

HIV/AIDS, Children's Rights and Gender Equality in Uganda's Universal Primary Education

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Abstract: Despite the implementation of Universal Primary Education (UPE) in Uganda and efforts to eradicate gender inequalities, the task is not yet complete. The persistence of inequalities reflects enduring children's educational rights violations even with Uganda's ratification of various international treaties relating to children's rights. Data reported in this article were collected from an in-depth ethnographic study in Luweero district in Uganda between June 2004 and June 2005. Drawing on the capability approach to gender equality and the 4-A educational rights scheme, this paper highlights pupils' educational rights violations in UPE. The research shows that HIV/AIDS reinforces existing inequalities in pupils' capabilities to attend school, remain in school, access learning materials and other requirements such as lunch and clothing. HIV/AIDS changes pupils' social and personal characteristics. Some pupils become orphans, their living arrangements are altered, and their poverty situation is worsened, implying that their capabilities to be and to do things they value are deprived. This suggests that as long as there is poverty and overdependence on household labour for subsistence, securing children's rights to compulsory education might remain problematic. Although all pupils were exposed to capability denial and therefore violation of rights, girls in particular faced compounded denial and violation. For example, they suffered sexual harassment and associated consequences. Apart from sexual harassment, a repertoire of rights issues endures in schools. The role of HIV/AIDS in the perpetuation of children's rights infringement cannot be over-emphasised. This paper uncovers the magnitude of gender inequality in pupils' capabilities to enjoy educational rights in the era of HIV/AIDS.

Keywords: Gender Equality, Capability, Educational Rights, HIV/AIDS, Uganda

Introduction

THIS ARTICLE ADDRESSES the complexity of achieving gender equality in pupils' capabilities to enjoy educational rights in the era of HIV/AIDS. It is based on research undertaken to understand the effects of HIV/AIDS on rural people and the persistence of educational gender inequalities. Education is a fundamental human right (Delamonica, Mehrotra, Vandemoortele, 2004). Uganda has ratified several human rights treaties¹ concerning children and discrimination. The international concern for human rights in education is reflected in the 1948 Universal Declaration of Human Rights, the Dakar Framework for Action of 2000, and the Millennium Declaration. Similar commitments are reflected in Uganda's Constitution, which grants every person a right to education and equality (GoU, 1995). Uganda's Children's Statute of 1996 outlines broad protections against corporal punishment, sexual harassment, and gendered discrimination (GoU, 1996). The need to achieve gender equality is also among the objectives of Uganda's

Universal Primary Education (UPE) program and the Education Sector Investment Plan (ESIP 1998-2003) re-focussed as the Education Sector Strategic Investment Plan (ESSIP 2003-2015). Educational rights are essential for the achievement of gender equality in particular and human rights in general (Subrahmanian, 2005; Wilson, 2004). The issue of educational gender inequalities has been a matter of global concern for decades. The Ugandan government has put in place various interventions to eradicate gender inequalities in UPE. However, past research has demonstrated that success has not been realised (Kakuru, 2003; Kasente, 2003; Kwesiga, 2003; Okuni, 2003). According to Unterhalter, Challender, & Rajogopalan (2005), Uganda's GEEI (Gender Equality in Education Index), stood at 54% in 2003, implying that gender inequalities persist.

The implementation of Uganda's UPE in 1997, led to the abolition of tuition fees and Parents and Teachers' Association (PTA) contributions to government primary schools. According to Ministry of Education and Sports (MoES) statistics, UPE increased primary school enrolment from 3.0 million

¹ These include the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights in 1986, the Convention on the Rights of the Child in 1990, the International Covenant on Civil and Political Rights in 1995, the African Charter on Human and Peoples' Rights and the Charter on the Rights and Welfare of the African Child. Article 28 of the 1990 Convention on the Rights of the Child (CRC) ratified by 192 countries requires the provision of free primary education to all children (UNHCHR, 1997).



in 1996 to 5.3 million in 1997, and 7.0 million in 2004 (MoES, 2004). Girls' enrolment increased from 46.3% in 1996 to a current 49.5%. By the end of 2004, the national Net Enrolment Ratio (NER)² was 90.01%, with female NER at 87.60%, and male NER at 92.51% (MoES, 2004). Through the School Facilities Grant (SFG), the MoES has managed to increase the number of classrooms from 25,676 in 1996 to 78,403 (Bitamazire, 2005). In addition, the number of teachers rose from 81,564 in 1996 to 125,883 in 2004 (MoES, 2004).

Although primary school enrolment has increased, as well as the number of teachers, classrooms and instructional materials, several aspects of children's educational rights remain unfulfilled. The national pupil-classroom ratio still stands at 84.1 (Bitamazire 2005). According to Deininger (2003), Uganda's pupil-teacher ratios are among the highest in the world. Uganda is one of the 40 countries in the world that have not yet implemented compulsory primary education (Wilson, 2004). Primary education is free only in terms of tuition fees because households provide other requirements such as clothing, meals and learning materials (pens, pencils, and exercise books) (Deininger, 2003). Mehrotra & Delamonica (1998) have reported that less than half of the primary school buildings in Uganda are permanent structures with some districts depicting a less-than-10% scenario. Such macro-structural public challenges interact with limitations from pupils' livelihoods including the impact of HIV/AIDS to obstruct gender equality.

Uganda is one of the worlds' acclaimed success stories in controlling HIV prevalence but the socio-economic impact on its population persists. Despite efforts to counteract the effect of HIV/AIDS on people's health through Antiretroviral Therapy (ART), only 11% of the eligible patients in sub-Saharan Africa access it (UNAIDS & WHO, 2005a). In Uganda, 40% of the clinically eligible people living with HIV/AIDS have access to ART (UNAIDS & WHO, 2005a, 2005b). However, this excludes many others whose clinical eligibility is not officially determined. Mortality from AIDS has continued to create orphans, who constitute 17% of primary school population (MoES, 2004). In fact, by the end of 2003, 940,000 out of 2 million Ugandan orphans were due to HIV/AIDS (UNAIDS, 2004). Some studies have documented the effect of HIV/AIDS on the education sector (e.g. Malinga, 2000; Hyde, Ekatan, Kiage, & Barasa, 2002; World Bank, 2002; Amone & Bukuluki, 2004a; 2004b; Bennell, 2005; Cohen & Tate, 2005; Cohen & Epstein, 2005)

However, evidence of the exact ways in which HIV/AIDS relates to children's educational rights and gender inequality is scattered. Perceptions of gender equality must cease to be restricted to access but expanded to include issues of social justice and fundamental entitlements. This implies that gender equality reflects the availability of mechanisms for ensuring equality of treatment and opportunity (Subrahmanian, 2005). In this respect, this article addresses two major questions: 1) How is gender inequality in pupils' capabilities to enjoy educational rights manifested?, and 2) What is the effect of HIV/AIDS on gender differences in pupils' capabilities to enjoy educational rights in UPE?

Methodology

This research focussed on developing a deeper understanding of the persistence of gender inequality in UPE. To this end, I, the author, carried out ethnographic fieldwork in Luweero district between June 2004 and June 2005. The research covered three schools and their villages. The schools are referred to as the Tumo, Tulo and Tusu primary schools³. The Tumo and Tulo primary schools were government owned and Tusu was a private school. Data were collected from pupils, teachers, parents, and local leaders. In order to have access to both the schools and their communities as a participant observer, I worked as a volunteer teacher at each of the three schools for at least four months. Within each school, I taught and observed at least 36 lessons and ten taught by other teachers. I also observed the general school environment including how teachers and pupils interacted outside the classrooms. Household observations were also undertaken in eight households, which were purposively selected (three from each UPE school village and two from the private school village). More data from households were collected using ethnographic conversations and life history interviews in 12 AIDS-afflicted or affected households per school village. Additionally, a review of secondary data material was undertaken. Field data were recorded in notebooks, diaries, and audiocassette tapes. Tape-recorded data were transcribed, coded for children's rights issues, interpreted and analysed.

Gender Inequality, Capabilities and Children's Rights

Educational gender inequalities are conceptualised as arising from the effect of wider social inequalities on pedagogical practices and processes. Although

² The NER for primary is a proportion of pupils in primary schools that are aged 6 -12 years to the total number of children in the same age group of the population.

³ For purposes of confidentiality, all names of schools and persons are pseudonyms

human rights are universal entitlements, there are obvious inequalities in their enjoyment in many aspects of life. The inequality of capabilities to enjoy rights entitlements in education is shaped by forces in the school setting such as HIV/AIDS. For example, Mushunje (2006) shows how the impact of HIV/AIDS in Zimbabwe has affected children's protection, and increased their vulnerability to abuse and exploitation. A study carried out by Save the Children in South Africa and Swaziland shows how HIV/AIDS contributes to the disruption of living arrangements and directly impacts on children's education (Poulsen, 2006). Children made vulnerable by HIV/AIDS lacked essential requirements for school such as food and clothes. The capabilities for such children to enjoy their educational rights are questionable.

The capabilities approach is a framework for conceptualizing human well being pioneered by Sen (1980; 1992; 1999) and Nussbaum (2000). In this approach, capabilities refer to what people are able to do or to be, rather than how much they command in terms of resources (Sen, 1980; 1992; 1999). Capabilities are therefore alternative states of being and doing, achievable given a person's social and personal characteristics (Sen, 1980; Nussbaum, 2000; Saito, 2003). Nussbaum (2000) articulates a threshold level of capabilities to which everybody is entitled. She provides a universal listing of central human capabilities as a benchmark for an acceptable level of human performance, satisfaction and happiness. In this article, I argue that many pupils in AIDS afflicted societies are experiencing below the minimum level of capability required to enjoy educational rights and entitlements.

Capabilities are therefore linked to human rights (Nussbaum, 2003). Capability as freedom to achieve and function implies the enjoyment of numerous entitlements as ingrained in the principles advocated by various international human rights instruments. However, rights entitlements do not necessarily guarantee individuals' capabilities. For example, despite the almost universal ratification of the United Nations Convention on the Rights of the Child (CRC), there is inadequate response to the plight of children affected and made vulnerable by HIV/AIDS (Mushunje, 2006). Within the capabilities approach, gender inequality reflects capability deprivation (Unterhalter, 2003; 2005a) and hence human rights infringement (Saito, 2003). Gender equality implies equality of opportunities and freedom to attend school, learn, participate, and attain education (Colclough, 2004; Unterhalter 2005b; Aikman & Unterhalter, 2005). In order to achieve equality, it is necessary to secure children's rights to, in and through education (Wilson, 2003).

Tomasveski (2001; 2003; 2006) developed a 4-A framework of government obligations aimed at ensuring the realisation of education rights to include Availability, Accessibility, Acceptability and Adaptability. *Availability* requires governments to establish schools and to ensure that free primary education is available to all children of school-going age. *Accessibility* implies government obligation to secure access to education for all children entitled to compulsory education. *Acceptability* involves guaranteeing the quality of education through maintaining minimum standards in terms of protecting children's health and well being, and preventing them from being abused. *Adaptability* requires schools to adapt their procedures to the best interests of the child stipulated in the Convention on the Rights of the Child. Availability and accessibility cover rights to education; acceptability concerns rights in education whereas adaptability covers rights in and through education. Tomasveski's 4-A scheme provides a framework upon which the enhancement of pupils' freedoms can be based. Such freedoms include access to school, regular attendance, completion of the primary cycle, enjoyment of minimum health and safety standards at school, enjoyment of a school environment devoid of corporal punishment and sexual harassment, and enjoyment of schools adapted to pupils' needs and livelihoods.

Although rights secure social justice in the public sphere, governments can only achieve certain minimum standards to the maximum of available resources. The right to education is therefore a right of 'progressive realisation' but the prohibition on discrimination is not (Cohen & Epstein, 2005). A focus on capabilities helps address inequalities in the private arena including the prohibition on discrimination. According to the Committee on the Rights of the Child, *de facto* (indirect or unintended) discrimination – which results from underlying factors rather than law – violates rights standards (Cohen & Epstein, 2005). HIV/AIDS is a factor contributing to the breach of the principle of equal opportunity among children affected by HIV/AIDS, particularly girls (CRC, 2003). Furthermore, girls in various parts of the world suffer inequalities within their households in terms of access to resources, opportunities and educational achievement or deprivation (Nussbaum, 2003). In this article, rights and capabilities are used to analyse the impact of HIV/AIDS on inequalities in pupils' access to school requirements, and various issues pertaining to school attendance, teacher-pupil relations, and the school environment. Bennell (2005) identified three groups of children whose education is most affected by HIV/AIDS. These are the HIV-positive, those in households with sick family members and children whose parents or guardians have died of AIDS. Recent studies about children's rights

in schools have mainly been carried out at the secondary level (e.g. Mirembe, 1998; Shumba, 2001). Mirembe and Davies' (2001) study reveals harassment in a school culture characterised by male domination and how this counteracts AIDS education programs. Dunne, Humphreys, & Leach. (2003) highlight the effect of gendered power relations in schools on child abuse and *de facto* discrimination. In this article, I use the capabilities approach and the 4-A rights scheme to explore how HIV/AIDS reinforces unequal power relations as well as capability deprivation. I analyse the effect of HIV/AIDS on pupils' personal and social characteristics, which in turn determine the achievement of capabilities and enjoyment of rights entitlements.

Availability and Capabilities to Enjoy the Right to Education

Availability here refers to government obligations to secure children's rights to education by making it free of charge and an individual entitlement (Tomasevski, 2001; 2003; 2006; UNESCO, 1999), through the elimination of financial obstacles to increase affordability, inclusion and/or universal access. The issue of affordability is particularly crucial for securing availability of education. For example, in this study pupils' affordability of learning materials, as well as access to lunch and clothing was still an obstacle to their schooling because their households were poor. In addition, the direct loss of family income to AIDS-related illnesses exacerbated the inadequate access to school and learning materials. Monica was a grade 6 orphan at Tulo primary school. She lived with her aunt whose husband died of AIDS. She explained that she always faced problems whenever she was in need of a new pen or exercise book⁴. Evas – a grade 7 orphan at Tumo primary school - also described how she often felt tired and hungry during afternoon lessons because there was no arrangement for her to have lunch⁵. Although all children in poor communities may experience similar challenges, HIV/AIDS obviously aggravates the magnitude of such challenges. Many of the children affected and made vulnerable by HIV/AIDS did not participate actively in school and classroom activities because of the impact of their personal circumstances on access to necessary schooling requirements. Their capabilities to learn and benefit from available education were minimal although they had rights to access the schools. This suggests that pupils' AIDS affliction reduced their capabilities to do things they valued such as attending school daily, accessing

learning materials and lunch. The situation was worse for girls, who also suffered inequalities in their households as I show later. Despite government attempts to make basic education affordable by paying tuition fees and providing infrastructure and instructional materials (e.g. textbooks, teachers' reference books, blackboards, charts) (Bitamazire 2005), this research revealed a need to improve individual pupils' affordability and capability to enjoy basic human and educational rights and gender equality. Availability of basic education should therefore be expanded to include provision of learning materials and lunch in addition to instructional materials and payment of tuition fees. Otherwise, it is less likely that children – particularly girls – will attend school and participate meaningfully.

Accessibility and Capabilities to Attend and Remain in School

Accessibility to primary education reflects government's obligation to secure access to education for all children in the compulsory education age-range (Tomasevski, 2001; 2003; 2006). Pupils in UPE research schools were required to pay some money for building contribution, lunch, and examinations. Some pupils were at times sent back home to remind parents of delayed payment. This resulted in school absenteeism for such pupils. Many pupils were often absent from school due to considerable demand for their labour in the household. In this study, villages and households depended on their own labour for food production, preparation, and other reproductive tasks. Primary school pupils – particularly girls – constituted a viable part of this labour. They worked in gardens, fetched water, took care of patients, house sat, baby sat, and undertook other tasks on behalf of adults. If there was a sick person at home, girls were required to help because mothers/adults had to continue with agricultural tasks. In the era of HIV/AIDS, household roles have multiplied and the biggest burden fell on females. Some pupils participated in many tasks during school time even when there was no emergency. The following excerpts are examples of pupils' typical explanations of the various circumstances under which they missed school.

“For example in a rainy season like this, people at home tell you; ‘*Cook the beans. What shall we eat?*’ They even tell you to go and plant sweet potatoes ‘*Will you eat school? Is it the school that gives you what to eat here?*’ They can assign to you a piece of land on which you must plant the sweet potatoes. Sometimes we

⁴ Conversation at Tulo primary school, September 2004

⁵ Conversation at Tumo primary school, March 2005

are told to stay home to pick coffee from the gardens”⁶

“Last term, when my stepmother delivered a baby and was in the hospital, I was called from school to go and help her. I washed for her and took care of her until she got back on to her feet so I came back to school; like after three weeks.”⁷

“Usually I wake up and plan my time knowing it takes about 50 minutes to reach school. Then sometimes just before I set off, someone calls me and sends me to the well or to the shops. Remember the shops are not near. One can be asked to collect food from the garden. If for some reason such a child is delayed, they can decide to stay at home that day.”⁸

The fact that children missed school even when there was no crisis shows that in situations of emergency, missing school was inevitable. The point is that HIV/AIDS increases emergency episodes and irregular attendance particularly for girls.

HIV/AIDS had disrupted the living arrangements of children who relocated to relatives’ homes after the death of their parents. The poverty situation of many such relatives was aggravated and children suffered the consequences. Like many pupils, Mary had only one dress for school. She washed it once in two weeks or when her grandmother had money for soap, which was rare. Whenever the dress was very dirty, she could not go to school because she felt embarrassed⁹. Hence, although many pupils were poor, HIV/AIDS seemed to exacerbate the already difficult situation. Girls undertook more household tasks and had fewer opportunities to earn income than boys had. They missed school often and even when they attended, their achievement and concentration were affected by lack of lunch and learning materials. Availability of UPE schools does not necessarily imply that children’s rights are secured because external factors inhibit accessibility. Implementation of compulsory education would require changing the circumstances under which pupils live. Currently, there is no system to provide home care for patients. There is no alternative to household labour-intensive technology for food production and the household remains the sole source of income. Under these circumstances, the major problem for pupils was not to enrol in school but to attend school regularly. Many girls attended school only when there were no demands for them to stay at home. This implies that some children who were officially

considered to be accessing school were mere part-time pupils. Some pupils reported that they were often sent out of class or punished if they had no exercise books and this discouraged them from attending school.

Apart from irregular attendance, dropping out hampers accessibility. It emerged that the major reason for dropping out of school among girls was pregnancy, while boys dropped out mainly because of the temptation to work and earn money.

“Girls, drop out of school more than boys. Girls are very vulnerable especially in upper classes. Some of them get pregnancies and when they go for holidays, they don’t come back. When one tries to inquire, other children in the village will tell you ‘*so and so got problems*’. The word ‘problems’ in that context means ‘pregnancy’. You don’t have to hear the rest of the details”¹⁰

Pregnant girls were expelled from school or they voluntarily withdrew. In the villages studied, teenage pregnancy was considered shameful for both the girl and her family. AIDS-related lack of essential necessities ranked high among girls’ temptation to engage in sexual relations. This implies that girls’ educational rights were violated because their capabilities to have lunch at school, learning materials, shoes, and clothes were deprived. In order to enhance the capabilities of such girls’ to remain in school, there is need for interventions to negate their personal temptations to engage in sexual relations. International human rights provisions do not cater for teenage pregnancy in primary schools perhaps because of the assumption that all children complete the primary cycle by the age of twelve. School observations however revealed that there were many children above twelve years of age in classes six and seven.

The findings of this research show that the capabilities of many girls to attend school are consistently and persistently deprived. This is partly because in addition to unequal power relations, HIV/AIDS has affected their social and personal characteristics and afflicted their livelihoods. The Female Stipend Program (FSP) in Bangladesh which is a conditional grant of 1 US \$ a month given to girls that maintain a 75% attendance rate has worked miracles there (Raynor, 2005). Indeed that is why Aikman & Unterhalter (2005) emphasised the importance of looking beyond school enrolment as far as gender equality is concerned.

⁶ Girls’ discussion at Tulo primary school, November 2004.

⁷ Conversation at Tulo primary school, November, 2004.

⁸ Conversation at Tumo primary school, September, 2004.

⁹ Conversation at Tumo primary school, March 2005.

¹⁰ Head Teacher Tulo primary school, November 2004.

Acceptability: Capabilities to Enjoy Quality Education, Minimum Health, Safety, and Protection

Acceptability requires the government to ascertain what is – and is not acceptable to people. It is a requirement for the quality of education, minimum standards of health and safety, and professional requirements for teachers among others (Tomasevski, 2001; 2003; 2006). In this article, I highlight issues of quality and child protection in terms of health and wellbeing and child abuse.

Research revealed that the quality of the schools under study violated children's rights in education in several respects. At Tulo primary school, most classes were crowded with pupils and furniture placed close together. Three to five pupils who shared a desk also shared a textbook. Some pupils sat closer to the book than others and this affected their capabilities and freedom to read and learn comfortably, and their rights to equal opportunities. At Tumo primary school, the textbook was usually reserved for the teacher. For example, when I reported at the school, I was provided with the Uganda primary education syllabus with an outline of major topics. I had to organise and purchase the detailed English textbook and teachers' guide. During Mathematics lessons, the teacher wrote everything on the board. Later, it appeared that the school actually had textbooks but lacked space for their storage. Consequently, school textbooks were kept at the head teachers' home, which was about 3km away from the school. However, the policy of 'putting books in the hands of children' currently in the process of being implemented by the Ministry of Education will hopefully resolve this problem in the near future.

In addition, conversations with teachers revealed that they were demotivated. Apart from the low salaries currently at about US \$ 80 per month, most teachers at the schools studied were neither housed nor provided for with lunch. At Tumo primary school, there was no staffroom for teachers. They sat under a tree to enjoy the break or mark pupils' work. Teachers also had no toilet facilities and made use of church facilities located next to the school at which they taught. Teachers at Tulo primary school were better motivated because they were provided with lunch but were unhappy with their salaries and heavy workload. At Tuso primary school, teachers were quite happy because their conditions were much better than those of UPE teachers. In addition to lunch, they also enjoyed break tea and better salaries. The findings suggest that although classrooms, teachers, and textbooks countrywide had increased, their demand in UPE schools in the villages studied was still higher than the supply. Additionally, the

persistence of issues related to crowded classrooms, inadequacy of teachers and their low motivation shows that pupils' capabilities to enjoy acceptable education are not yet fully satisfied. This does not necessarily imply that Government of Uganda has not made significant efforts to make education available by maximising existing resources. The indirect effect of HIV/AIDS on government capacity to improve existing schools should not be ignored as explained by one Ministry of Education official.

“The Government is spending a lot of money on funerals, tax payers' money is used to buy coffins and make funeral arrangements e.g. for teachers and other officers at both local and central levels. When officers are sick, they are sometimes given allowances for medical care (especially top-level officers) and often visited by colleagues using government vehicles and fuel. The government sometimes incurs expensive hospital bills. Though this is not always done for everybody, it has a potential to indirectly affect government programmes including improving school quality and increasing sensitization programmes for girl child education”¹¹

Apart from school quality, children's rights to health protection and well being were still unsecured. At Tumo primary school, children cleaned the toilets once a week without any safety gear. There was no water at the school and pupils had to fetch it from the nearby borehole (about 1/2km away). Although there were separate toilets for boys and girls, they were extremely filthy. Furthermore, there were no meals for pupils and teachers. Most pupils used lunchtime only to play. At Tulo and Tuso primary schools, pupils had access to water and a modest midday meal of a cup of maize porridge. However, both Tulo and Tuso had more crowded classrooms than Tumo primary school.

Furthermore, corporal punishment was widely used as a disciplinary measure both in schools. The schools under study had strict enforcement of rules and resorted to physical punishment for disobeying them despite the fact that corporal punishment is unlawful as a disciplinary measure. Moreover, pupils were sometimes punished not only for misconduct, but also for lacking learning materials. The following typical complaints were made by pupils regarding corporal punishment:

“Madam when you go to class without an exercise book, the teacher looks at you as if you are the enemy. If you tell them that the book got finished, they hit you and send you out of class. If the book is stolen, they say ‘you are the very

¹¹ Interview with a representative of the Ministry of Education and Sports, Kampala, September 2004.

people who steal others' books'. Even if you suspect somebody to be the thief, you can't just check their bag without the teachers' help and teachers always seem uninterested to find the true culprit."¹²

"The commonest punishment is beating but some times we are forced to slash the grass in the compound. Others dig many deep pits in which to plant bananas or flowers. You can be told to dig a pit that is about five feet deep which a girl can't easily do."¹³

Lack of exercise books was most common among children affected and made vulnerable by HIV/AIDS. Boys in the study schools were allowed to work for money, which they spent on their educational needs whereas girls were confined in the household to undertake domestic chores. This implies that more girls than boys suffered corporal punishment related to lack of learning materials. Some pupils in grandparent-headed households, in addition to lack of materials were punished for what they described as 'being dirty'.

"And madam, another thing I don't like at school is this. When you come to school with *envunza* [jigger fleas], you are beaten. You may be coming from a home of grandparents who cannot give you enough care. When jiggers eat up your toes, teachers simply beat you for being dirty instead of may be sympathizing. You can't tell teachers the problems at home"¹⁴

The plight of such pupils is attributable to AIDS mortality, which disrupts their living arrangements, and changes their social and personal characteristics.

Apart from corporal punishment, research revealed that sexual harassment was still happening in schools. In the following excerpt, the issue came up spontaneously in a discussion¹⁵ about girls' poor participation in class.

Question: Why do you think many girls don't want to talk in class?

Response: It's because they don't know the answers to the questions asked by the teacher.

Response: It's not because they don't know, there is a way these girls relate with teachers.

Question: What do you mean?

Response: It's something that we should not feel shy to talk about because even last year it happened.

Question: What happened?

Response: A girl got pregnant; and [hesitation] it [the pregnancy] was for a teacher. And this teacher stopped teaching here. It seems he heard that the girl had reported him to the parents so he left.

Question: Are you sure?

Response: Yes, it's true. It's hard for a person to talk about something they are not sure about. And some girls don't keep secrets. If a friend tells her something, she passes it on to others exactly as she heard it. So all of us know what happened.

Response: And at times we see letters written to these girls; letters from the male teachers. Girls also write letters to male teachers. And madam if you see the Luganda [local language] these girls use when writing the letters you wonder. They don't even use correct Luganda! [laughter].

Girls at Tulo primary school also brought up the issue of sexual harassment in a similar manner during one of the discussions¹⁶ as shown in the following excerpt.

Question: What are the other problems that affect your schooling?

Response: The boys.

Question: What do the boys do?

Response: They ask us for sex [laughter].

Response: Even sometimes, we hear stories about pupils being raped.

Question: Really, does that happen here at school or when you are in the village?

Response: Yes, such things happen here at 'Tulo'. Some teachers even tell girls to collect their books but when a girl goes, the teacher instead does other things ... he rapes her. Even a teacher was once fired for that.

Response: Yes, he raped a girl. The girl is even here in the school. She is now in primary five [class 5].

Question: So you mean that problem really exists here?

Response: Yes, and it worries us so much.

Question: Are you sure? Is it possible that male teachers can rape pupils?

Response: It's not possible, but you know, they can disturb you and even beat you for no good reason.

¹² Conversation at Tumo primary school, October 2004.

¹³ Girls' discussion at Tulo primary school, March 2004.

¹⁴ Girls' discussion at Tulo primary school, March 2004.

¹⁵ Boys' discussion at Tumo primary school, September 2004.

¹⁶ Girls' discussion at Tulo primary school, February 2005.

Response: But madam, a teacher can tell you to take something to his house, when you enter his house he follows you and pushes you to his bed, and he can overpower you.

Response: And the male teachers always say they can never rape girls but surprisingly after they have said so, may be after a week, you hear different stories.

Response: But madam sometimes girls also take them selves [they consent]. One pupil was caught near the house of a male teacher. She agreed to meet with the teacher. It was at night when she was coming from a music show - may be around 01.00hr. Her mother came looking for her. They checked in the teacher's house and she wasn't there. They searched in the nearby banana plantation using a torch and saw the girl hiding.

During conversations, a few teachers, reported that some former colleagues could have misbehaved – for example using sexually insulting words and unwanted touching. However, all teachers with whom the issue was discussed said sexual harassment was non-existent. Mirembe and Davies (2001) found out that there was harassment between teachers and pupils and between pupils themselves. This research shows that harassment between pupils was more verbal than physical and it was less gendered and hidden compared with that between pupils and teachers. It was normal for both girls and boys to hurl sexually insulting words at each other and get away with it. However, conversations with pupils show that harassment by teachers was usually inflicted by the male teachers on the female pupils and efforts were made to keep it secret for fear of being prosecuted. Such harassment was reported to be more physical than verbal and sometimes even consensual. The effects of sexual violence on pupils' capabilities to participate and benefit from education have been highlighted by past research (e.g. see Leach, Fiscian, Kadzamia, Lemani & Machakanja, 2003). Unlike Mirembe and Davies' (2001) study, harassment of female teachers by boys did not come up in this research. This research however shows that sexual violence in schools is not a direct effect of the HIV/AIDS impact.

Synthesis of the above findings reveals that pupils were persistently exposed to an unhealthy environment, corporal punishment and sexual harassment. Girls suffered a double tragedy. In addition to rights violations suffered by all pupils, they were exposed to sexual harassment and associated problems including unwanted pregnancy and vulnerability to HIV. Whereas pupils underwent corporal punishment, those who had been affected by HIV/AIDS were at

a greater risk of being punished for lacking materials or for being dirty. The findings show that government obligations to secure educational rights related to minimum quality health and safety standards and child protection are not yet fulfilled. Additionally, capabilities to enjoy acceptable education are further deprived by the impact of HIV/AIDS on the children's livelihoods.

Adaptability: Capabilities to Enjoy Education Adapted to Pupils' Needs

Adaptability requires schools to accommodate pupils according to the yardsticks of the best interests of every child as predetermined in the Convention on the Rights of the Child (Tomasevski, 2001; 2003; 2006). The need to adjust educational processes to the context of HIV/AIDS has been emphasised by Kelly (2000b). Observation data revealed that there were limited mechanisms for schools to adapt to children's needs. In the villages studied, most pupils dropped out of formal schooling after class seven or could not proceed to secondary schools. It is, therefore, important for them to be equipped with skills to participate meaningfully in their livelihoods. Although entrepreneurship education was recognised as a valuable subject, it was not allocated adequate time as an important subjects to be taught in the study's schools. Instead, in the schools that were studied, many pupils were involved in tasks such as digging and cleaning the school gardens and they were not particularly happy about that.

“Some of us leave home after digging and arrive at school very tired. While at school, teachers sometimes make us dig in the afternoon. At least if they could make us dig, say in the mornings or evenings but not in the afternoons. In afternoons, the sun burns us so much”¹⁷

Although the curriculum provides for the teaching of practical skills, it appeared that the purpose of involving pupils in digging was not to equip them with such skills. Rather, pupils helped minimise the schools labour costs for mowing lawns and keeping the school premises clean.

Furthermore, pupils in the study schools were subjected to national Primary Leaving Examinations (PLE) without necessarily being prepared for them according to their school needs and circumstances. At Tumo primary school, there was no examination centre where pupils could take the P.L.E. Pupils were registered at another school (about 6 kms away) where they spent three days taking the examinations. They were required to pay some money for subsistence, which was subsidized by the school. Such pu-

¹⁷ Conversation at Tulo primary school, March 2005.

pils had to compete for places in secondary schools with others who had better facilities. The opportunities of girls in the study schools were further attenuated by the gendered power imbalances within the household and the impact of HIV/AIDS. Adjustments in the timetables of the schools that were studied were consistently made to increase the extent of attendance for upper primary pupils. In addition, it was extremely difficult for girls in upper classes to attend regular lessons and instead of adapting the timetables to the needs of such pupils, extra lessons were created. Therefore issues specifically affecting girls, such as rules against tardiness, and irregular attendance remain unchanged and in the context of HIV/AIDS, inequalities become intensified. However, it should be noted that some efforts have been made by the government to adapt schools to learners' needs. For example, after the implementation of UPE, school uniforms were no longer compulsory. In addition, primary school curriculum reviews¹⁸ were undertaken to make basic education relevant to individuals' needs. This practice aimed at developing functional literacy, effective communication skills in local languages, appreciation of diversity in cultural practices, traditions and social organisations, as well as acceptance of a variety of social beliefs and values.

Discussion and Summary of the Findings

This article reveals that despite the implementation of Universal Primary Education, there are noticeable inequalities in pupils' capabilities to access school requirements such as exercise books, pens, pencils, clothing, and lunch. Access to school requirements can be perceived as an aspect of affordability. Despite the efforts of Ministry of Education and Sports (MoES) to improve universal affordability, the situation in AIDS-afflicted households demands special attention in order to enhance capability equality. HIV/AIDS has negatively affected educational accessibility for example by increasing the demand for domestic labour. This has worsened gender differences in school attendance, with girls lacking compared to boys. Gender differences in accessibility have been analysed as being based on the conflict between household roles and education in poor agrarian communities (Buetel & Axinn, 2002). In

the context of HIV/AIDS, such a conflict is aggravated since more household tasks are created and the poverty situation is worsened. Although Colclough, Pauline, & Tembon, (2000) argue that adverse cultural practices are more powerful deterrents to girls' schooling than poverty, the findings of this study show the consequences of overdependence on household labour, on capability equality. I therefore concur with Buetel & Axinn (2002) that transforming society in ways capable of reducing over-dependency on household labour could promote such equality.

Robeyns (2003) has noted that inequalities in resources can significantly induce inequalities in capabilities although various factors influence individuals' abilities to convert resources into functionings. This study shows that the impact of HIV/AIDS on individuals' capabilities and functionings continues to expand to schools. Variations in pupils' access to learning materials, school attendance, and tardiness have consequences in terms of violation of their rights to protection and hence the level of acceptability and adaptability when it comes to their interactions with the school setting. Girls missed school a lot, arrived at school later, and dropped out more often than boys did. Hence, the degree to which their schooling was accessible, acceptable, and adaptable was generally lower than that of boys. Girls in the study schools generally underwent corporal punishment related to tardiness, lacking materials, and missing school more than boys. The influence of HIV/AIDS on these aspects need not be ignored. It has ultimately amplified capability denial as well as inequalities in pupils' rights to, within and through education.

In addition, the existence of HIV/AIDS presents another challenge to government that probably cripples the capacity to fulfil obligations in terms of guaranteeing availability, accessibility, acceptability, and adaptability. HIV/AIDS' impact on household livelihoods and government capability to fulfil educational obligations, therefore, yields human rights violations and gender inequalities in UPE. The following table summarises the perceived indirect impact of HIV/AIDS on human rights and gender equality in UPE.

¹⁸ A curriculum review task force and subject panels were set up to steer the process. This resulted in two volumes of the new curriculum, the first volume of the primary school curriculum containing four core subjects (English Language, Integrated Science, Mathematics and Social Studies) and the second volume containing integrated production skills (IPS), Kiswahili and mother tongue, Music, Dance and Drama, Physical Education and Religious Education.

Table 1: Educational Rights, HIV/AIDS and Gender Equality

Children's educational rights	Situation in the study schools in rural Uganda	Effect of HIV/AIDS on persistence of gender inequalities
<p>AVAILABILITY (Right to free education) Education should be free of charge. It should be an individual entitlement.</p>	<p>Tuition fees were abolished when UPE was launched Instructional materials, teachers, textbooks, classrooms have been increased. Pupils must bring own learning materials (exercise books, pens) Lunch is not officially provided Pupils organise other needs e.g. clothing, soap.</p>	<p>Increased poverty and therefore poor capabilities to access required materials, Disruption of living arrangements worsened poverty situation and increased non-attendance.</p>
<p>ACCESSIBILITY (Right to compulsory education) Access to compulsory education Elimination of obstacles to irregular attendance Elimination of obstacles leading to school drop out</p>	<p>Tuition fees were abolished but education is not compulsory Pupils buy own learning materials No mid day meals</p>	<p>Increased household demand for children's labour and differences in school attendance Pregnancy is a major cause of drop out Adolescent pregnancy partly caused by AIDS related capability denial</p>
<p>ACCEPTABILITY (Rights in education) Quality of primary education Minimum health and safety standards Child protections -Corporal punishment -Sexual harassment</p>	<p>Inadequacy of classrooms and textbooks Low teacher motivation due to low salaries, lack of houses and school facilities such as toilets and staffroom Filthy toilets cleaned by children No water at one UPE school Corporal punishment used as a disciplinary measure</p>	<p>Some factors responsible for pupils' exposure to corporal punishment are due to HIV/AIDS e.g. lack of materials and tardiness HIV/AIDS related expenses divert government finances from education sector</p>
<p>ADAPTABILITY (Rights in and through education) Schools should adapt to pupils' needs</p>	<p>Entrepreneurial education not included in school time tables as expected Pupils are subjected to national examinations irrespective of differences in facilities. Rules against pregnancy persist School uniform no longer obligatory</p>	<p>Differences in school dropout due to pregnancy are partly attributable to HIV/AIDS</p>
<i>Source: Author</i>		

Concluding Remarks

The objective of this research was to understand the reasons behind the persistence of gender inequalities in Universal Primary Education (UPE) despite deliberate interventions to address them. Data reported in this article were collected from an in-depth ethnographic study in Luweero district in Uganda. Drawing on the capability approach to gender equality and the 4-A educational rights scheme, this article highlighted pupils' educational rights violations in UPE. The research shows that HIV/AIDS reinforces existing inequalities in pupils' capabilities to attend school, remain in school, access learning materials and other requirements such as lunch and clothing.

HIV/AIDS changes pupils' social and personal characteristics. Some pupils become orphans, their living arrangements are altered, and their poverty situation is worsened, implying that their capabilities to be and to do things they value are deprived. This suggests that as long as there is poverty and overdependence on household labour for subsistence, securing children's rights to compulsory education may remain problematic. Although all pupils were exposed to capability denial, and therefore, to a violation of rights, girls faced compounded denial and violation. For example, they suffered sexual harassment with its associated negative consequences. Apart from sexual harassment, a repertoire of rights

issues endures in schools. The role of HIV/AIDS in the perpetuation of children's rights infringement cannot be over-emphasised. The indirect impact of HIV/AIDS on gender equality in pupils' capabilities calls for specific interventions to enhance pupils' capabilities to enjoy educational rights. One way could be through developing a human rights perspective of educational gender inequality. Based on such a perspective government could develop a wider framework within which a list of the most central capabilities could be formulated as a benchmark for their enhancement. Nussbaum (Nussbaum & Jonathan, 1995; Nussbaum, 2000) noted that in pursuit of gender equality, there is need to have; as a

matter of importance, a list of basic entitlements—even if it is tentative or revisable.

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