents or guardians often lodge complaints on their behalf<sup>8</sup>. Although this is in the best interest of the child; on the other hand the child's opinion should be sought and respected too.

## 1.2. Statement of the Problem

Children have the right to freedom of expression as put in the CRC Article 12 and 13, ICCPR 19 and UDHR Article 19 that is the right to seek, receive and impart information and ideas of all kind. Adult parents and guardians have denied this right.

There's a belief that a child is seen not heard. Many African governments have turned out to be dictatorial yet the life of the child remains at stake, a good example is Sudan. According to Kofi Annan, the former secretary general of United Nations said; *"there's no duty more important than ensuring that children's rights are respected that their welfare is protected, that lives are free from fear and that they grow up in peace"*<sup>9</sup>.

The researcher believes that it results from human beings being denied the right to express their opinions at an early stage in life. May be they develop a feeling that who ever has the authority has the power to decide what is good or bad for the people around him or her. Children are autonomous individuals with rights, which include the right to freedom of expression. The study will be aimed at finding out the challenges facing the realization of children's rights to freedom of expression.

## 1.3. Definitions of Key Terms

Child	:	Any person below 18 years of age
Children's rights	:	Things to which one has a just or lawful claim.
Challenges	:	Issues that hinder attainment of children's rights.
Freedom of expression	:	Is the ability to be in a position to express what one wants in Relation to what is taking place.

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<sup>8</sup> Save the Children; Special Rapporteur on the Freedom of Expression for Children 2001. <http://www.oneworld.org/scf/mcr/srfe> htm

<sup>9</sup> Message from the Children's forum, delivered to the UN General Assembly Special session on Children by Child delegates, Gabriel Azurduy Arieta 13, from Bolivia and Audrey Cheynut, 17, from Morocco on 8<sup>th</sup> may 2002

#### **1.4. Scope of the Study**

The study will be conducted in Kabale district south western part of Uganda. It will investigate the challenges in the protection of the children's right to freedom of expression. The time scope of analysis will be from May-July. The time from May-July will be enough to analyze whether the international conventions on children which were incorporated in the national legislation, 1995 Ugandan constitution and the enacted laws such as the children's Act cap 59 have been effective in connection to the children's right of freedom of expression. The Local government Act is empowered to take care of the same that is in relation to children's right. The analysis will be to find out whether children have a right to freedom of expression and the extent to which it has been achieved.

#### **1.5. Significance of the Study**

The findings of the study will provide valuable information to non-governmental organizations (NGOs) who are involved in children based programmes as well as the ministry of gender and social development at the level of policy formulation such information will be of use to academicians especially in regard to children and human rights studies in universities, colleges and tertiary institutions and at lower levels. At the same time it will be an indicator for valuable intervention to solve children related violations of their emotional and physical growth. The right to freedom of expression of children is the best indicator of social understanding of children's rights and children based violence.

#### **1.6. Objectives of the Study**

##### ***1.6.1. General Objectives***

The general objective will be to establish the challenges faced in the protection and realization of the children's right to freedom of expression.

##### ***1.6.2. Specific Objectives:***

- (i) To identify and examine relevant instruments supporting the right at different levels.
  - (a) International
  - (b) Regional
  - (c) National

- (ii) To assess the parent's understanding of the right to freedom of expression of children with respect to age.
- (iii) To find out whether children understand their right to freedom of expression
- (iv) To find out practices that encourage the violation of children's right to freedom of expression
- (v) To sensitize children as to their right to freedom of expression.

### **1.7. Hypotheses**

This research is based on the suppositions that

1. Children's rights are not respected in Kabale district
2. Parents do not know what their responsibility entails
3. Children do not know whether they have rights
4. Children do not differentiate between rights and obligations.



## CHAPTER TWO: LITERATURE REVIEW

### 2.0. INTRODUCTION

This chapter discusses the meaning of Children's right to freedom of Expression. It further points out international, regional and domestic instruments and their provisions that stipulate children's right to freedom of expression. Hence aspects of Universal Declaration of Human Rights (UDHR), International Covenant On Civil and Political Rights (ICCPR), American Convention On Peoples Rights (ACPR), the Convention on the Rights of the Child (UNCRC), the African Charter on the welfare of the Child ACRWC), the Constitution of the Republic of Uganda 1995 and the 4-996 Chi 14 Statute. (2003 Children's Act) are all discussed.

### 2.1. Challenges in the Protection of Children's Right to Freedom of Expression

Children are autonomous individuals and consequently hold the right to freedom of expression like adults. Article 12 of the CRC provides for specific standards for children and grants them the right to express their opinion and have those opinions taken into account for any matter or proceedings affecting them (in line with article 13 of the CRC and 19 of the ICCR)<sup>10</sup>.

**Lands down (1992)**, referring to article 12 of the CRC, details the conditions required for genuine effective participation of children. He suggests that consulting with children means more than asking them what they think. It means ensuring that they have acquired information appropriate to their age with which to form opinions. It means being provided with meaningful opportunities to express their views and explore options open to them and it means having those views listened to, respected and considered seriously.<sup>11</sup>

However he leaves gaps to ponder about. He does not suggest how this should be done. He seems to be of the view that unless children have grown of age, they should not be consulted.

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<sup>10</sup> Harts, R (1992) Children's Participation from Tokenism to Citizenship: Innocent Essays No.4 London (UNICEF).p.15

<sup>11</sup> Lands down. G (1992) " Key Right is the Right to be Heard" clarendon press, oxford P.13

Consultation of children whether young or old is their right. The research tried to find out how children can be meaningfully integrated in the society programmes with their views taken into account.

**Franklin (1995)** points out that the denial of children's rights occurs across the board encompassing children's involvement in the private realm of the family and ranging from relatively unimportant matters such as; decisions about what clothes to wear or what time to go to bed to more significant concerns rather than attempting to specify particular conditions under which participation is appropriate<sup>12</sup>. However he proposes the presumption of entitlements. He contends that children shouldn't be obliged to argue the case for possessing the same rights as everybody else and that the purpose of ascribing limits according to chronological age is however based on notions of competence and capability for rational thoughts. In order to participate in decisions, the child must be able to understand the issues at stake and be able to arrive at an informed view.<sup>13</sup>

**Like Lands down**, he suggests that children need to be consulted, he goes ahead to argue that consultation or freedom of expression depends on experience. One wonders how these children can get the experience without being given a chance to practice. The experience can only be got if they continue expressing their views. This research tried to bridge the gap on how children's experiences can be taken into account by adults when discussing and planning societal participation to those of adult's societal participation.

**Roche (1996)** defines a criterion essential to ensure that participation amounts to more than simply consulting in order to persuade the child of the rightness or inevitability of a certain outcome. For instance, he suggests that the child should be furnished with accurate information, effectively communicated and that alternative strategies are fully explored listened to and treated seriously.<sup>14</sup>

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<sup>12</sup> Franklin B. (1995 ) note 8 at p.7

<sup>13</sup> Ibid p.8

<sup>14</sup> Roche, J. (1996) " children's Rights: A Lawyers' view, in M.John (led), Children In Our Charge. The children's Right to Resource, Jessica King's leys; London.P.9

**Roche like Franklin** subscribes to experience of children to express views but children can only gain that experience through practicing. Roche falls short on the children's basic needs as requiring serious attention. He leaves gaps to fill as to how to integrate children's views into social decisions. This therefore was the core element of this research.

**According to Harts (1992)**, children need to be listened to by adults and allowed to participate in community programmes. However not all programmes can involve the decision of children. Their decision needs evolving capacity and practical experience. The objective thus becomes selecting the opinion that appeals most in a specific environment.<sup>15</sup>

Perhaps according to Hart it is correct to say that children could be consulted but consultation leaves the gap as to which activity. This research has established the activities which children should participate so as to enable them express their freedom.

**Freeman (1983)** suggests that there should be a relative balance between children welfare and respect for their participatory rights. This is to some extent context-bound and varies according to the importance of the issue and the range of interests at stake. Operationalising participatory rights thus imply some consideration of the decision in question.<sup>16</sup> Freeman is positive towards children participation in decisions although he points out that matters in consideration should be taken into account. This perhaps is in agreement with the child's evolving capacity. What Freeman falls short of notice is that, the right to freedom of expression has no limitations apart from those prescribed by law. It cannot be stopped under any circumstances however irrelevant a child can be, his/her views must be listened to and corrected in turn.

**Archard (1993)** claims that concerns about children's well being motivate parental decisions in many cases. Although most of these parents do not consult their children as such, they believe that they operate with their children's interests in mind. Parents believe that children should be dictated upon in order to grow up responsibly. The way they do it varies from individual to individual. The end result is that children have ended up by not realizing their dreams. They have

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<sup>15</sup> Hart (1992) Op Cit P.16

<sup>16</sup>Freeman, M.D.A (1993), *The Rights and Wrongs of Children*: Rout ledge, New York, NY 1001-22999 p.46

lived under fear not being sure about themselves, cannot express their request and their mind fearing to talk. Then how can parents correct children, how can the children be understood? How are they likely to behave in the future?<sup>17</sup> Archard raises a fundamental issue that children should be listened to. This is when they can be corrected. Unfortunately this rarely happens.

**To Armstrong (1994)**, African Child up bringing has denied the children's freedom of expression on the guise of the best interest of the child and parental responsibility. He points out that the African cultures promote values according to which the child is seen not heard and this has muted the voice of the voiceless.<sup>18</sup> Armstrong therefore, touches on the fundamental causes of the violations of the right. Similar causes and consequences were established.

**Chibuye (1986) and Ncube (1994)**, explores the African cultures, laws and values that limit the child's right to freedom of expression. To Chibuye,

*Because children are born into already existing cultures, they assimilate values, norms and attitudes unconsciously and without question. Eventually, parents have great influence on the cultural, social, physical and intellectual development of the young<sup>19</sup>.*

Ncube explores the various laws in Zimbabwe that have limited the child's freedom of expression. Interpreting the convention on the right of the child, he points out that the cultural understanding of the child and childhood has been the limiting factor to the implementation of children's rights including freedom of expression.

According to **Bob Franklin**<sup>20</sup> he notes that, Children are non-adults and that little attention is paid to young people.. Initially children's rights were unheard of, then gradually the recognition of a child and his rights emerged. Children, because of their age, were denied rights. Communities, countrywide however became aware of their rights with time. He proposes that

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<sup>17</sup> Archard, D. (1993) Children's Rights and Childhood: St Martin's Press; Inc, New York, p23

<sup>18</sup> Armstrong, A (1995) A Child Belongs to Everyone: Law, Family and the construction of the Best Interests of the Child in Zimbabwe, Innocent Occasional Papers Number 11, Florence P.42

<sup>19</sup> Chibuye, P. et al (1986) Study on Child Rearing Practises in Zambia, Zambia Association for Research and Development Lusaka. P.21

<sup>20</sup> Bob Franklin, (1994) The Growth and Awareness of Children's Rights: Lusaka, oxford Press p.28

opportunity be given to children to voice their concern and ask their needs without adults imposing on them on what they think is best for them.

He however, doesn't specifically address the need for children to be allowed to participate in decision-making especially in matters affecting them. It is unclear whether he believes this to be necessary as a means of empowering children. He instead gives the impression that listening to the children's view would be a recognition of their rights and subsequent empowerment must come not just from listening, but also from incorporating children as part of the decision making body.

The opportunity of which Bob Franklin speaks is not such as will equip children with a voice; it is only part of the process. Children must not be heard merely as children but as independent individuals who have an intrinsic capacity to form substantive opinions that should be taken into account when planning and organizing social welfare of society.

In her book, "Today's child and his environment", **Dorothy Regermin**<sup>21</sup> errs in saying that the parent — child relationship is one of parental rights. This means that children's rights are regarded as and made, subordinate to those of their parents. Their views are of no consequence and do not influence the decisions as to their welfare and upbringing. The children should have a say in decisions affecting them.

She does not however suggest how this should be done, as different cultures will always suppress the voice of the child.

**According to Kaberiberi Jannet**<sup>22</sup>, all laws concerning children should have four basic concepts, interests of the child rights and duties flowing from the child-parent relationship, duty of the state to protect persons under legal disability and the child as the person in law. Much as this is good analysis, it is an elaboration of the need for the protection of the child and their rights, but doesn't build on the fact that a lack of these concepts robs the children of adequate protection and representation by legal system.

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<sup>21</sup>Rogermin Dorothy (1988) "Rights and cultures" Clarendon Press, oxford p.69

<sup>22</sup> Kaberiberi Janet, (1993) "The Child Custody, care and Maintenance", Nairobi, Oxford University Press.p.41

**Tony Wragg**<sup>23</sup> errs in his view that the law defines a relationship between a child and his parents and no other adults because every adult has a duty towards a child and must hear their voice. This calls for the need to emphasize the protective role of parents as far as rights are concerned.

Philip Alston in his book "Children, Rights and the Law", at page 90-92.<sup>24</sup> Points that;  
*Though lawyers regard themselves as the voice of the child in the court room. they don't necessarily regard this as a voice of challenge and that passivity rather than participation characterizes the young dependant... what the children are in fact receiving is summary justice according to the adult model with some minor adjustments. This consists of speed informality and the routine plea of guilty.*

He fails to draw on the need for an effective mechanism through which children in court can be allowed to participate and instead merely makes an observation that the 'voice' of the child in the legal system is suppressed.

On page 95,<sup>25</sup> in **criticizing the welfare principle**, he writes that, 'the weakness of the welfare approach is its tendency in what it deems to be the child's best interests to ignore the wishes of the child...' He however doesn't develop the argument in relation to the fact that adults impose on the child what they believe to be in their best interest based on their own views and opinions and not the children's views.

Furthermore, he neither expressly appeals against exclusion of children's participation in decisions affecting them, nor does he give solutions to the problem.

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<sup>23</sup> Tony Wragg, (1998), Family Law in a Nutshell, Fourth Edition Sweet and Maxwell, London. p.16

<sup>24</sup> Phillip Alston, Stephen Parker and Seymour (1979) "Children's Rights and the Law", Clarendon Press Oxford. p.90-92

<sup>25</sup> Ibid

**John Eekelaar (1986)**<sup>26</sup>. Suggests that courts should re-orient their approach by allowing the views of a child who satisfies the maturity test to determine the question of custody. This is a proposed solution to the suppression of the views of children in legal proceedings but the problems exists even in the social sphere and should be addressed in both. In other words, adult domination is not only in the legal but also in the social system. An article presented by Human Rights Commissioner J.M. Aliro Omara,<sup>27</sup> reported that in Uganda . . . a child is regarded as a property of the father or the parents. It follows that the rights of the child therefore derive from the father or parents. The child has no legal identity.

Though this has been identified as the gist of the problem, that is the traditional attitude of adults towards children, the problem with which it is associated is child abuse and specifically the suppression of the voice of the child.

To Onora O'neil<sup>28</sup>, none of the rights promulgated in the international documents including the convention are well formed as enforceable claims. They are merely manifesto rights and ideals. They cannot be claimed unless and until practices and institutions are established that determine against who claims on behalf of a particular child may be lodged.

**Brenda Hogget (1987)**<sup>29</sup> suggests that the legal relationships between parents and children can never be like that of adults and parents, in other words, children can never be regarded equal to adults. According to **the Report of the child law Review committee (1997)**<sup>30</sup> a father is in charge of the child's welfare and he determines what his/her interests are without consulting the child. This similar view is also established by a random survey conducted by Baguma<sup>31</sup> in Kabarole, Kampala and Kumi in 1998. It is a clear indication that children are treated the way they are because they are not in a position to cater for their needs.

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<sup>26</sup> Eekelaar John (1986) "Children's Rights in Practice" Butter worth, London Edinton, Edinburgh P.128

<sup>27</sup> Article presented by the Human Rights Commissioner, J.M. Aliro Omara on the Rights of Children and Oppressive customs. Kampala 2002

<sup>28</sup> Onora O'Neil (1994) Putting Children's Rights at the forefront, Clarendon Press, Oxford P.17

<sup>29</sup> Brenda Hogget (1987) The family Law and Society, Case and Materials; Third Edition, Butter worth, London, Edinburgh. P.13

<sup>30</sup> Report of the child Law Review Committee (Ministry of Labour and Social Welfare) Kampala Uganda (1992)

<sup>31</sup> Survey by Baguma John Francis (1999) on the Legal Status of the child, Law and Children's Rights. Law Development Center-Kampala

Olive (1987)<sup>32</sup> believes the child's interests are tied to those of the parents and recommendations have been made that in all proceedings, relating to the welfare of the child the child should not be entitled to separate legal representation. Kakama (1993)<sup>33</sup> findings confirm the belief among many Ugandans that to allow children's rights for example a right to decision making, would be to encourage them to be big headed. Much as this may be true to a certain extent, it is important to consider that children may have different views depending on different ideas being discussed.

Alston Cleland (1995)<sup>34</sup> comments that ". . . previous legislation dealing with family matters had dealt only with parents rights and said nothing about their responsibilities towards children". In her view therefore, these rights are new and therefore the unprecedented implementation process may not be as easy to achieve. The beginning has never been easy but always one has to start somewhere especially after identifying where the problem is.

To Nyonyintono (1999)<sup>35</sup> most of children abuses take place in a home by the people whom the child knows and are supposed to be the protector and care takers.

However the literature leaves gaps as to whether parents, legal guardians and children do understand what this right entails and its limitations. This therefore becomes the starting point of the research process. How this right has been protected or violated, the likely consequences to the young and the entire nation, are not all indicated. Such gaps therefore justified/motivated the study, as the right of expression explicitly remains paramount.

## **2.2. Major International Human Rights Instruments.**

### **2.2.1. Universal Declaration of Human Rights.**

Article 19; of the Universal Declaration of Human Rights says that;

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

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<sup>32</sup> Olive M. Stone, (1987) *The Child's Voice in Court of Law*, Butterworths London, p.19

<sup>33</sup> Kakama P.T (1993) *Children and Their Rights*, Village Perception.LLB Dissertation.

<sup>34</sup> Alston Cleland "Guide to the Children (Scotland Act 1995.) Scottish High Law Center, October 1995

<sup>35</sup> Nyonyintono, "Individual and Community Responsibility in Safeguarding the Rights of the Child" ANPPCAN, August 1996



The UDHR does not specify whether this right to freedom of expression is limited to adults. By implication, Children like everybody else are entitled to hold opinions without interference, to seek, receive and impart information. However, the UDHR does not recognize the need to regulate this freedom as to the reputation of others. To the UDHR, it is a fundamental right and should not be subject to restrictions. Adults often restrict this right of children and subject to culture and adult manipulation; it has left the right hanging.

The UDHR does not recognize the role of parents in child upbringing and the fact that a child undergoes evolving stages that need direction and guidance in the exercise of the right .The general impression of the right in the UDHR, is that, it is appealing to adults rather than children. It does not therefore adequately address the children's right to freedom of expression.

### ***2.2.2. International Covenant On Civil and Political Rights (ICCPR)***

Article 19 puts it that;

*Everyone shall have the right to hold opinions without interference and in 19(2); Everyone shall have the right to freedom of expression; this freedom should include freedom to seek, receive and impart information and ideas of all kinds regardless of frontiers either orally, in writing or in print, in the form of art, or through any other media of his choice.*

*The exercise of the rights, provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to restrictions but these shall only be as are provided by law and are necessary.*

- A) For respect of the rights or reputation of others*
- B) For protection of national security or,*
- C) Public order (ordre public), public health or morals.*

The ICCPR, grants everybody the right to express views freely. Children are implicitly implied as human beings. However, like the UDHR, it does not address the issue of evolving capacity of children and the role of adults in children's well being. It just gives the taste of the right in the spirit of adults who have the capacity to express and understand the views expressed.

Children due to their evolving capacity need guidance in the exercise of a free will and choice. The ICCPR does not recognize the role of parents in guidance of children which has often suppressed the voice of children. The ICCPR therefore does not adequately address the right to freedom of expression of children. The general restrictions to the right appeals mostly to elders other than children. It leaves children's right to freedom of expression unattended to, undefined and neglected due to their incapacity of age (evolving capacity) and best interests.

### ***2.2.3. American Convention on Human Rights***

Article 13 of the convention recognizes the right to freedom of expression like the UDHR and ICCPR, the convention grants children the right to freedom of expression like the elder counterparts Article 13[1], [2] and [3].

In Article 13 [4], the convention hints on the restriction of the right as protecting the morals of childhood and adolescence. The issue of the convention regulating the right of expression of children raises fundamental questions as to who should regulate children's freedom of expression. The right to freedom of expression is inherent and inborn. Children have needs that they need to express their views on. The convention leaves the right at the interpretation and regulation of parents/legal guardians. The evolving capacity of children and their specific needs are not foreseen by the convention. The general impression of the right is that, it is suited for adults, not children as it does not bear their interest in mind.

The limitation of the right in 13[3],[4] and [5] does not reflect the wishes and interest children. As such it leaves a desire for a more suitable convention to handle different needs of children. It neither protects children from adult manipulations nor addresses their ultimate needs [best interests].

### ***2.2.4. United Nations Convention on the Rights of the Child [UNCRC]***

The preamble of the charter summarizes the need to treat children as an evolving being, with special needs and protection because of the physical and mental immaturity. Special safeguards need to be put for the child to grow in the environment of happiness, love and understanding. Emphasis is put on traditional and cultural values in protecting the right of the child.

In Article 2[2], states parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of status activities expressed opinions or beliefs of the child's parents, legal guardians or family members. Articles 12 and 13 guarantee the child the right to freedom of expression. In Article 12 [1]; States parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly or through the procedural rules of national law.

Article 12 therefore recognizes the uniqueness of children's needs and the need to be heard even in judicial proceedings. Article 13 defines what the children's right to freedom of expression is about. Article 13[1] states that;

*...the child shall have a right to freedom of expression; this shall include freedom to seek, receive and impart information of all kind regardless of frontiers, either orally, in print or through any other media of their choice.*

Article 13[2] restrictions are put like in the UDHR, ICCPR and the American Convention on National Security, reputation of others or public health or morals. The convention in article 13 however gives the general voice, of adult needs. Children because of their nature may not subscribe to some of the restrictions mentioned above. The convention similarly does not recognize the role of specific cultures in muting the voice of children. It leaves the right at the interpretation and exercise of parents who have misinterpreted it very often if not permanently.

#### ***2.2.5. African Charter on the Rights and Welfare of the Child***

The charter in Article 2 defines a child as every human being below the age of 18 years. The child's right to freedom of expression is provided for in Article 7.

Every child who is capable of communicating his or her own views shall be assured the right to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws. In article 4 of the same charter, in all actions concerning

the child undertaken by any person or authority the best interest of the child shall be the primary consideration

Article 4[2] puts it that;

*In all judicial or administrative proceedings affecting the child who is capable of communicating his or her own views, an opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings and those views shall be taken into consideration by relevant authority in accordance with provisions of the law.*

The African Charter on the Rights and Welfare of the child grants the child the right to express their views freely. However, the charter leaves this right exposed to the African culture and heritage as in the preamble. Such a culture has allowed elder and or parental domination of children. The charter does not streamline the role of parents as regards to directing this right bearing in mind the evolving capacity of children.

#### **2.2.5. The 1995 Ugandan Constitution**

The structure of previous constitutions that is 1962, 1966 and 1967 was mainly limited to civil and political rights. The current 1995 constitution has expanded rights to include rights of children. Chapter four enumerates the protection and promotion of fundamental freedoms of individuals. It stresses that these rights are inherent and not granted by the state article 20[1]. Equality of all persons before the law and under the law is guaranteed by the same constitution in Article 21[1]

Article 29 of the constitution grants every person including children the freedom of speech and expression including freedom of press and media. Children are granted their rights in Article 34. The constitution separates rights of children from those of elder counterparts.

The Uganda constitution unlike the UNCRC, ACCR, does not recognize the uniqueness of children's rights to freedom of expression. It is left at the mercy of elders and no safeguards are put to emphasize the uniqueness of children and the need to accord them the choice. It takes the general taste of UDHR, ICCPR and the American Convention. There is no recognition of the fact that adults mute the voice of children to express their needs. The best interest of children and evolving capacity is not catered for.

### **2.2.7. *The Children's Act Cap 59***

The children's statute is the main domestic instrument governing child affairs in Uganda. It compliments the 1995 constitution, which specifically in article 34 provides for the general framework of children's rights. The statute defines the child as any person below the age of 18 years and any decision made under this law shall be based in the interest of the child. Children's rights mean the basic needs that a child must have to ensure his or her own development.

**Section 5** outlines the rights a child should have including all basic needs of life. In addition, a child is to be granted protection from customary practices that are dangerous to his or her health as well as protection from violence, ill treatment and discrimination. Forced labour for children including family labour inconsistent with ability and age is out ruled.

**Section 11** provides for the child who has not been provided with basic needs to report to the secretary children's affairs and discuss the matter. Children are given a chance to appear before committee court for their views to be heard. Part 1 section 3 of the Act emphasizes for any action or decision concerning a child, that is made by a local court, local council or any other person whether a parent or not, must always be guided by the child's needs. The statute provides for a checklist of which court must consider before giving a decision including the views of the child so long as they are not the result of threat or bribes to the child and other children's requirements.

In schedule 1 part [I], it recognizes that a child undergoes an evolving process and naturally undergoes rapid changes. It therefore emphasizes guided decisions and actions in dealing with children's matters.

**Section 7** of the Act places the responsibility of looking after children on parents, which they cannot give away. These duties of parents are clearly put in section 4 of the statute including providing for basic needs, education and guidance, health needs, love care, and protection and all rights set in the statute.

However unlike the ACCR and UNCRC, the children's statute does not specifically articulate children's right to freedom of expression, it only recognizes the need to listen to children's views during a case hearing in section 3.

It must be emphasized that children need to be listened to in all circumstances at home, in schools and at any time of need. The statute while recognizing the evolving capacity of the child and welfare principle, grants the responsibility of parents over the rights of these children. No limitation or explanation of what parental responsibility as one regards the children's right to freedom of expression is. Children's right to freedom of expression inadequately handled and catered for. The suppression of children's views by elders is not adequately addressed and no safeguards are put for children. It is not clear whether the secretary for children's affairs is a child or an adult selected by children of mature age as to safeguard the interest of children. It leaves a lot to be desired out of the children's statute [law].

#### ***2.2.8. The Family and Children's Right***

According to **Article 9 of the UN convention on the rights of the child**, the family is the fundamental group of society and the natural environment for the growth and well being of children.

The family is believed to be a place where children are nurtured, loved and cared for. The vital role of the family towards upbringing of children has been over emphasized to the extent that nothing can go wrong with parents towards their love and care for the children. Because of these misconceptions, there is a great deal of unwillingness to interfere with family matters.

Uganda emphasizes family autonomy and a family has been prioritized over the child's individual right. Objective XIX<sup>36</sup> - in the preamble to the 1995 Ugandan Constitution emphasizes the family as the natural and basic unit of society. Whereas the family as emphasized by the constitution remains basic unit, it is at the same time the unit of breaking the children's needs and rights.

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<sup>36</sup> 1995 Uganda Constitution

According to Dr. Nyonyintono Chairman of ANPPCAN<sup>37</sup>, in a speech delivered on the day of African child on 16th June 1999, mentioned the fact that most child abuses take place in a home or by the people the child knows.

Unfortunately, these are the people supposed to love and care for them. This view is similarly observed by Franklin (1995)<sup>38</sup> Who points out that the denial of children's rights occur in the family realm where it begins with such small things like decisions on what clothes to wear, on what time to go to bed and to serious things of abuse and total violence.

## **CONCLUSION**

In conclusion, it is very clear that different people have different attitudes concerning children's rights. The provisions are there but on ground the practice is far from what is documented. Unfortunately other authors become emotional and it is as if they are ready to attack whoever is for children's rights. A lot still has to be done to make sure that children are given the right to freedom of expression and this should be everyone's concern in order to make the world a better place to live in for everybody children inclusive.

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<sup>37</sup> Ibid

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.0. INTRODUCTION**

This chapter discusses the whole methodology that was used to collect data. It shows the research designs used to collect data, the total sample and sampling techniques, methods used to collect data and whole process of data analysis and the general effect\ understanding of children's right to freedom of expression.

#### **3.1. Research Design**

The study was done in Kabale District. It was used in both qualitative and quantitative design. The qualitative design was used to ascertain the different violations of the right and how both adults and children perceived it, while the quantitative design was used to measure the extent of the problem that is denying the right to freedom of expression in terms of number. To achieve this, a rural village was selected and another one was a semi-urban. This was in attempt to compare the different perceptions of the right to freedom of expression of children in different socio-cultural backgrounds. Therefore, different methods were used to re-in force each other.

#### **3.2. The Area and Population of Study**

The study was conducted in southern and Northern Divisions of Kabale Municipality County in Kabale District. Kabale District is found in south western Uganda, it has a population of 47, 1800 people as per 2002 population. The inhabitants of these two areas are Bakiga people who speak Rukiga language. The researcher used Rukiga language in the study purposes with a mixture of English.

#### **3.3. Sample Selection**

One sub-county in Kabale Municipality County of southern Division and another of Northern Division were wholly selected. A random sampling was used to select one parish from each sub-county and from each parish two villages were selected using simple random sampling. A sampling frame consisting of children and adults was constructed with assistance of L.C chairpersons. Systematic random sampling was used to select 15 children in each parish



respectively. Adults selected were 20 in both villages and 15 opinion leaders. Such included: youth leaders, councilors, LC chairpersons, and religious leaders.

In Kabale municipality two villages of kiikungiri and Ndorwa were selected where 15 children were interviewed other 20 adults and 15 opinion leaders were selected respectively.

Therefore the total sample selected in Kabale municipality was 100 respondents<sup>38</sup>.

**Table 1: The Table Showing the Nature OF Sampling Data.**

Place	No. of respondents	Percentage in the sample
Kabale municipality County, southern Division (type of respondents)		
Opinion leaders	15	30
Children	15	30
Adults	20	40
<b>TOTAL</b>	<b>50</b>	<b>100</b>
Northern division (type of respondents)		
Opinion leaders	15	30
Children	15	30
Adults	20	40
<b>TOTAL</b>	<b>50</b>	<b>100</b>

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<sup>38</sup> Primary Data

### **3.4. Methods of Collecting Data**

Various methods were used to collect data; to respondents who were deemed to read and write, and questionnaires were administered. The method used includes; interviews and focus group discussions.

### **3.5. Data Analysis**

#### ***3.6.1. Quantitative Data Analysis.***

Quantitative data was edited before leaving the respondent. The researcher looked for comprehensiveness, uniformity and accuracy. New ideas were added to the data and irrelevant data was removed at this stage. New themes and tentative themes were created. There was continuous analysis of data throughout the research period. Code categories were identified, assembled together and written in margins. Data collected was coded and tabulated. The codes were broken down into appropriate summary statistics and presented as frequency distributions and percentages.

#### ***3.6.2. Qualitative Data Analysis***

For qualitative data, it was thematically analyzed. The research analyzed the data according to the themes of the study. Themes and tentative themes were identified and assembled together. The researcher also analyzed verbal quotation in the research analysis. The research data that had similar view and themes were added together. Finally a report was written.

## **CHAPTER FOUR**

### **DISCUSSION OF FINDINGS**

#### **4.0. INTRODUCTION**

This chapter deals with the presentation of research findings. It is organized in themes for consistency and clarity of analysis, and it uses frequency distribution tables.

#### **4.1. Violation of the Voice of Children**

The problem of suppression/violation of children's voices is both a legal and social matter.

The major problem of the suppression of children's voices is due to lack of enforcement mechanism, a disintegration of family values, unhealthy norms and culture, all of which accentuate the plight of the children in Uganda as voiceless victims. As research carried out in Kabale municipality showed.

The pivotal core units of study were families with members that is; the children, parents and legal guardians. Out of 100 respondents, 60 were adults (parents) including opinion leaders and 40 were children from both southern and Northern Divisions in Kabale Municipality County

Out of 60 adult respondents, 70% were females while 30% males. This arose out of the fact that men are not always available at home due to working in distant places. The biggest number of males was recorded in Northern Division. This creates a gap to changing the attitudes of men towards new innovations as far as children's rights are concerned; because a man culturally is considered as the head of family and has a final say in matters of the family and therefore there's no way children can exercise their right to freedom of expression, yet these men are the guarantors of the family well being, change, instruction and maintenance.

The research findings established further that of the 60 adult respondents, 61% were married, 30% were single and 10% were widowed. This however meant that those responsible for children are not necessarily married ones. There are single parents and most of these are

guardians, brothers, sisters, relatives and other legal guardians. There were homes of children heading their fellow brothers and sisters where both parents had died.

The study revealed that a reasonable numbers of respondents were illiterates with the highest level attained being primary level (20%). Few of the respondents had attained vocational level education (25%) and this category consisted essentially of opinion leaders in Kabale Municipality administration. Only 35% had attained secondary level, 15% higher and 5% had never been to school.

It put children's rights at risk when most of the guardians have attained insufficient education. Education is important in informing parents of new opportunities and ideas. It is crucial in breaking the traditional culture of rigidity and bringing the necessary change of values. The issue of children's voice therefore was seen as interfering with parental responsibility.

Even among the elite people of Karubanda, in Southern Division and kiikungiri, Ndorwa, in Northern Division Kabale Municipality, few of them could embrace the idea allowing children exercise their freedom and rights. This therefore suggests that people of Kabale Municipality County had not been educated enough about children's rights. It should not be taken for granted that education of parents totally means education in all spheres of life. This therefore creates a need for sensitizing everybody about the children's rights and freedoms so as to change the norms and attitudes regarding children's subjugation by adults. It was observed that some of the parents/guardians were aged between 19-29 years (35%). This therefore revealed the fact that the majority of parents and guardians were young.

This implies that girls were married off early in Kabale Municipality County and some of them produced children at an early age and lived with their parents while nursing their children. The presence of children parents, a girl below 18 years having babies puts the rights of her children at a risk<sup>39</sup>. Girls marrying at an early age puts their children at a risk of being abused for they child mothers lack experience and knowledge of children's needs which is an ingredient in child upbringing. Only 10% of the guardians were aged 45 years and above. The category of this

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<sup>39</sup> Primary Data

included grand parents taking care of their grand children and some few parents. The others were aged between 35-55 (15%) with relatively a big number of parents aged between 20-35 (30%).

The existence of 8 % of respondent aged between 14-18 years indicates that, there were children guardians. These are children mothers who need rights too. How can they give rights to their fellow children? This raises fundamental issues as to whether such guardians could raise children and guarantee their voice with patience, understanding and parental care; the essence of children expressing their rights is the act of care, need and support. The culture of early marriage needs to be broken as it directly affects the right of children. This can be achieved through sensitization of both the concerned parties such young parents, elders and children themselves.

#### 4.2. Demographic Characteristics of Respondents

**Table 2. Sex distribution of Respondents (Adults Including Opinion leaders)**

Sex	Frequency	Percentage
Male	22	30
Female	38	70
<b>Total</b>	<b>60</b>	<b>100</b>

The table above reveals that most of the respondents were females (70%) and males appeared least in the sample (30%). Males were not equally represented due to the nature of work which keeps them away from home.

### 4.3. Children Understanding of Rights (Freedom of Expression)

Research showed most of the children didn't understand the concept of rights.

**Table 3: Children's perception about understanding of rights**

Perceptions	Frequency	Percentage
Understand the concept of rights	15	35
Don't understand	25	65
Total	40	100

*Source; Research*

Table Three revealed that most of the children didn't understand the concept of rights (65%) and few of them understood 35%. Those that showed understandings of rights were those aged 15-18 years. However, most of them could not precisely define the concept of rights but could be able to describe or give some of rights.

The research study showed that at first, children were not able to identify the right to freedom of expression but rather gave opinions that they needed to express themselves freely. They managed to show the things they needed to express an opinion on. For instance in case of punishment, they said "our views need to be taken into consideration". They said, often times parents and teachers punish them against their will since they are not given a chance to explain their case. This implies, failure to comply with forced punishment has often led to rejection and expulsion or even failure to receive attention from parents.

They further argued that this is even extended to sickness; children can say that they are sick at home and at school. Teachers and guardians always interpret it as pretence not to do work. They only realize at a point when a child cannot move or eat in order to ascertain sickness. They continued to point out that they are informed of their needs and the best choice for them. They cited examples of schools and dressings or clothes. They suggested that the choice of a dress and

a friend should be entirely left to them. Parents have gone to the extent of even deterring the friends with whom the children can associate with.

Muhumuza William from Kiikungiri primary school says *he is not an infant "my parents don't give me the chance to decide what I want. They warn me about the type of friends I usually go with saying they will teach me bad manners yet this is not true"* Kandra Judith a student of Kabale Vocational was quoted saying, *"Our parents are unaware of what happens at school, we tell them, they don't know much about our friends, so they should not impose their strict rules on us"*.

Most of the children respondents therefore argued that their rights do not mean independence from parents but giving them a chance to be understood.

#### **4.5. The opinions of adults in relation to children's rights to freedom of expression.**

The research revealed that families were patriarchal in nature where children were headed by the father. In absence of the father in a home, the wife, brother, sisters and relatives took up the control of the family.

Out of 60 adult respondents, including opinion leaders, 70% did not like the view that children express views freely with adults. Only 14 of the respondents (30%) showed the need for parents to allow children express their views freely.

The respondents argued that, parents are the ones who know what their children need and as such, can best articulate their requests, observe behavior change and act responsibly. They viewed the rights proponents as giving pretence love towards the children they don't even know how they sleep. After all, they argued that who would love the child more than the parents who produced it. A parent or a human rights activist?

One respondent *Mr. John Itumeineho a chairman of karubanda cell 1 was quoted saying "A baana bitu nitubakunda munonga twine obushoborozi bwo ku bareberera aha bwokuba nitumanya amagala gambo, okubahana tikiiri kumanyisa nitubazibira kugamba"*. Literally meaning, we love our children so much and we have a responsibility of taking care of them

because we know how they live, punishing them does not mean that we refuse them to express themselves.

The respondents further argued that, even among adults, freedom of speech is not guaranteed if adults lack it. How about children? Children get their rights from parents like education. It is a parent to determine what it should be and how much to pay. Parents argued that they are human beings with parental love.

The head teachers of St. Mary's boy's primary school and St. Theresa girl's primary school are of the same opinion that, in a school setting, authorities feel that, children must abide by the set of rules and regulations set before students even when these regulations fail to meet changing demands of the children. There is a bureaucratic hierarchy of school administration that doesn't allow children responses reach top administrators. The hierarchy therefore limits free interaction of children with the headmaster to express their views except on school assembly and rare cases in office. The head teacher's word is unquestionable and no argument is often allowed between students who are obliged to receive the instruction.

The research further showed that, there was a general belief that adults speak and children listen and do not question the elder or a parent. Culture was therefore the biggest stumbling block against children's voice. However, this followed ignorance as well as religion.

The respondents proposed that, there is need to encourage children express their views. The beginning part was to sensitize them by assigning them participatory roles in the family /school affairs and parents are to be encouraged to narrow the gap between children and adults.

However most parents cited dangers that may arise due to children's sensitization of rights. Some of them were of the view that given their low intelligence, meaning their immaturity with age and experience, they may misuse the rights. Some children may look at it as the chance of total independence from parents/guardians and consequently would develop bad manners. Arrogance, indiscipline disorder and emotional responses could engulf them.



#### **4.6. The opinion of the researcher in relation to children's right to freedom of expression.**

Children are entitled to their right to freedom of expression because this fundamental right is derived from the international legal instrument which the constitution transported into our domestic law.

The constitution provides that the foreign policy of Uganda shall be based on the principles of respect for international law and treaty obligations.<sup>40</sup>

The convention on the rights of the child stipulates that, state parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present convention. With regard to economic, political, social and cultural rights, state parties shall undertake such measures to maximize the extent of their available resources and, where needed, within the framework of international cooperation.<sup>41</sup>

The child's right to express his or her views freely in "all matters affecting the child" those views should be given the weight.

This principle, which highlights the role of the child as an active participant in the promotion, protection and monitoring of his or her rights, applies equally to all measures adopted by states to implement the convention and our national legislation.<sup>42</sup>

Listening to children should not be seen as an end in itself, but rather as a means by which countries like Uganda should make interactions with children and their actions on behalf of children ever more sensitive to the implementation of children's rights.

Involvement of and consultation with children must also avoid being tokenistic and aim to ascertain representative views. The emphasis on "matters that affect them" in Article 12(1)<sup>43</sup>

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<sup>40</sup> Objective xxviii of National Objectives and Directive Principles of State Policy

<sup>41</sup> Articles 1 and 7 of the African Charter on the rights and welfare of the child.

<sup>42</sup> Article 4 of the convention on the rights of the child and also cited in children's rights by John Kamyá pg.65

implies the ascertainment of the views of particular groups of children who have experience of the juvenile just system on proposals for law reform in that area, or adopted children and children in adoptive families on adoption law and policy. It is vital that government develops a direct relationship with children, not simply one mediated through non-governmental organizations (NGOs) or human rights institutions.<sup>44</sup>

Some developmentalists<sup>45</sup>, **such as Piaget**, suggest that adolescence is a time when children acquire important new cognitive skills. They put more stress on continuity with the past. They see the cognitive accomplishments of adolescence as logical and steadily progressions from the skills of middle childhood. However, there is general agreement that during adolescence children become much more mature in their reasoning and problem-solving abilities. This implies that children's right to freedom of expression should be respected because at that stage they have the ability to reason. Hence cultural practices and traditions that suppress this right should be curtailed. In fact, even the government of Uganda should reduce the age of majority to a much lower age limit for example to 14 years to allow children participate in deciding who to lead them such as the president, members of parliament among others. All in all children should be allowed to vote or choose their leaders too.

Children's thinking becomes even more logical and systematic than they were at infancy stages. The improved powers of reasoning increase children's ability to construct logical arguments and see fallacies in others' logic-a development that does not always endeavor them to parents.<sup>46</sup> Therefore the idea that children were seen as limited to the views of social experience and information and that the social providence alternative should be disregarded.

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<sup>43</sup> Children's Rights: A compilation of international, regional and Uganda's legal and human rights instruments by John Kamp pg 68

<sup>44</sup> Convention on the rights of the child

<sup>45</sup> Child development, its nature and course, 4<sup>th</sup> edition by Genie B. Dehart, L. Alan Sroufe, Robert G. pg 467

<sup>46</sup> Supra

#### 4.7. Rights Identified By Children

All of them pointed out the right to education. They further emphasized that they had a right to be clothed and given a chance to select the clothing of their best choice.

In relation to sickness, they observed that it was the responsibility of parents to take them to hospitals. Indeed most of them mentioned that they have the right to do whatever they wanted, move to any place, work and decide not to work. They complained that parents have never given them a chance to be free.

Children needed time for leisure; most of them could not think the right to food was a serious right. They just looked at it as a mere necessity. After all every day they eat.

The rights identified included, education, food, clothing, leisure, right to health and the right to freedom of expression as their rights.

**Table 4: Opinions of children on whether they have rights.**

<b>Response</b>	<b>Frequency</b>	<b>Percentage</b>
Those who have rights	30	79
Those who don't have rights	10	21
<b>Total</b>	<b>40</b>	<b>100</b>

*Source: Research*

The above table shows that most of the children responded that they had rights (79%) while few could not understand that they had rights (21%).

This therefore means that whereas children may not define the concept of rights, they are not ignorant of their rights and needs.

#### 4.8 The Age at which Children can express their Views Freely

Research showed that, the majority of the parents were opposed to granting their children a right to freedom of expression with adults. For them, it was a sign of bad manners, lack of respect and rebellion; in contrast parents were not totally disagreeing with children talking to parents about their needs. They were just against disagreement with elders on issues and matters on which they thought children had no ideas.

The beginning of the discussion of the right of children to express their views freely is provided for in Uganda's 1995 Constitution under Article 34. The United Nations Convention on the Rights of the Children Article 13 guarantees children to exercise this right as well as article 7 of the African Charter on the Rights and Welfare of the child (ACRC)<sup>47</sup>.

The children's Act Cap59<sup>48</sup> emphasizes that for a child of understanding age, his/her views need to be considered in any matter affecting him/her. However Parents and legal guardians are stuck with the traditional practice of determining everything for the child, believing that a child is seen not heard.

According to the Report of the Child law Review committee (1997)<sup>49</sup>, a father is in charge of the child's welfare and he determines what his/her interests are without consulting the child.

The research study showed parents could not discern the difference between consulting children and daily expression of needs. Therefore, from the research findings, parents were not able to distinguish and appreciate the fact that children have at critical times been denied their needs. It is the freedom of expression at a critical time of deprivation, torture and need that children need to exercise.

John Baguma<sup>50</sup> also conducted a random survey in which it was showed that 2% of rural parents' and 10% of urban parents consults their children in decision-making and the rest of the group neither consulted nor found it necessary, despite commitment to children welfare

Section 5(2) of the Children's Act makes it a duty of any one with custody of child to protect it from abuse. Abuse may be physical, sexual, and psychological. This is a critical time of need that justifies children to exercise this right when the people supposed to protect the child, that is, parents, relatives; teachers among others are the very people who abuse the child.

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<sup>47</sup> The African Charter on the Rights and Welfare of the Child

<sup>48</sup> Section 6 (1) of the Children's Act cap 59

<sup>49</sup> Report of the Child Review Committee (Ministry of Labour and Social Welfare) Kampala, Uganda 1992

<sup>50</sup> Survey by Baguma John Francis (1999) on the Legal Status of the child, Law and children's rights. Law Development Centre-Kampala.

**Enoch Ssebanga's**<sup>51</sup> case shows that many children are being abused by their family. A twelve-year boy was left helpless, tied to a bed, physically abused by his own father with the aid of the stepmother. The neighbours knew of the abuse but never intervened. The local authorities regarded him a stubborn boy to be taken to Kampirigisa reformatory school and no action was taken.

This therefore shows that the voice of the child can be shuttered by not only its own parents, but also by the entire community. Intervention by community is negligible because they regard crimes of physical abuse as exercise of parental rights and duties to discipline children. Unfortunately the local councils could not act because they are still engrossed in the culture of parental domination over children and have not been sensitized. However this does not imply that all the Local councils are inactive but what is to be done is to put in place strict supervision over these Local councils so that children's rights are strictly observed and respected too.

**Section 11(1), (2), (3) of the Children's Act** provides for the child who has been denied basic needs of life to report to the secretary of children's affairs and if the matter is serious to appear before court. Similarly, section 3 of the children's Act provides that the welfare principles and the children's rights set out in the first schedule to this Act shall be the guiding principles in making any decision based on the children's Act.

In the case of **R V HOPLEY**<sup>52</sup>, it was held that parents have the right to prescribe standards of behavior for their children, but punishment must conform to certain standards. This is the fact that children are free from torture and degrading treatment and parents are not supposed to punish them in a way that is tantamount to inhuman degrading treatment.

The research study revealed that only 25% of the respondents could be allowed the freedom to express their views freely. This therefore, puts the rights of children at critical need if parents are not sensitized of the need for allowing children to express their views freely. There is no way the parents could direct and discover the problem of children unless they express their needs to them.

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<sup>51</sup> Human Rights Report of 2006

<sup>52</sup> (1980)2f and 2002

Suppression of the voice of the child creates lack of confidence, low esteem and fear and this consequently affects their roles in future and breeds, emotional and psychological damages.

#### **4.9. The Age at Which Children can express their Views freely and Parental Obligations**

Most of the adults agreed to the fact that a child is an evolving being and his /her views changed with age. A big number of them gave an opinion that children above 14 years old should be consulted. While 10% opined that consultation could even go below 10 years as to what dress to put on, what time to go to bed and what meal to eat .only 30% gave an opinion that consultation should begin at 12 years. That is most likely the secondary going age.

The idea of age in the expression of children is vital. Most of the human rights instruments recognize that a child is an evolving being and therefore his/her age need to be catered for in determining their best interests. In the case of *GILLICK V WEST NORFOLK AREA AUTHORITY*<sup>53</sup> , it was suggested that a child of understanding age, say sixteen years old, should be allowed a say in matters that contribute to their life.

The preamble of the Convention on the Right of the Child (UN) summaries the need to treat children as an evolving being and in Article 12, a child capable of forming his or her own views need the right to express those views freely in all matters affecting them.

The research showed that accepting the views of the child even at the age of 14 years and above still depended on the subject matter. Respondents still showed the importance of guiding the views of the child. They looked at their guidance role as still going on with the child even when the child was capable of forming his or her own views. As long as children are still dependent on parents it is their role to direct them.

Lands down (1992)<sup>54</sup> in reference to Article 12 of UNCRC, suggests that consulting with children means more than asking them what they think. It means that they have acquired information appropriate to their age with which to form opinion. Most Ugandans lack the view that with responsibility comes right. The role of parents suppressing the needs of the child in

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<sup>53</sup> (1985)AC 112

<sup>54</sup> Landsdown.G (1992) "key right is the Right to be Heard" Clarendon Press, oxford p.58

guise of age, experience and practical ability is almost meaningless. It is unfortunate that the parental claim of experience is to some extent sheer exploitation of children for economic and provided for in the constitution Article 21.

An article in monitor News paper dated May 21, 1999, reported that Adriko, an orphan of 14years has been married twice in less than a year and is already a mother. She has never been to school and got married because her grandmother also her guardian, got tired of looking after her. She started beating her, pressuring her to get married and bring her soap, salt and paraffin. Her uncle too forced her to get married so that he could get cows for dowry. At 12years, she married a sixteen year old boy but her uncles wanted a richer husband. She managed to escape but had to remarry in order to survive, relatives are now demanding the bride price.

To children unfortunately, this is the caring role of parents/guardian towards their children in fulfilling their needs. Children are led to defilement by their own parents. This may not be the intention of parents but, it is caused majorly by poverty and ignorance.

Article 31 of the constitution upholds that children have a constitutional right to grow up and be cared for by their parents and have a right to find a family as long as they are above 18 years<sup>55</sup>.

Child marriage contravenes article 30 of the constitution which requires consent .In the children's Act, under section 4, a child is entitled to live with the parents/guardians and such parents/ guardians are supposed to show responsibility. The research findings revealed that some parents' children have married as early as fourteen years and experienced the same situation of parental abuse.

In the case of MOHAMED HASSAN V NANA MZEE, the fourteen-year-old girl wished to remain with whom she had lived with for the greater part of her life. Her wishes were over ruled in favor of her father because he had the right and duty to arrange her marriage. Even though the girl was of sufficient understanding age and wished to stay with her maternal grand mother. In Somali culture, which is paternalistic like Uganda's, she belonged to her father's clan.

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<sup>55</sup> Article 31 of 1995 Uganda Constitution

Parents due to their cultural rights are supposed by the legal practices to respect the rights and the voice of the child. At the age 14 years a girl wanted to feel free but the court in its judgment in favor of the father decided to defy her voice.

The research shows that no parent could agree to the view that parents have abused their obligations towards children. Instead they pointed out that parental responsibility couldn't be substituted with any other form including the rights of children.

Regarding the above the need arises to change the attitude of parents towards children however this should be reflected in the laws governing children. The judiciary by setting precedents needs to shape parents' attitude towards realizing that children are vulnerable.

#### **4.10. Practices that have impeded children's right to freedom of expression**

The research findings established a number of cultural practices that encourage the violation of children's right to freedom of expression. The culture of not allowing children to speak during the presence of elders was cited as having hindered children's voice. There is a belief that a child is seen and not heard in the presence of elders.

It was also found out that the belief that children are part of one's riches is a great contribution to the suppression of children's rights one feels free to treat them as he or she feels.

There was a reported tendency of parents looking at children as not competent, ill informed and immature. As such, children are not allowed to choose a school of their choice and even suggest the dresses of their choice. The discussion of family matters was reported as a sole duty of parents. Children have no say in family affairs discussions apart from receiving instructions from parents, even when these issues affected them. It was reported for example that children are not allowed to discuss divorce and land matters or even ask the father about his income.

In the Bakiga culture, a child is not supposed to respond to an elder in case of questioning not until he or she is allowed to speak. Children are therefore trained to take instructions and quarrelling is considered as a sense of bad manners and rebellion. Punishment is always prescribed for children who speak in the presence of visitors unauthorized during meals.



#### **4.11. The Perception of Cultural and Social Attitudes towards Children's Rights**

**Section 7 of the children's Act**, states that it shall be unlawful to subject a child to social or customary practices that are harmful to the child's health.

Culture is part of customary law and practice which is commonly accepted as a law-binding on citizens in spite of enacted laws. In other words, even when statutes embody the rules / laws, this is meaningless, where the law contradicts culture, because customs are seen as preservation and strengthening of African cultural values. Children customarily are the property of their father's clan, and the issue of children's rights has been rejected by most as a foreign concept. Historically speaking, children have never been part of the decision-making forces and adults do not wish to change this.

Culture and tradition are plagued by conservatism, fanaticism and rigidity and have not evolved with the changing trends. Modification of any aspect of culture is viewed as an insult to the ancestors, so the past is the model for the present and future. The belief still is that parents or adults are the decision makers and the providers of guidance and direction to children, this belief as it existed in traditional Africa, remains greatly unchanged, and continues to override the children's right to express their views.

Sometimes children are being forced into cultural and social practices like child marriages and harmful child labour, among others which are in fact detrimental to their development just because there are customs or traditions, but the children cannot speak out because to do so is a taboo.

According to Article 23(1) of the constitution, one has a right to personal liberty and there's no exception to violation of this right for cultural purposes. Article 29 provides that, every one has a right to freedom of conscience, expression, and assemble.

Article 31 of the 1995 Uganda constitution provides that children have a constitutional right to grow up and be cared for by their lawful custodians. The children's Act, under section 4 provides that a child is entitled to live with his parents or guardians, and also provides that parents should have a parental responsibility for their children. Child marriages contravene Article 34, according to which all persons have a right to education. According to Article 34(2),

a child is entitled to basic education which shall be the responsibility of the state and the parents of the child. Child brides are not allowed to go to school, and instead stay at home as domestic workers, wives or mothers. It also contravenes the provision against child labour because at their tender age, children are physically or mentally developed to take on such adult duties. Children have a statutory right to protection from customary and social practices harmful to their health, customs and tradition should not have proceeded over children's rights though they often do.

Article 21(1) of the African Charter on the Rights and Welfare of the child requires States to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child, particularly customs and practices prejudicial to their life or health, plus those discriminatory on the basis of sex or other status. Article 19 of the UN Convention on the Right of the child requires governments to protect children from all forms of violence and abuse in their home environment. The rationale for State intervention is that parents have rights but when these rights are abused, the government has a duty to intervene and protect the child from a custom or practice which will deprive his or her right as a child, citizen and later as a woman in Uganda.

#### **4.12. The Role of Community and Enforcing Mechanism**

In the early days a community member had a role in the upbringing of a child. Any child whether it biologically belonged to one as an individual or not, due to extended families which included relatives and the clan was a child of the village. The welfare of the child was better assured. Today, much importance is attached to family autonomy, not just by society but also the Law, and there's unwillingness to interfere. The belief is that families have a right to decide their operation, and no one has a right to interfere. Everyone minds their own business, and the child abuse and suppression in the family for the most part becomes undetectable. There has been a shift from the extended family structure to the nuclear family, which is a western concept. Dr Nyonyintono former Chairman for ANPPCAN, in advocating for the revival of the community caring role advocated for the need of community to fulfill their role in protecting the rights of the child by returning to the old system where there was a good social welfare system.<sup>56</sup>

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<sup>56</sup> Nyonyintono, "Individual and community Responsibility in safeguarding the rights of the child" ANPPCAN, August 1996

**Section 11 of the Children's Act**, provides that, 'any member of the community who has evidence that a child's rights are being infringed on by a parent, guardian or one with custody of a child who is able but refuses to provide the basic necessities of the child, must report the matter to the local Government Council of the area who, on receiving such complaint must look into the matter.' Section 10 of Children's Act provides that it is the duty of Local Council to safe guard and promote the welfare of children within its areas and to appoint a secretary for Children's affairs. He shall mediate where the rights of the child are infringed. However as pointed out earlier, society upholds the right to family autonomy at all costs, and will only rarely interfere. As the various cases of physical and sexual abuse have shown, these crimes are rarely detected and even where neighbors know of on-going abuse, they will only report to the councils in the gravest of circumstances, and the Law enforcers are easily bribed, or due to lack of sensitization, favor adult perpetrators, and can never give priority to children's rights especially over their parents. They are not sensitized to protect the children's rights.

According to **Michael Freeman**<sup>57</sup> Children's rights are regarded as not being as significant as moral values, love, friendship. The assumption is that adults relate to children in love, care and society idealizes the adult-child relations emphasizing that adults, parents in particular always have the best interest of children at heart.

The case of Enoch Ssebanga<sup>58</sup> as earlier noted demonstrates lack of the community's role to curb abuse, in spite of the statutory duty to do so. Ssebanga is a twelve-year-old boy, who was tortured by his father because his stepmother accused him of eating his brother's food. Though he was tortured everyday, and lay in agony in a closed room shouting for help, no one came to his rescue. The neighbors believed that it was a disciplinary matter, because Ssebanga was stubborn and the community did not interfere, till his aunt somewhat reluctantly reported the matter to the authorities, who had earlier dismissed it as a disciplinary case.

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<sup>57</sup> Freeman, M.D.A (1993), *The Rights and Wrongs of Children*: Routledge, New York NY 1001-22999P.46

<sup>58</sup> Human Rights Report of 2006.

Mrs. Bamugemereire, a magistrate at Buganda road court, in delivering judgment in the Enoch Ssebanga's case, said that there's need to make a strong statement to child abusers by giving harsh punishments, which will serve as a deterrent.

“A parent who cannot look after one cannot look after four. The harsh punishment of 14 year imprisonment is a statement that all children are valued in our society and to show adults in this country that child abuse will not be tolerated.”[New vision, October 19, 2000]. There's need for other judges to follow the example of magistrate Bamugemereire in dispensing justice in this country and fighting the cause of children. Children are a concern of everyone especially basing on the fact that everybody on this planet has once been a child. If people can realize the importance of children's rights and even accept to be their voices where necessary then many things would change and this will be a great contribution to society's wellbeing.

## CHAPTER FIVE

### CONCLUSIONS AND RECOMMENDATIONS

#### 5.1. Proposed Solutions and Recommendations

The violation of the right of freedom of expression of the children is a dimensional problem that needs to be addressed at many levels, by focusing on the root problem that is the attitude towards children.

The major impediment to the realization of children's rights lies in the lack of implementation of the instruments embodying these rights, for instance the children Act cap 59 to some extent the constitution and the penal code. Whereas these legal instruments are already in place, there is need for a strategic plan for enforcement and application of conventions and legislations on children's rights. These legislations are insignificant unless accompanied by application, which is the vital recognition of children's rights. **Michael A.D Freeman** said there's little point in creating an improved legal frame work recognizing children's rights or heightening awareness unless there are ways of application of these rights.

Uganda has put in place legislations that guarantee children's Rights however these legislations cannot operate in isolation of other legal factors such as culture, economy and social life style. These must first be addressed and be brought into operation with the law before the law can make any real mark.

Mechanisms must be put in place where children can express themselves and where they can be heard and their views are taken seriously. Listening to the views of the children is the greatest part of affording the children's rights. This may have be achieved to some extent by the media such as radio and television, through airing programmes for and by news papers which have sections entitled children's voice, the other voice for the monitor and New vision respectively. However the courts, the police, LCs are still adamant in not listening to children as is the legislature since they are the main organs of government.

There's need to Educate children about their rights. The education system should from the level of primary school, incorporate the teaching of human rights, for example as part of civic education, children should be told of their rights. Children need to be informed of all forms of

child abuse. All in all the ministry of education and sports should formally adopt this proposal in developing school curriculum designed towards children's rights.

Parents need to be informed that their children are not stifled with negative customary norms and are not appendages of their parents. They are free being with their full rights. No society will begin to perceive its children as rights holders until the adults' attitudes and social structures are seriously adjusted towards making it possible for children to express views and towards addressing them with respect. No one can have rights unless the claims which they embody are protect by others. This can be achieved through seminars. For the more educated, workshops and more informal means like plays, lectures on what child abuse is on rights of the child and duties of society towards children as well as the consequences of violation of these rights should be provided.

Sensitization and education are the first steps towards the achievement of the rights of children. Most adults and children do not even know of children's rights or what they entail, they particularly cannot differentiate between their rights and obligations and child abuse and find it natural to do with their children as they please and society doesn't criticize them. It is through sensitization and education therefore that the perception of children as non-adults with no meaningful contribution to decision making can change.

In other words, sensitization of children's rights and worth needs to cut across all areas of life.

Local councils need to be sensitized about the rights of children. As they handle cases dealing with children, they need to be informed of their rights. Some of these are still misled by traditional beliefs and practices of child dominance.

Churches need to emphasize as well as teach parents the need for children's rights. Through Sunday schools and church preaching, parents should be informed of respecting children's dignity and worth.

Adults have duties towards children, as an independent category of people with independent rights, and should be educated as to their obligation to the children, there must be a change in the perception of being merely a favour to the children to being an obligation and the most effective

way of doing this is by law enforcers like courts and Local councils being strict on those who violate this obligation or duty.

Courts in the enforcement of rights must aim to protect the child and not be lenient on an offender as is usually the case. Enforcement of these rights of children and the punishments therein provided would be a means of transforming these rights from merely being paper rights to becoming rights in practice.

The courts could be an effective and authoritative voice that speaks out for and on behalf of the child by ensuring that adults adhere to their obligations to the child, which would help change the attitude and perception towards children; as was held in Ssebanga case “a harsh punishment to a violation of child’s rights, is a statement that a child is valued in this country and shows that child abuse will not be tolerated”. Such punishment serves as deterrents to society.

In court, a child who shows an understanding of questions put to him and who can tell the difference between false and right and who generally can answer eloquently questions put to him should have a say especially in decisions affecting him and these views should be taken into consideration. The legal requirements that a child cannot give independent evidence if not supported by adults or collaborated need to be revised.

In parliament, children are not specifically represented and no one specially speaks for them. Instead they are considered under the youth, but as a vulnerable group, they should have interests especially represented so there should be a children’s forum to handle whatever concerns children. Their interests and needs should be reflected in legislation instead of being left out by decision makers, as is the case today.

Much as Article 36 of the constitution provides for the right of participation of minorities in decision-making, it should be amended and the different groups be enumerated including children. In that way, the right to participate in decision making for children will be constitutionally guaranteed and a violation of this will be a violation of the constitution.

The children’s right to participate in decision making as provided for in the children’s, should be made operational. Opportunity should be given to children to voice their needs and interests without adults imposing on them what they think are best for them. It should be made a

requirement for any law that seeks validity that it must seek views of children where they are affected; after all no one knows better than the children what they need. Even though it is not always the case, for children to know what is in their best interests. It needs not be that decision be made as the child wishes, only that there be the child's ascertainable wishes and needs, where they are voiced, are taken into consideration. For example in custody, or adoption cases, or in rulings on maintenance or in the enacting of laws concerning children, other wise such decision should be invalid.

Child laws should be revised. The laws governing children ought to be operationalised by revising them to suit and reflect the socio-economic conditions under which Ugandan children live and not gain stances of the development countries as common law reflects, from which our child law was adopted. Poverty and differences in culture should be considered as well as the fact that Uganda is a poor state which cannot provide sufficient needs to the children.

While the child statute (child law] is a good law by international standards, in Uganda, a lot of changes and adjustments are needed before it can be operative in light of circumstances in which children in Uganda live. The Children's statutory and constitutional rights will remain nothing more than paper rights until a real effort is made by the whole country — the state, the community, the courts and law enforcers, teachers, parents and the community at large to recognize and respect children as separate and independent individuals with a contribution to make to society.

As a state party to the UN convention, the state has a duty to protect its children from any form of abuse, rejection, violence and injury. Even though the state cannot always interfere with the family life, where it is necessary, it should do so, instead of sacrificing the child's rights for the families. It has a duty to children as citizens of Uganda and as future leaders of this country. The state is the guardian of the children and has a joint responsibility with the child's parents to ensure that the children's rights are protected.

This could be done by employing more state prosecutors to intervene and fight for the rights of abused children, training or funding the training of more state social workers and funding the



organizations involved in struggling for children. The state ought to allocate more funds to child affairs through the ministry of Gender, Labour and Social Development. The government doesn't have a support system for abused, neglected children and there is no monitoring system. This means that, beyond the punishment of the abuser, state policy doesn't care for the abused children. Instead they are compelled to go back and stay with the abuser again worsening the situation. What exists in little assistance from NGOs? Lack of resources is no excuse; resources are merely being mismanaged engaging in the useless but none the less expensive wars, purchasing military equipment for the ministry of defence that finally worsens the situation of children as child soldiers, victims of defilements and war violence.

Poverty alleviation, especially in the rural areas is part of the solution to empowering children and protecting their rights. Many times, the poor cannot uphold children's rights, for example, to education, to harmful labour, leisure and maintenance among many others. Some of these are regarded as luxury and most poor parents can't afford them and parents continue to trade their children as labourers/wives or even slaves in the most, extreme cases. Laws may be enacted but may not have impact among the poor who are more worried living than upholding children's rights.

There should be dialogue and collaboration between government and all stakeholders involved in child care and protection matters as proposed by a 'Report on the policymakers' Seminar on child abuse in Uganda — June 7, 2000. Many children organizations are exploiting vulnerable children and are nothing other than money making ventures.

The government lacks a strong policy on such organizations more especially the NGOs. The government should ensure supervision of these organizations and elimination of unnecessary ones. The state should be more active as a financier, prosecutor and protector for children in Uganda and it should create necessary conditions for positive change.

Harmful cultural practices must be outlawed. Section 7 of the children Act which provides against harmful customary and social practices should be operationalised: this could include outlawing practices like circumcision of girls, child marriages, discrimination of the girl child among others which are not interested of the child. Tradition and culture should not be a defense

to human rights violations; the law shouldn't conform to society practices that are negative. Culture is subject to change and should be changed to protect the children who are vulnerable to abuse. The government, NGO'S, community as a whole should play a more active role in campaigns against harmful practices.

If the courts declared a certain custom as unlawful and the legislature passed a law to this effect, and punishments were implemented against abusers of this law, then people would begin to conform and a gradual process would have begun to rid our country of harmful cultures.

Advocacy against the suppression of the voice of the children is not an advocacy for new rights. It is merely an argument that though the children have granted rights by statutes and by the constitution, these rights continue to be subjected to the interests of adults.

Children in Uganda are not yet independent category whose interests and needs are a priority. They do not participate at any level in decision making because they are still regarded as non adults, therefore lacking in experience lacking in experience in experience knowledge and wisdom. Rights that children have already identified must be implemented especially the right to participate in decision making, if children are to really be empowered to fight abuse and consequently to develop.

There is need to promote the community caring role as it existed in the past. If the community looked after children, many cases of abuse would be avoided. Community should be sensitized on the role they play curbing child abuse, which often undetected in the family setting. People need to be educated on their statutory duty to ensure the welfare of the child and the steps to take in case of suspected child abuse. This sensitization must be emphasized to ensure that the voice of the children and that interference with family life is warranted in such cases. More education is needed as to what constituted child abuse laying emphasis on the fact disciplinary rights of adults do not entail harming the child and excessive discipline is an offence which must be reported.

Family autonomy should no longer be put before the needs of the child, whether by state, community or courts. Parents who neglect their children are breaking the law, so are those who abuse their children physically, sexually or emotionally. To continue to put their rights before

those children is to undermine the independent rights of the child. All human beings are equal and every group has their independent rights, the violation of which entitles the aggrieved to redress.

The child statute (law) ought to be revised to give it wider coverage because currently its adoption and implementation is only operational in urban areas except for a few provisions. The law-governing children should be a reflection of protection of all types of children which is still lacking in our current laws.

Before the implementation of the rights of the child, there must be change in attitude. If there is to be realization of children's rights to participate in decision-making especially in matters affecting them, there must be substantive change of attitude. This change can be voluntary or by compulsory means. Ugandans must be sensitized on the fact that a child is important and his/her views are significant; not just as young workers, offenders or victims, but also as individuals capable of making a contribution. If any one refuses to recognize this fact, the state must punish. The state is the overall legal provider of the rights of its citizens, it must demonstrate its commitment to the cause of the child and allow them the right to participate in decision making on matters affecting them. As a democratic state, Uganda must ensure as MS Cravero, a former UNICEF representative in Uganda said. "The real mark of a country's progress is determined by what a nation does for its children and whether it puts them first."

While the children's Act is a good law.

## **5.2. Conclusion**

Hearing what children have to say lies at the root of any elaboration of children's rights and no society will have begun to perceive its children as right holders until the adults, attitudes and social structures are seriously adjusted towards making it possible for children to express their views. The voices of the children must not be silenced or ignored. Children are the future of the nation and must be allowed to develop in atmosphere of freedom, dignity and justice, an environment where they are free to express themselves and their development must be nurtured. There is a need to empower children in order to build a democratic society, in which children, as

citizens can be an independent category, recognized as worthy participants especially in the decisions affecting them.

A child at least twelve years and above, today is capable of expressing his/her views and needs and knows best what she/he needs. Tomorrow's challenges have to be met by today's children. To prepare them for this, we must treat them as respectable citizens, allow them learn leadership, democracy and collective responsibility, because children learn best by doing. Government and civil society must work together to create a world where children are seen and heard.

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**PART II.**

About parent understanding and respect of the right to freedom of expression.

6. In your opinion what do you understand by the concept children's rights.....  
.....  
.....

7. (a) According to you, would you think that children have rights?

Yes  No

(b) If yes; what rights do children possess?.....  
.....  
.....

(c)As an example of a right how do you understand the right to freedom of expression?

8. In your own words, do you think there's any importance of allowing children express views with elders? If your answer is yes, state the importance.....  
.....  
.....

9. At what age, do you think, children should or shouldn't express views?.....  
.....  
.....

10. What are the parent's obligations on children and how does this affect the child?  
.....  
.....  
.....

**PART III.**

Practices that encourage violations of the right:

11. Suggest the norms that encourage violations of children's right to freedom of expression.

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

12. (a) Are children allowed to speak at homes

Yes  No

(b) If no why is this so?.....

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

13. (a) Are children allowed to speak in schools especially with authorities

Yes  No

(b) If no why is this so?.....

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

13. How has culture contributed to violation of the right to expression.....

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

**PART IV**

14. (a) Do children know that they have rights?

Yes  No

(b) If no, what should parents do to make them aware?.....

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

15(a) what methods should be adopted to make children know that they have the right to express views?.....

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

16. Is it true that some parents feel that giving rights to children is making them rebellious?

Yes  No

If no, what should be done to make sure that such parents don't violate their (children's)?

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

17. Suggest other ways through which children should be taught/sensitized about their rights?

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

**PART V**

Policy recommendations

18. Suggest ways of reducing the violations of children’s right to freedom of expression?

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

19. What should government do to emphasize the respect of children’s rights?

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

20. What about the role of the community in promoting children’s right? (Parents, LCs (etc)

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

21. Any other suggestion about the challenges to children’s right to freedom of expression?

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

***THANKS***

## APPENDIX II: CHILDREN'S QUESTIONNAIRE/GUIDE

Please give your answer that best describes your opinion.

### PART I (characteristics of children)

1. Age of the child.....
2. Education level .....
3. Tribe.....
4. Sex.....

### PART II.

#### Understanding of rights and parental responsibility

5. In your own opinion what do you understand by the concept children's rights?
  - (a) Do you think children have rights?
  - (b) If yes, what rights do you think children have?
  - (c) As an example of a right, how do you understand the right to freedom of expression?
6. What things should children express their views on?
7. a) Give your understanding of children's freedom of expression  
b. Does the child know things in the world to make a better choice? Say the best schools, best choices to express an opinion
8. What do you think about the role of parents over children especially, when children are expressing their views?
9. Some parents don't allow children to talk at all in their presence, they think they know nothing. What do you think about it?
10. If children were allowed to take anything, what would be the danger?
11. Do rights of children meant that they are independent of parents?
12. Where do children get rights from; say right to education, expression?
13. What is the need for children to have rights; especially expression?
14. (a) What do you like about children expressing views freely?  
(b) What do you dislike about children expressing views freely?
15. What should be done then? Suggest answers.

**THANKS**

