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**Children's participation in child neglect proceedings in
Uganda: An analysis of Inclusion and Resistance in
KANUNGU District.**

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I rest this work in the hands of my beloved wife Winnie and daughters Sabella and Shiery whom I still lean on until the future is bright.

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LIST OF ACRONYMS

CDW	-	Community Development Worker
CRC	-	Convention on the Rights of the Child
DFID	-	Department for International Development
FCC	-	Family and Children Court
FIDA	-	International Federation of Women Layers
FY	-	Financial Year
HDR	-	Human Development Report
IIED	-	International Institute for Environment and Development
KDLG	-	Kanungu District Local Government
LC	-	Local council
MGLSD	-	Ministry of Gender, Labour and Social Development
NCC	-	National Council for Children
NGO	-	Non Governmental Organisation
PSWD	-	Probation and Social Welfare Department
PSWO	-	Probation and Social Welfare Officer
UBOS	-	Uganda Bureau of Statistics
UNDP	-	United Nations Development Programme
UNICEF	-	United Nations International Children Education Fund
UPPAP	-	Uganda Participatory Poverty Assessment Process
WHO	-	World Health Organization

ABSTRACT

This study examines the issue of child neglect from the perspective of children's rights to participation as stipulated by Uganda's Children statute 1996. The study situates child participation in the proceedings of the probation and welfare office in Kanungu District financial year 2001-2002. Drawing from published and unpublished literature – including individual case reports of child neglect handled by the welfare office – my personal reflection and experience as the head of probation and welfare office Kanungu district, the study shows a clear tension between the universal norms of children's rights as stipulated in the UN-CRC – integrated in the Ugandan Children Statute – and the diverse meanings of child participation derived from the social construction of childhood and gender, both of which are embedded in local power structures and norms. The paper delineates the key principles that underpin the concept of child participation as adopted in the probation and welfare office and traces the ways in which practices have adhered to, adjusted or resisted these principles. Decision makers at the local level do not always respect the principles stipulated in the Children's Statute – being overwhelmed by the diverse community needs and expectations. Children's participation remains the showpiece of many campaigns for children's rights. Neither childhood nor gender are natural, but products of society, cultural and history. If 'childhood' and 'gender' are taken as the artefacts of the creation of meanings by human societies, then intervention in child neglect cases must discern these meanings and situate them in families and in society. Understanding participation from the perspectives of children can help develop more critical reflections among adults concerned with child neglect, and can promote reflexive debates about formal standards in order to find ways to improve practices of child participation.

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CHAPTER ONE

INTRODUCTION

1.1 The research problem

In the current development discourse children are accorded a legitimate right to participate in the process of agenda setting and decision making that directly concern them as part of a new paradigm in the study of children (Perez 2003:4). Traditional notions of children see them as passive individuals, who are by nature subordinated to the adults' world (White 2003: 13-14). The move from these ideas proposes that children should be understood as a product of social relations: their identities are locally constructed rather than universally defined (White 2003:23). Children's identity are embedded than isolated from the world of peers (Holmes 1998:49-51) and adults around them, thus making the social worlds of children and adults interdependent (James et al 1998:206-218).

This new paradigm no longer subordinated matters concerning children to age. Age is a category that defines children in contrast to adults or in the process of becoming adults. Moving away from age, the new paradigm accords more significance to children's views, as complementary to those of their carers or as having the same status (Puch 2002: 323-324 in Perez: 4). Despite the long standing controversy about child participation in many organizations, in November 1989 the Convention on the Rights of the Child (CRC) was adopted by United nations General Assembly (UNICEF 1989:1). Article 12 of the CRC states that children have a right to express their views freely in all matters that affect them¹, in addition this paradigm shift in development has been recognized by CRC that states that, children are human beings and are the subject of their own rights.²

Following the CRC, Uganda ratified the UN convention on the rights of the child in 1990. It also ratified the African charter on the Rights and Welfare of Children in 1994. Children's rights in Uganda are entrenched in the Ugandan constitution article 24 (1995) and the children statute (1996) section 4 that guarantee right to child participation. The section states that the views of the child must be taken into consideration so long as they are not the result of threat or bribe. The

¹ See Article 12 of CRC, state parties shall ensure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting them.

² See CRC introduction remarks, Perez 2003:4 the convention on rights of children reflects a new vision of child.

enactment of the Children Statute as the essential legal framework for dealing with the concerns of children are stipulated in the “rights-based approach” to programming development and the notion that participation is a right (UNPAC, 1992 – 2000: V). Children’s right to participation-the right to express opinions and to have say in matters affecting their lives is one of the development discourses that needs critical attention for better growth and development of children.

Although Uganda’s decentralization has gone very far in its process to involve various categories of people in planning and implementation of local level development, the same can not be said about participation of children in governance (MGLSD report 2003:69). Qualities of good governance such as equal representation, transparency, responsibility and accountability do not hold firmly with respect to children (ibid: 69). The concept of children’s right to participation both in formal and informal structures are socially constructed, socially implemented and socially experienced (Bernard 2006:89). Therefore, this concept differs depending on the nature of social environment. Such an environment may be further aggravated by gender-segregated household core activities that affect children’s participation differently in issues affecting them. Household gender-segregated core activities can deepen and widen the gap between boys and girls.

Child participation is still one of the difficult themes to both articulate and argue in the context of development strategies (MGLSD report 2003:66). In the UPPAP-coordinated child poverty study (led by save the children UK), there is clear evidence that children’s participation in household and community decision-making processes in Uganda, both formal and informal is still limited for complex reasons (MGLSD report 2003:66).

At both formal and informal levels, the near universal assumption that children’s issues are ‘automatically taken care of by the responsible adults’ seems to underlie most belittling of or resistance to, children’s participation (MGLSD report 2003:66). Formal institutions like probation and welfare department sometimes are not aware of the role they are expected to play in regard to children’s participation. This lack of knowledge about roles is further worsened by general misconception among the mass population that promotion of children’s right to participation was synonymous with promotion of indiscipline among children (ibid: 66). In most cases formal institutions such as Local council do not support the idea of child participation

only referring to legal age for marriage, elections or qualify for paying graduated tax (MGLSD report 2003: 67).

The probation and welfare office falls under the local government and works hand in hand with the ministry of Justice and Constitutional Affairs, institutions at district level are the family and children court, prisons and police. The main function of this office is to protect, uphold and defend children's rights in the district by carrying out professional guidance and counselling, conflict resolution and arbitration among others. To perform -this function, the office adopts the following practices: (a) invites the parents /guardians that neglect a child or children for consultation; (b) carries out probation and welfare investigation on the nature of the child neglect case committed, paying attention to the level of economic status of the family, background of the child neglected, circumstances that led to child neglect ; (c) uses findings in supporting probation and welfare office handling child neglect cases ; (d) attends to the cases both in the family and the children court (e) ensures that the children's access to basic necessities are met and makes judgment about these according to the children statute.

However in the process of implementation, there is lack of child participation due to among others gender bias of practitioners involved in the proceedings and tension between children statute (1996) based on universalisation of norms and local understanding of "child participation". This is because "childhood" and "gender" are socially constructed and diverse. Both childhood and gender are not natural but a product of society, culture and history. By this I am arguing that the realities that we take for granted about children and gender, the things we discern about them and how they are situated in families, in society are not what they seem to be: patently obvious truth about what notions of "childhood" and "gender" are. Rather these notions are always the artefact of human-meaning making, yet they affect the lived experiences of children, be both boys and girls.

The concept of child participation is inconclusive. This is because there are different perceptions/ understanding of child participation. Thus there is no conformity of the term childhood in involving children.

Stakeholders handling cases of child abuse have a tendency to view children as dependants without an autonomous voice or even underrating their suggestions as

“being childish”, and to withhold vital information from them. Girls especially are often seen as less capable to speak for themselves, and are often not heard. This not only deprives development practitioners of sizeable proportion of the constituents ideas but also perpetuates under-participation by children themselves, with obvious consequences for the success of programs that are purportedly designed for them (NCC Report 2004:12-13).

The Children Statute—meant to give children the opportunity to bring justice when experiencing abuses perpetrated against them – is facing the singular problem of non-implementation to a significant lack of child participation in processes of administration of justice (Human Right Report 1998). For effective upholding, defending and protecting children right, the same law (children statute 1996) legalized the establishment of Probation and social welfare office (PSWO) in every district. This office is mandated by the same law to oversee children’s affairs in each district.

World Health Organization (WHO) defines Child abuse or maltreatment as act that constitutes all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child’s health, survival, development or dignity in the context of a relationship of responsibility, trust or power.”(WHO.1999: 29-31). It also identified four forms of child abuses as physical, emotional, neglect and sexual abuse (ibid: 20-30).

There are many different forms of abuse and a child may be subjected to more than one form but this research focuses on child neglect as a form of child abuse which refers to failure to provide basic needs to the child like shelter, food, clothing, medical care, education among others. It is further viewed under physical, education, emotional and medical neglect.

Action Aid International report (2004) shows that 65 percent of children who are neglected in Uganda are girls. Fewer boys are exposed to child neglect than girls. Action Aid’s country studies show that the causes of child neglect against girls are many and complex. They relate to deeply embedded structural inequalities and dominant ideologies that perpetuate beliefs and attitudes that discriminate against girls. The report further noted that ‘child neglect against girls has its roots in patriarchy and unequal power relations that still exist worldwide’ (Action Aid

International report 2004:4). Therefore the problem must be seen within this broader framework. It is a symptom and a result of the larger problem of gender inequality that has to be tackled in all spheres. For example in Kanungu, as in many other parts of the world, the 'patrifocal structure' legitimises "men over women– sons over daughters, fathers over mothers, husbands over wives and so on" (Ibid:4). In practice, this structure means that girls are mainly kept out of the public sphere, their behaviour and movements controlled, they must marry and procreate – whilst boys supported by family resources are free to be educated, work and move as they please in the outside world (Action Aid International report 2004:4). These gender hierarchies have an impact on girl's participation in child neglect case proceedings as they are not seen as independent actors capable to operate in the public sphere, they are either actively silenced or not considered as participants.

The process of attending child neglect cases encounters many mechanisms which selectively include and exclude children's interests, often suppressing their participation and voices, the participation of girls' and girls' voices being even more marginalized than boys. Girls' and boys' participation as a form of rights-based approach in all matters affecting children has not expanded as the major principle in Ugandan society, and their participatory values are not promoted in early childhood neither at home nor in school. This therefore necessitates the researcher to carry out the study in order to analyze discourses and practice of children's participation in child neglect case proceedings in probation and welfare office, from a gender perspective.

1.2 Objectives of the research

1. To find out how probation and welfare office understand the concept of child participation in the process of handling child neglect cases and to locate the gendered dimension of their understanding.
2. How is participation of girls and boys practiced by probation office in handling child neglect abuse cases?
3. To find out factors that hamper participation of boys and girls in child neglect case proceedings.

4. To identify different ways in which participation of both boys and girls can be enhanced in the process of handling child neglect abuse cases.

1.3 Research justification and relevance

1.3.1 Empirical relevance

Child participation is a paramount consideration set out in the Children's Statute part 1 section 4 sub section 1 (Ugandan children statute 1996: 7). However very little research has been conducted in this field. Lack of child participation in the process of handling child neglect cases has contributed to processes by which a child can experience a compoundment of different forms of abuse.

The Ministry of Gender, Labour and Social Development report Uganda (2003) on implementation of United Nations Convention on the rights of the child noted that families and communities continue to have authoritarian attitudes to children, seeing them as property of the family. Children therefore find it hard to discuss and assert their own rights (MGLSD report 2003: 14). This makes it difficult for the probation and welfare office to handle child neglect cases since children fear to express their views. Furthermore, my own experience in the office shows that gender bias in family, community and among the probation and welfare officers themselves, excludes girls from participation in case proceedings much more than boys.

1.3.2 Theoretical relevance

The relevance of this research to social development is that it highlights the specific difficulties why children do not participate in issues affecting them. Until these difficulties are addressed child right to participate in issues affecting them will remain a distant dream in this district. To fulfil children's human rights there is an urgent need to deconstruct the traditional cultures and beliefs, misinterpretation and misunderstanding of child participation that can create an atmosphere conducive to children's participation.

It is hoped that this study will provide new insights that can help actors in child rights issues to further understand the relevance of child participation. Such an understanding will foster more tolerant attitudes to children's participation. Considering the lack of studies that approach child participation from a gender

perspective, I also hope to contribute to the understanding of childhood, participation and rights as gendered realities. The findings of the research will provide both feedback and modest recommendations for planning more effective interventions by the government in future for enhancing gender equitable participation of boys and girls.

1.3.3 Operational relevance

This research seeks to produce practical knowledge that is useful to the people involved in day- to- day children issues and as the wider purpose contributing to practical knowledge by improving the well-being of children, defending, protecting and upholding children's rights, in a gender sensitive way. The research also seeks to create new forms of understanding how to address problems associated with lack of child participation, and especially of exclusion of girls from participation. In addition, it will look at the factors that hinder boys' and girls' participation in handling child neglect cases and come up with suggestions how involvement of children can be increased.

1.4. Main questions

1. How is child participation understood within the rights-based approaches, and what are its gender dimensions?
2. How do the probation and welfare office and officers understand and practice the concept of child participation, and what are the factors that can hamper/enhance participation of boys and girls in processes of handling child neglect abuse cases?

1.5 Limitations of the study

Bearing in mind the limited time for collection of data, my research relied on a few selected court cases from the Kanungu district in which I worked for 5 years, and my own work experience. Thus this study neither claims that child participation is practiced the same way elsewhere in Uganda, nor does it claims relevance for Uganda as a whole, although some findings may be relevant to other areas of the country.

1.6 Data and methodology

1.6.1 Sources of data and research methods

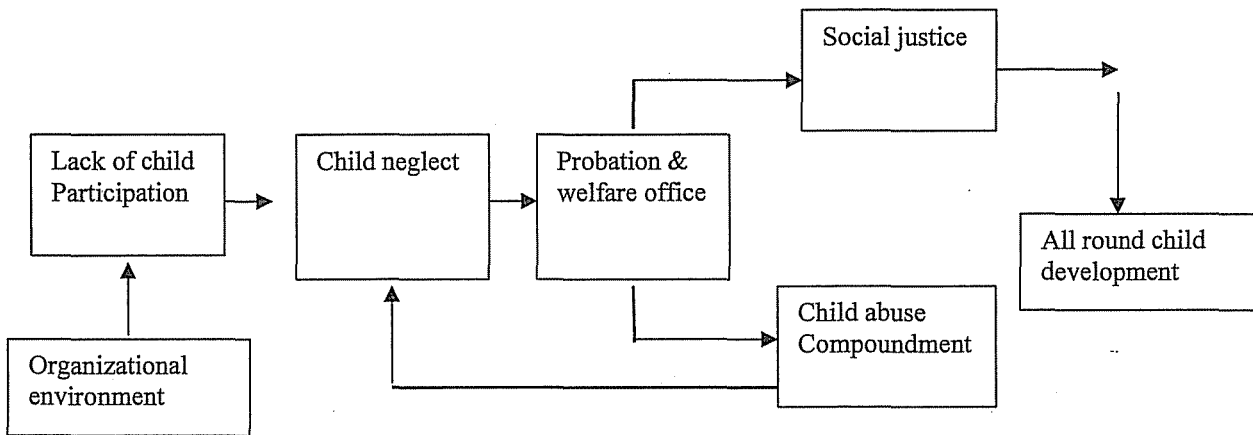
The study is based on both secondary and primary data. It attempted to engage in contemporary discussions about child participation within the rights-based approaches, in relation to how gender affects child participation in child neglect case proceedings based on my personal experience and as the head of administration of juvenile justice institutions in Kanungu district for over five years. In these five years, as a head of the department, I have followed court proceedings of several hundreds of cases of child neglect. In this study 50 child neglect case proceedings records of financial year 2001/2002 were examined and five of them selected for more detailed presentation. Specifically, these five cases concern drastic examples of intersections of gender and child participation. In addition, district and national statistics, reports, both published and unpublished literature provided much of the data base in my study.

1.6.2 Data analysis

This research discerns different positions adopted by scholars on child rights and child participation, and examines their gender assumptions. Based on these insights of debates the researcher analyses the situation in Kanungu district regarding child participation in child neglect proceedings.

Organizational environment of the Kanungu district PSWO (as illustrated in Figure 1) is analyzed following the issues raised in the literature, and at the same time, PSWO case proceedings – especially their gender biases – are used to criticize the existing literature and discussions.

Figure 1; Shows the relationship organizational environment, child participation, child neglect, probation and welfare office, social justice and child abuse compoundment.



Source: self development

The study considered four determinants to scan the organizational environment which include; organizational culture, pre-conceived attitudes, access to information and access to financial resources. These greatly influence participation of boys and girls in the case proceedings. The children that are neglected are mainly taken to probation and welfare office for social justice mostly by close relatives, local council officials and others. At this level the decision taken by probation and welfare office either leads to social justice that breeds all round child development or child abuse compoundment.

1.7 The structure of this paper

This study is divided into six chapters of which this introduction is the first chapter. Chapter two deals with conceptualizing children's rights and participation, explaining main concepts and chapter three explores the debates on child participation. Chapter four analyzes rhetoric versus reality in children's participation based on field findings. Chapter five explains transformation practices to children's participation: way forward. While chapter six gives the conclusions.

CHAPTER TWO

CONCEPTUALISING CHILDREN'S RIGHTS AND PARTICIPATION

2.1 Introduction

This chapter defines theoretical framework upon which my study is based. It is also through this, that this chapter of research adds up to the contemporary theoretical debates and approaches that enlighten the readership by discussing theoretical approaches and provide concepts that enable analyzing the findings. It focuses on concepts that are used in relation to child participation and explains how different variables are linked.

The approach to be used is Child Rights-Based approach which enables us to understand putting children at the centre as rights-holders and social actors.

2.2 Child participation and citizenship: Rights-based approach

The liberal western philosophers see individuals as entitled to lead their lives as they see fit, provided this does not impinge on the freedom of others (Ansell 2005:226). This approach sees children deemed capable of making rational autonomous decisions, and to be persons best placed to judge their own interest (Ibid:226). Child rights-based approach to participation, has been prominent in development circles in recent years, as bearers of the "rights" are seen as able to make claims with dignity and independence, unlike people with "need" who must beg for charity (Ansell 2005:226). However much as the CRC accepted that children's rights be respected, the idea that children might be considered to have rights has remained controversial. This controversy arises partly from contradictions in the application of western discourses of childhood autonomy and family (Ibid: 226).

Children's rights are becoming a focus of interest in our society (Ruck, 1994). The view that children are "agents" and "rights claimants" are fashionable is without doubt; everybody is now suddenly on the "child participation" and "child rights-based" bandwagon, often without the slightest change in practice (ibid).

However, Hill (1999) points out that it is rarer still for children to be consulted, yet are key stake holders in the services and care provided for them, and if quality services are to be offered to them this can not be done without finding out their priorities and concerns-what to them constitutes quality care (Hill 1999). The

concept of rights-based approach to development is premised on the idea that any decision and development strategies concerning children should pay attention to children's rights and participation.

The research is based on a rights-based approach to development. It recognizes children as people with their own rights and concerns. This position is the basis of the children's rights discourse; it views children, above all as citizens who have rights as citizens (Rogers 2004:134). This approach provides the foundations for the concept of citizenship, as children are seen not only as beneficiaries of interventions but as legitimate and rightful claimants of development (Cornwall, 2000). Citizenship is defined as the membership in a political community (Held, 1995 in Biekart, 1999) and the status that entitles individuals to universal rights (political and civil rights among them) granted by the state (Gaventa, 2002). It implies an agency of citizens as makers and shapers (Gaventa and Cornwall, 2001) since rights will only become real through democratization, as citizens are engaged in the decisions and processes that affect their life (DFID, 2000; UNDP HDR, 2000).

In the rights-based approach, participation is understood as a human, civil and political right (as an end in itself) that is also a prerequisite for making other rights claims, enabling people to act as agents (as a means). (Based on Wils, 2001; Ferguson, 1999; Gaventa, 2002; Lister, 1998; Slocum et al, 1995; Valk and Wekwete, 1990; Kaufman, 1997).

Several definitions of participation have been provided. For the purpose of my research, I define participation as a process by which people are involved in the decision making, initiatives and issues that affect their lives (based on Chambers, 2005; Slocum et al, 1995; Smillie 1995; Uphoff and Esman, 1984).

Participatory citizenship links participation in the political, community and social spheres (Gaventa, 2004). Citizen Participation will be understood as the process by which children exercise voice through new forms of inclusion, consultation and/or mobilization designed to inform and to influence institutions and policies (Gaventa, 2003).

The rights-based approach is also embedded in principles of participation empowerment and inclusion which can facilitate children to uphold, defend and protect their rights.

2.3 Social justice

Social justice is defined differently by different organizations and scholars. For the purpose of this study, social justice refers to the just ordering of things and persons within a society. It requires equality, giving people what they deserve, maximizing benefit to the worst off, protecting whatever comes about in the right way, or maximizing total welfare. However, social justice still remains a dream in some societies and specific individuals - most especially children experience high rates of discrimination, most especially on the basis of gender in the provision of social justice. For example the selected 2001/2002 PSWO cases in Kanungu district show that girls – unlike boys - were not given any time to express their views during child neglect case proceedings.

Gender discrimination leads to delay in provision of social justice to girls than boys and justice delayed is justice denied. Through participation, boys and girls learn to become effective in challenging the sources of their own exploitation hence leading to social justice to children and [...] develop their own agendas for transformation. Thus, if participation is empowering of children, both in the present and in the future (Moyo 2001 in Ansell, N 2005: 235), denial of participation of girls denies them the possibility to learn that they have rights, and to defend them.

Viewing children as actors rather than objects of development, is not an argument for seeing them as a resource rather than as citizens; it brings social justice to them (Johnson 1996 in Ansell, N 2005: 2360). Thus lack of child's participation leads to child abuse compoundment.

2.4 Gender and child participation

Gender is socially constructed. The term gender refers to how women and men are perceived and expected to think and act in particular political and cultural context³. The UN special rapporteur on violence against women defined the concept in this way; "gender refers to the socially constructed roles of men and women ascribed

³ Ana Angrita 2000

to them on the basis of their sex. Gender roles therefore depend on a particular social economic, political and cultural context and affected by other factors, including race, ethnicity, class, sex orientation and age [...]”⁴. These differences will be reflected in: roles, responsibilities, and access to resources, constraints, opportunities, needs, perceptions, views, decision making and others, held by both male and female. The attributes, opportunities and relationships are learned through socialization processes. UN (2000) shows that gender determines what is expected, allowed and valued in a woman or a man in a given context.

Feminists scholars emphasize that gender is a social construction which draws on certain aspects of biological sex. Blunt and Wills (2000) assert that gender is about power relations that influence not only how individuals relate to each other but also how all spheres of life are gendered in a particular way. Feminism as a discourse is concerned with analyzing and explaining as well as changing gendered power relations (ibid: 6). Both male and female have gender identities that are often thought of in terms of masculinity and femininity. Blunt and Wills (2000) assert that to be born male or female does not imply a masculine or feminine gender identity but it is rather the ideas about masculinity and femininity that are socially constructed. McDowell (1986) asserts that the term ‘gender’ is preferred to that of sex that is restricted to anatomical distinction between the sexes rather than social differences⁵.

Gender forms the central part of personal identity, therefore an important aspect of gender is the power relationship that subordinates females in a lower status than males. Schools, media, legislation and family are examples of factors that perpetuate this subordination through gender stereotypes. Differences in biological sex are often used to explain and justify inequalities (Save the Children 2006:17). Views and values about gender in any given society are internalized and these, in turn, shape perceptions, attitudes, behaviours, and decisions later in life (Save the Children 2006:17). Although other social and political factors such as status, class, ethnic identity, religion and disability, also affect children’s opportunities and life conditions, gender cuts across all these factors and must be included in any analysis or planning for children’s futures (ibid :17).

⁴ UN special Rapporteur on Violence Against Women, 2001:4 see also Tim Makkonen 2002:3, Hillary Charlesworth and Christine Chinkin 2000:3-4.

⁵ Ana Angarita, 2000 p.5

Childhood must be understood as being gendered. For example men and women might view childhood differently and there could be variations by class, religion and ethnicity as well (Oudenhoven, N. van et al 2006: 192). Furthermore, a girl-child and a boy-child are defined differently in different societies. According to social constructionists, childhood is not natural, universal stage of human development but a product of human society, culture and history,⁶ and these are all gendered. Ideas about what it means to be a boy or a girl vary from one culture to the next and over different periods in history (Oudenhoven, N. van et al 2006:129). Even within the same culture or society there can be many constructions of childhood. Kjørholt (2004) asserts however, that a social constructionist approach does not deny the existence of reality as is sometimes alleged but rather claims that reality is accessible through concepts and understandings that are socially and culturally constructed (Agaba 2007:18).

The dominant discourses are 'the socially constructed child' the social structural child, the minority child and the tribal child (James, Jenks and Prout 1998). These four discourses of childhood understand the child as 'being' or a social actor (Agaba 2007:18). These discourses are directly linked to my approach to childhood as gendered and social actors. The discourses propose that "a child is active in its own right and not simply imitatively but as an agent in its own construction and as naturally an agent as any adult in the sense of agency that concerns the initiation of action by choice" (Whartofsky, 1981:199). The fact that there is no universal definition of child, whatever the child does and how he or she grows is mainly determined by socialization. Through socialization processes children are brought up differently most especially at household level when children are mainly taught what to do based on notions and practices in the given society. For example notions of femininity, masculinity and gender hierarchies affect position of a girl and boy differently. Child at household level girls are mainly taught how to do reproductive work and boy's productive work. This affects their participation in the family, community and society differently. With the 'socially constructed' mode of discourse, there is no essential child but one that is built up through constitutive practices in either a strong or a weak sense (James, Jenks and Prout 1998, in Agaba

⁶ See Woodhead and Montgomery (2003) for a comprehensive review and defence of social constructionist approach in relation to other approaches.

2007:19).

Western countries and developmental sciences define a person less than 18 years of age as a child. This view is enshrined in the UNCRC, the world's most widely endorsed human rights instrument. However, available research shows that in developing countries, particularly in rural areas where traditional ways remain strong, a person is regarded as an adult once he or she has completed the culturally scripted initiation ceremony or rite of passage into manhood or womanhood (Boyden and Gibbs, 1997)⁷. Owing to this definitional gap, a 15-year-old girl seated in a man's home without any school qualification might be viewed as a child by international human rights observers, but the same individual might be viewed as a 'young adult' by people in a rural Uganda (Agaba 2007:5).

Agaba further argues many elders in predominantly rural societies in Uganda regard girls above 15 years of age as ready enough to join marriage when not in school. Local elders and traditional leaders often prefer to speak of young people such as the 15-year-old girl described above as 'young adults', with specific-gendered-roles in, and expectations from family and community. For girls, these are often marked by marriage, domestic duties and subordinate gender position (ibid). Thus it is of paramount importance that traditional leaders accept the international principle asserting that girls less than 18 years of age are school going children. This research follows the definition provided in Article 1 of the UNCRC and Article 257 (1) of the Ugandan Constitution: which states that a child is a person under the age of eighteen years.

2.5 Norms of child participation: CRC

As far as children are concerned, "children's participation" has been defined differently by different scholars. For example, the American psychologist Rogers Hart carried out an international study for UNICEF on children's participation. He defined participation as the fundamental right of citizenship [...] referring generally to the process of sharing decisions which affect ones life and the life of the community in which one lives (de Winter 1997 :25-26).Therefore child participation is the means by which democracy is built and it is the standard against which democracies should be measured (Hart, 1992:5).

⁷ Typically, such rites occur around 14 years of age. Also, many Ugandan societies define childhood and adulthood in terms of biological changes within the body such as developing breasts and menstruation.

For the purpose of this study, child participation mainly refers to the situation where any human being below the age of 18 years (according to Ugandan law) expresses opinions and their views in all matters affecting their lives (Children Statute 1996: 7).

However, child participation is gendered practice, defined by social norms and hierarchies that marginalize and exclude girls, even though in Article 12 of the CRC it is postulated that Girls and boys have the right to be involved in decisions affecting them (Save the Children 2006:18).

Article 12 places obligation on governments to ensure that girls' and boys' views are sought and considered in all matters that affect their lives. Children of any age should be allowed to express their views and in ways with which they are comfortable (Ibid: 18). Decision-making bodies, other institutions and families must listen to children and take their views into account in accordance with the child's age and maturity. This provision applies both to individual cases and to children collectively. Boys and girls should also be encouraged to participate in decision-making within the family as well as in all aspects of school life (Save the Children 2006:18).

Much as children's right to participation is universalized as per the CRC social citizenship an entailment to recognition, participation and respect is the vehicle for framing children's agency, it acknowledges that children's interests, needs and competencies are not identical but vary from child to child according to age, gender, culture context, family dynamic and circumstances. Thus children's interests, needs are contextual specific arising out of and tune with their lived experiences (Neale 2002: 470). However, this is not always evident in the literature which approaches child participation without much analysis of its gender specific aspects: so much of the discussions about 'child participation' actually makes girls' experiences of participation invisible.

Crucially, a move from needs discourses to rights treats children as social actors able to act on their own behalf and capable of and entitled to have a say in what is done to and for them (Rogers W. S. 2004: 134). Though childhood is constructed differently, this doesn't mean that in some way children are incomplete. Woodhead expresses this as well:

“Children are not incomplete human beings to be shaped into society’s moulds. Children have their own needs, aspirations, and rights which must be respected by the adults” (Woodhead 1996:12).

While this is a significant change of discourse, it remains silent on the fact that girls are often seen (by family, community and court officials) as more ‘incomplete’ than boys.

Advocates of the children’s right discourse points out that the paternalism of the children’s needs discourses allows adults to abuse the power it gives them (optic : 134). Garison Lansdown (2001: 89) makes the point explicitly:

“adults with responsibility for children across professional spectrum have been responsible for decisions, policies and actions that have been inappropriate for if not actively harmful to children while claiming to be acting to promote their welfare” (Rogers W. S. 2004 :134-135).

2.6 Concluding remarks

Child-participation is a gendered process and it is socially and culturally constructed. Therefore rights-based approach to child participation needs to be contextualized to specific groups for all round child development.

CHAPTER THREE

DEBATES ON CHILD PARTICIPATION

3.1 Introduction

This chapter explores current discussions between child participation libertarianism and child participation scepticism. Later give the critique of these debates.

3.2 Child participation libertarianism versus child participation scepticism

Discussions that construct children as social actors with rights to participate in society and have a say in matters contributing to their lives have been of interest to researchers in the last 20 years (McKechine et al, 2002). The concept of competent child is a paradigm shift, replacing earlier conceptualizations of children as vulnerable, dependent and in need of care (Kjørholt, 2004, in Agaba 2007:16). Most theories that were developed to understand children and childhood have a rhetoric that places emphasis on the role of structure in shaping children's destiny (ibid: 16). However some writers challenge this rhetoric and argue that most children are capable of struggling and transforming some of the situations that compound them to the better (Pollock et al., 1983). Children are active beings whose agency is important in creation of their own life. Prout and James (1990) say that children should be seen as active in the construction and determination of their own social lives, the lives of those around them and of the societies in which they live.

As Hart (1992) argued, the importance of participation of children "is the subject of strong divergent opinion". Opinion varies from "children should be protected from such adult responsibilities" to "children's participation is the very source of social change" (De Winter, M 1997:26). Thus the discussion below explains both why children should be set free, ample and abundant time to participate in all affairs that affect them, as well as argument that explain sceptical attitude in relation to acceptable ideas, facts and doubting children's participation.

3.2.1 *Child participation libertarianism*

Children libertarians argue that child participation means that children can express their views and relate their experiences and that these views and experiences

are given weight in decision-making (Van leer B 2006:86). The aim of children's participation is to make children visible in social life and policy-making and to promote education for good citizenship by giving children opportunities to express democracy (ibid: 86). Many scholars, child rights advocates have written challenging children's exclusion from participation.

Among others, Hart (1992) mentioned two arguments for children's participation: de Winter (1997) considered children's participation from the perspective of developmental psychology:

'it is unrealistic to expect them suddenly to become responsible, participating adults at the age of 16, 18 without prior exposure to the skills and responsibilities involved" (de Winter, M 1997:26).

Children's participation is the essential means to these. Children are citizens in making and therefore should be given an opportunity to develop that citizenship (ibid: 32). Therefore encouragement of children's participation can foster mutual respect, trust and good citizenship. If citizenship is a social ideal, children are citizens in the making and should be treated with respect in order to participate. De Winter (1997) argues that 'children should be given the opportunity to develop gradually into the committed, autonomous, sensitive and responsible members of the community. For that reason they need the social space to learn to formulate their specific needs, ideas and problems themselves, which means that they need an environment that provides the support as well as condition for good citizenship"(de Winter 1997:32).

Children's participation leads to good citizenship. This is due to two reasons as put forward by de Winter (1997) on one hand it contributes to the empowerment of children, by which they themselves learn to articulate their social needs; on the other hand it is the major instrument in training values and capacities required in the framework of modern citizenship (Ibid :33).

Secondly, he argued that children's participation appears to be able to play a significant part in community development. Active involvement of children in the improvement of their own living environment may be a catalyst that activates a local community as a whole (ibid: 26). Not only do children benefit personally from participatory approaches but so do their communities, which can be further strengthened. The experience of Redd Barna and the International Institute for

Environment and Development (IIED) in the Masaka District of Uganda is an instructive example. In Kyakatebe, adults could not identify the special concerns of children. Yet the children could identify issues that not only affected them, but also those that affected the adults and thus a more holistic approach to community problems was adopted (Twum-Danso 2001: 68-69). In the process of children's participation to community development it yields more power to them. Therefore participation by children is the way of enlarging the influence of the young on their own living situation and living environment, but it is also the way of shaping and strengthening their commitment to society (de winter 1997:43).

In addition, Frankline (1998) cited objection raised by child libertarians to counter argument against children's participation (Frankline (1998) in Owuor-oyugi 2002:8) as follows:

Firstly, it is believed that children should not make decisions because they are likely to make wrong decisions. It is obviously sometimes true that children will not always make right decision but neither do adults. All these characteristics are also true of adults, and adults are often poor interpreters of children's lives (Boyden 2003). Even advocates of the children's rights discourses point out that the paternalism of the children's needs discourses allows the adults to abuse the power it gives them. Within the needs discourse they contend concepts like children's welfare and the best interests of the child warrant actions towards children that in fact serve adults interest (Rogers 2004:134).

Related to the above, Gerison Lansdown (2001:89) makes the point explicitly:

“during the course of twentieth century adults with responsibility for children across the professional spectrum have been responsible for decisions, policies, and actions that have been inappropriate for, if not actively harmful to, children while claiming to be acting to promote their welfare [...] such policies included social policies of evacuating children in wars, putting children in institutions and isolating them in hospitals” (Roger 2004: 134-135).

Therefore denying children to participate that the adults will make rightful decisions will not always support children's interests but sometimes adults interests. Adults perception of denying children to participate knowing that they will do something wrong denies them chance of even doing the right thing. To deny children

the right to make mistakes would not only deprive them of a right, which the adults have exercised extensively, but equally important, it would be hypocritical (Owuor-oyugi 2002:8).

Secondly, children's mistakes during participation provide valuable experiences from which we learn and therefore should not be judged as whole negative. Therefore if we allow the children to participate in any activity like adults they will be in position to attain experience and will be able to learn from mistakes by acquiring wider knowledge. If children are always allowed to make decision that concerns their affairs there are high chances of widening their ability to make decisions that are improved.

The denial of participation rights to children assumes non-existent homogeneity that undermines the diversity of children's intellectual and emotional needs, skills and achievement (Owuor-oyugi 2002:10). Owuor-oyugi (2002) further argued that, the blanket consignment of all under-18s as 'non-adults' denies the difference in competencies by different children and hence deprives them of the enjoyment of distinctive rights entitlement when they are able to exercise them. This negative definition of children as 'non-adults' is simplistic, obscures the inherent diversity of childhood and by asserting uniformity of needs and rights of those under 18 undermines some children's claims to rights (Franklin,1998:163).

Even, discrimination at a rather early age appears to have a marked impact on children's later capacity to participate in affairs that affect them (ibid: 67). Such discrimination is mainly on the basis of sex, ethnicity, language, disability, class and others. A child who is troubled or who has low self-esteem is less likely to demonstrate his/ her competence, to think or work in a group. Sometimes children are chosen to embody the diversity of other children who are beneficiaries, in terms of class, age, sex, ethnicity and disability, but often the more disadvantaged children remain excluded (Ansell 2005:240).

More importantly, Children are often more competent than even assumed (Ansell 2005:235). Even small children are used to making decisions about friendships and negotiating the rules of games, and may have wider responsibilities (Lansdown 2001b). Ansell (2005) argues that expecting children to participate detracts from their right to a childhood free from adult concern. The western notion of

childhood neglects the fact that children are influenced by the same economic and social forces as adults (Matthews et al.1999 quoted in Ansell 2005:235). In most cases children struggle individually against situations like poverty but they are denied the means to effect real change. For this and other reasons, children often want to become involved (Save the Children 2002b, in Ansell 2005:235)

Ansell (2005) argued that, not only do children often have the interest and capacity to participate in decision-making, their involvement brings a wide range of benefits. That children's participation leads to more positive sense of self; increases the sense of competence ;great sensitivity to the perspectives and needs of others; greater tolerance and sense of fairness; increased understanding of democratic values and behaviours ; preparation for life long pattern of participation; new social networks; new skills and enjoyment (Chawla 2001 in Ansell 2005:236). As key stakeholders with direct and relevant experience in relation to matters affecting their lives, children can contribute to better decisions (Save the Children 2002b in Ansell 2005:235). Giving young people information to allow them to make their own choices also helps them to protect themselves (Lansdown 2002).

The conclusion based on the above arguments by child libertarians is that exclusion of children from decision-making on ground of irrationality and/or lack of experience is not based on reason but rather on ill-thought prejudices distinguished as common sense and consequently is not justifiable (Owuor-oyugi 2002:10). As Lansdown (1995) has rightly argued:

“Participation is a fundamental right to citizenship. The creation of a society which combines the commitment to respect the rights of individuals with an equal commitment to the exercise of social responsibility must promote the capacity of individuals from the earliest possible age to participate in decisions and issues that affect their lives”(Lansdown,1995:4).

3.2.2 *Child participation scepticism*

Children's right to participation in general and children's citizenship rights in particular in both social and legal sense are the subject of much more discussion. In many countries since the beginning of this century major actions have been put in place to facilitate children's participation in affairs that affect them. However there are also those who warn against the negative effects of bringing children's lives even

further into the legal sphere (de Winter 1997:31). Van Nijnatten (1993) points out the danger that, much emphasis on children's participation could cause other factors influencing their life-world to be neglected. More rights may after all lead to partial loss of protection, since children are then deemed to be capable of pursuing these rights (ibid:12). Veerman criticizes children's rights movements that wanting to grant children equal power and rights ignores them as yet restricted possibilities (de Winter 1997:31). He further said that "it is our opinion that unlimited rights to children withhold from them the most essential right to be a child" (de Langen 1991 a, b: 937 cited in de Winter 1997:31). Therefore from the above analysis, it appears that what is in children's interest is far from being an objective quantity which adults can establish universally for all children (opcit :31).

Also, many adults are always hesitant to involve children in affairs that affect them. Among other reasons, there is perception that, if children involvement is applied to all situations, it might result children given inappropriate information, inappropriate responsibility, and inappropriate involvement in intimidating and adversarial process (Marshall 1997:64). Even situations where children are involved in decision-making processes sometimes their views are not put into consideration. Like in child neglect cases where the child reports the parents for having refused to provide basic necessities the solicitor commented that:

"One can not take exception to the principle; it's translating into reality that is difficult. The reality lies in the fact that the child will remain part of that family. If that reality is not taken into account, it can make things worse for the child rather than better, and raises expectations that can not be fulfilled" (Marshall 1997:66).

This kind of situation makes adults sceptical to child's participation in such cases. To sum up, most adults believe that children should not be allowed to participate in the following scenarios: the meeting required to discuss information, knowledge of which might damage the child, private to others; the action of others at the meeting might distress the child; and the very nature of the process such that being present is likely to confuse, distress or damage the child (Marshall 1997: 68).

Similarly, while the child's freedom of expression and participation in community issues may often be central to child-rearing attitudes of the children's

parents or caretakers and some professionals (Hart 1992:8). Adults and most professionals believe that effective children's participation will lead to lack of respect for the parents. In Uganda modern parents are carefully watching the development of their children and perhaps not giving the excess freedom as provided in the constitution⁸. Most parents in Uganda think that the adults know what is best for the child and almost all parents hold themselves responsible for deciding what is good for a girl and boy child (Agaba 2007:17).

Displacing an image of a needy child with an image of the competent child must not result in the neglect of differences between younger and older human beings. We must not throw out the baby with the developmental bath water. The difference is that a children's right paradigm alters the status of children as social actors. Respect for their competence as rights bearing citizens does not diminish adult responsibilities [...] (Woodhead 2000: 124 in Agaba 2007:17).

Traditionally, children have been relegated to the world of the muted – along with groups such as women, the disabled and indigenous and minority peoples. They have been regarded as chattel, the property of their parents or guardians (Twum-Danso 2001: 64). Children's participation is important in Ugandan context where emphasis is mainly placed on duties. Children participate extensively in the daily work of communities, as, like adults they are seen as having a responsibility to contribute to the subsistence of their families and wider communities (ibid). Most families survive on labour provided by children. Thus there is a belief that children have duties and responsibilities to fulfil to the family, society and state. The focus on duties makes the need for participation more crucial as one cannot demand duties from a person (be they an 'adult' or a 'child') unless one is prepared to give him or her space to participate. Johnson puts it succinctly (and provocatively):

If children are old enough to collect fodder and fuel, look after siblings and work for waged labour, they are certainly old enough to consult about decisions which affect their development (cited in Twum-Danso 2001: 69).

The notion of children having duties is indeed persuasive despite its repeated rejection by the international community (NCC report 2004: 69). Rights

⁸ Article 34 of the constitution of Republic of Uganda

come hand in hand with duties. Therefore right of children's participation should be highly emphasized by adults as they respect their duties.

Adults in many Ugandan communities believe that children lack competence to make rightful decisions, therefore they have limited capacity to listen or to promote child participation (NCC report 2004:86). Where children feel that adults have already made up their mind about certain situations or issues, they give up on trying engaging them in dialogue and discussion (NCC report 2004:68). However, with decentralization in Uganda, children are sometimes involved in affairs that affect them. This is mainly done especially during ceremonial activities⁹. The assumption made here by the adults was that children's participation can be complete simply with attendance of public ceremonies and functions. Clearly, Twum-Danso (2001) argues that; child participation in itself is not enough. It is not sufficient merely to increase the number of children in a project or to enhance their visibility. The key is authentic and effective child participation. The latter kind of participation will take time and requires a shift in the minds of adults and organisations. As Van Beers puts it, once an organization has decided to support a participatory process with children, a broader process of organizational change will be needed. This is echoed by UNICEF, which clearly noted:

“[...] authentic and meaningful participation requires a radical shift in adult thinking and behaviour – from an exclusionary to an inclusionary approach to children and their capabilities – from a world defined solely by adults to one in which children contribute to building the kind of world they want to live in” (UNICEF, in Twum-Danso, 2001:68).

The fact that adults and organizations in Uganda have continued misinterpreting children's participation and their reluctance to change their thinking and behaviour towards child participation has contributed to children's negative participation (NCC report 2004:65). As De Waal and Temba (2002) argue that when young people are denied the prospect of effective participation, they often turn to criminality or militarism. A good example of this is Uganda, where marginalization was arguably one of the reasons that led many youth to take up arms during the decade-long conflict in northern-Uganda. Therefore, the continued exclusion and

⁹ Ceremonial activities like The Day of African Child, Women's Day, Independence Day.

marginalization of children and young people by social and political structures will have devastating consequences – not only for them but for the whole continent (Twum-Danso 2001: 68).

3.2.3 *Gender critique of the child liberationists*

While the liberationists put forward important arguments for child participation, lack of attention to gender in their arguments seems to argue that child participation is not gendered category. Children should have all the rights adults possess-to participate, vote, work, own property without any form of discrimination. Liberationists further assert that, children of whatever sex, religion, ethnicity, class, should have the right to participate in issues that affect them. Therefore discrimination against children is equivalent to discrimination against any other social group (Ansell 2004:227).The belief that girl children and young children are not capable of participating is an ideological construct used to perpetuate their dependence on adults. Therefore, in their arguments, children's participation practice is discriminatory element, but not a gendered category.

Liberationists seem to assume that all children have the same economic background, sex, age, class, religion, and ethnicity. But these differences between and among children affects boys and girls participation differently. Sometimes children are chosen to embody the diversity of other children who are beneficiaries, in terms of ,for instance age, sex, ethnicity and disability, but often the more disadvantaged children remain excluded (Ansell 2005:240). In many societies it is still assumed that boys will be decision-makers and girls will not be decision-makers (Hart 1992:40).

Further more, power relations between children as participants affects children's participation. On occasion, a dominant child may take over and manipulate both adults and children (John 1996, in Ansell 2004:241). Within most communities, there is still widespread resistance to gender equality both because of inadequate knowledge of the meaning of gender equality and traditional perceptions that put men in a privileged position in all decision making (Kasente D, 2003: 11). The children statute 1996 clearly condemns children's discrimination in participation and has increased children's participation in juvenile justice, but my court experience and evidence shows that the gap between the boys and girls remains.

Existing social relations of gender that structure women as providers of reproductive labour also affect the girls who are socialized as apprentices of their mothers so that they can play similar roles in future (ibid). This factor maintains the gap between girls' and boys' participation. Even where the children statute has led to increased access for both sexes in participation, it does not challenge the social construction of gender in society that tends to disadvantage girls by allocating them endless reproductive work, among other gender inequalities that specifically keep girls from effective participation in formal institutions (Kasente D, 2003:12). Practice of child participation in probation and welfare office Kanungu district also shows that gender is a discriminatory element.

3.3 Concluding remarks

Whereas child rights advocates agree that child participation is a critical requirement for effective child's growth and development, divergent ideas exist on how and to what extent children should be involved in matters affecting them. But none of these studies have come up with a theory of child participation that is applicable through time and space due to variability, unpredictability of human behaviour (Stoner et al 1998) and because of universalisation of the term childhood by legal instruments.

Conclusively, for effective child participation there is need to create more enabling environment and special programmes of participation for these isolated, silenced and forgotten categories of children. In designing programmes for girls we need to recognise the different ways girls are treated in different cultures and discover how to address the barriers of their effective participation in different institutions (Hart 1992:40).

The Ugandan government has a clear and well established legal instrument that emphasizes child participation. The laws define child participation as a right of children in all matters affecting them. But child rights advocates do not put it in practice. Therefore the law remains silent about institutional behaviours and organizational culture that implement the law without allowing children to participate.

Basing on the above analysis of debates of child participation libertarianism and scepticism, and my critique of the gender blindness of the proponents of child participation, I argue that children's participation - much as it is defined as a right to all children - it is often gender blind. Furthermore, the discussion

that follows will show that even when child participation is accepted as a principle, it is not always practiced as per the law. Finally, the level at which children participate differs among girls and boys. Therefore it is very difficult to put boys' and girls' participation as a right into an equitable practice. I will substantiate these arguments using Hart's ladder of participation, with special attention to the position of boys and girls on the ladders.

CHAPTER FOUR

RHETORIC VERSUS REALITY IN CHILD NEGLECT PROCEEDINGS: FIELD FINDINGS

4.1 Introduction

Drawing from child neglect case records in probation and welfare department Kanungu district Uganda this chapter illustrates how probation and welfare office understand and practice the concept of child participation in processes of handling child neglect cases. The gendered dimensions of their understanding are highlighted showing the strong role of local norms and beliefs. Efforts of 'un-muting' children must find ways to challenge or negotiate gender norms that affect children at the level of every day life. It also allocates boys and girls participation in the ladder of child participation as put forward by Hart 1992.

4.2 levels of children's participation; insight for child neglect proceedings

Roger Hart (1992) drew the ladder of participation to differentiate between ways of involving children. This ladder consists of eight levels, from the lowest to the highest, while distinguishing between different forms of participation portrayed as levels or degrees of participation.

The lowest three levels are non-participation. The first of them is *manipulation*. Children and young people follow instructions given by adults without really understanding the issue involved. Children may be asked what they think and adults use their ideas. The next non-participation level is *decoration*. Here children and young adults take part in an event, perhaps by singing or reciting a poem, thus by doing things that are not really of significance for the event. *Tokenism* is a form of non-participation in which children or young people are requested to give their views, but have little influence over the scope of questions or the style of communication. Children and young people participate, and provide a meaningful, if limited role in an event, when *assigned and informed*. In such cases they understand who has made the decision about their involvement and why. They may be *consulted and informed* about the issues, and their views may be taken seriously, although the project is designed and run by the adults. Another, higher levels of participation are when projects are *adult initiated*, but decisions are shared with children and young people, or when the projects are *child/young person initiated*, that is, children and young

people give, the original idea for, and are involved in implementation of the idea. The highest level of participation is *equal partnership*, where children and young people come up with ideas for a project; they set it up and then involve adults as equal partners in taking decisions and implementing them (Hart, 1992).

4.3 Study location

The study was conducted in probation office Kanungu district a former sub-district of Rukungiri District .Kanungu achieved district status in July 2001(KDLG, 2006). As per Uganda population and housing census of 2002, Kanungu is populated with 204,732 (98627 males and 106,105 females) with 43,466 households. Children population constituted 115,826, 56.6 percent of the total population (UBOS Kanungu District Report 2005:7). Kanungu District is located in south western Uganda bordering the Districts of Rukungiri in the north and east, Kabale in southeast, Kisoro in the south and the Democratic Republic of Congo in the west.

MAP OF KANUNGU SHOWING IT'S LOCATION

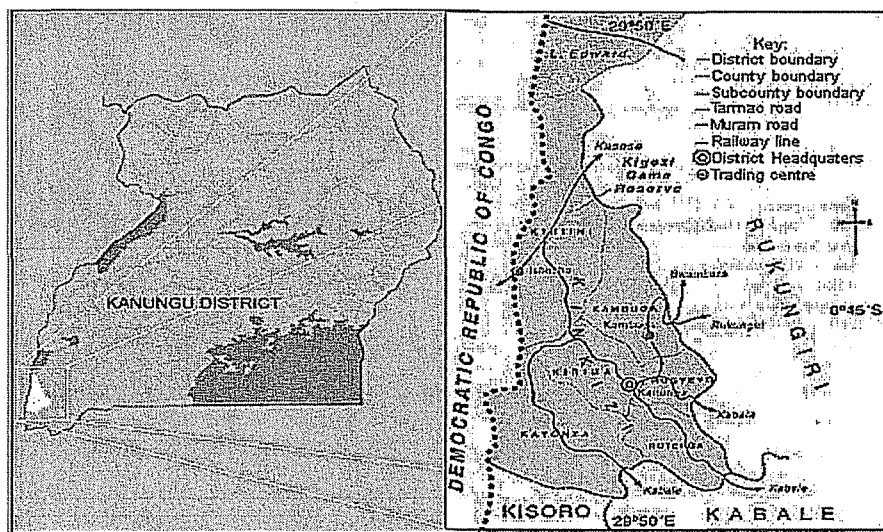


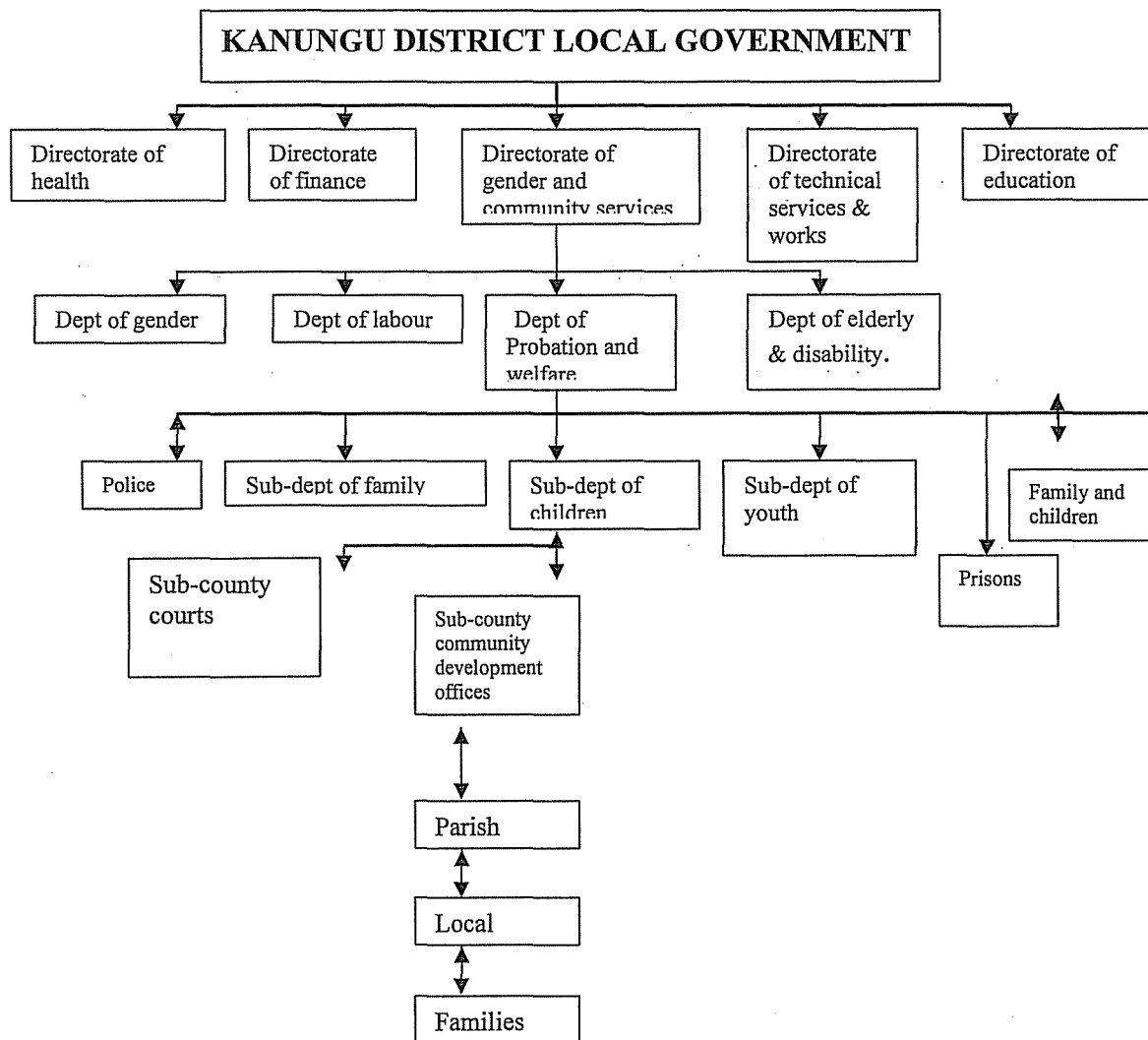
Figure 1: map of Kanungu showing its location

4.3.1 Organisational structure

Kanungu District has one head office that is office of chief administrative officer. Below this office there are five directorates as shown below, therefore, Probation and social welfare department fall under the directorate of Gender and Community Based Services together with department of labour, elderly and gender. At this level the probation and welfare department liaises with other sister

departments in juvenile justice like, Family and Children Court (FCC), Police and Prisons. Below this level the organisation has sub-departments at every sub- county, parish and at village level as illustrated below.

Figure 3: Organizational structure of probation and welfare office



4.3.2 Organisational culture

From the above illustration of the organizational structure, the main procedure in handling child neglect abuse cases in the district depends on the type of case. For example, medical neglect cases require immediate attention, and thus such cases are directly reported to the PSWO by any concerned citizen without following the described channels above. Apart from such exceptional cases, proceedings regarding child neglect cases must follow the organizational chart that is from local court,

parish court, sub county court/community development office who finally forwards the case to district probation office.

At each level of organizational structure a Community Development Worker (CDW) is stationed mainly to handle protect and defend the rights and responsibility of the children at that particular administrative level. These are trained social workers that handle child neglect cases among other duties. They fall under the department of Community Based Service and report child neglect cases to Probation and Social Welfare office at the district level .These staff are legally mandated to handle all child neglect cases in their areas of jurisdiction. The CDWs are both male and female sexes, for example financial year 2001/2002 there were six men and five women through the district, if the child neglect case occurs in one community say x the child or local official must report to the CDW of that specific community x not y irrespective of biological sex of the CDW. Therefore at this level children have no right to decide on whom to report the case to.

Depending on the type of child neglect case reported/forwarded, the probation office will consequently determine the course of action to be made, for example immediate summoning of the parents, guidance and counselling of the child, forwarding the case to family and children court, police among others. These procedures mean that the term of 'child abuse' and child neglect' have to go through many screening procedures by institutions that may not share the same understanding about the problem.

All the parishes and sub-county CDWs have to submit their monthly reports to the office of probation office at the district level. At the end of every three months the PSWO compiles all the reports from lower administrative units together with the cases handled at the district level and reports to the head of civil service who is the chief administrative officer through the head of the directorate of gender and community based services. All cases attended to during that period must be well documented and reported. Therefore the office of probation is accountable for actives that are reported to the Chief Administrative officer. The chief Administrative officer is accountable to the central government and the community.

4.4 Focus of the study

This study focuses only on child neglect as a form of child abuse, distinctively three physical neglect cases, one educational neglect case and one medical neglect case. It looks at how the probation and welfare office in Kanungu district perceives, understands and practices child participation while handling child neglect cases of financial year 2001-2002. Out of 288 child neglect cases that were handled in financial year 2001-2002, 50 cases were closely examined but for purpose of this study draws on five child neglect cases using purposive sampling of cases that show gendered bias of the practice. This does not mean that there were no other cases with explicit gender bias (as the table below shows), but rather these five are so typical as to offer good insight into gendered nature of both the organizational culture and the assumptions about boys' and girls' participation. Records and personal experience from the probation and welfare office Kanungu district Uganda helped the researcher to explore how probation and welfare office understands and practices the concept of child participation and locate gender dimension therein.

Child neglect cases recorded by probation and welfare office Kanungu FY2001-02¹⁰.

Financial Year	Type of case	Sex		From single parent family	From family with both parents	successfully handled	Forwarded to the family & children's court.	forwarded to the lower local courts	forwarded to the police	Total cases reported
		male	females							
2001/2002	Physical neglect.	15	32	30	17	16	20	02	09	47
	Education neglect	27	47	42	32	39	18	12	05	74
	Emotional neglect	04	01	05	00	03	02	00	00	05
	Medical neglect	12	22	19	15	24	10	00	00	34
	Physical neglect.	18	20	28	10	19	10	02	07	38
	Education neglect	24	28	29	23	31	19	01	01	52
	Emotional neglect	07	00	07	00	02	05	00	00	07
	Medical neglect	17	14	20	11	22	06	02	01	31
TOTAL		124	164							288

Figure 2: Source; Probation and Social Welfare report Kanungu July 2005.

4.5 Understanding and practice of child participation

During my five years head of the PSWD, the trend for child neglect cases reported to PSWD was reducing but still the figures of child neglect cases for the girls were higher than boys. This was due to among others traditional attitudes and beliefs attached to gender roles and childhood being socially and culturally constructed. The PSWO report (2003) show that girl child neglect cases were more than boys neglect cases in financial year 2001/2002.

Understanding of the concept of child participation, its objectives and values are prerequisite to the meaningful inclusion of child beneficiary participation in any child neglect case proceeding. Without such an understanding of

¹⁰ Based on the definition of the child as any human being (male or female) below the age of 18 years.

the concept “child participation,” it would be difficult if not practically impossible to effectively and efficiently include children’s participation in any child neglect case proceeding, as it is quite impossible for one to implement what they do not understand.

The probation and social welfare department has the legal mandate to attend all child neglect cases in the district. Although the children statute 1996 clearly allows the children to participate in all affairs that affect them, it has no specific provisions as to how the basic interest of the child should be met in child neglect cases. Therefore the decision is left entirely to the discretion of the CDWs who then take into account the concept of child participation differently. The statute does not define child participation, but it lays down some basic criteria to determine child participation. Therefore child participation is interpreted differently by CDW’s depending on the nature of the case, attitude, norms and values attached to the case. As Waldman, J (2003) rightly put it “knowledge and social action go together. Depending upon the ways issues are defined and understood possible responses and perceived responsibility for them will also vary. Social constructionism implies knowing is linked to doing and that the relationship between understanding and social action is symbiotic”. Waldman, J (2001) or <http://www.sws.soton.ac.uk/cwab/index.htm>.

Gendered child participation in this study is viewed as both a means and an end. The level of participation of boys and girls in this study will be assessed based on Rogers Hart (1978). I use this ladder to show different levels in participation of boys and girls in the PSWO cases proceedings.

As per the case proceeding of child neglect case number **PR/33/2002** between **the father** and his children a **girl (15 years)** and a **boy (16 years)**. The case was reported to the community development worker by vice chairperson local council (LC) 1 of where the children live. The children were denied scholastic materials to go to school for their third term. The CDW summoned the parents and children, to come and discuss their issues in the formal office.

On the day for hearing the child neglect case as per the case records, the community development worker explained to all parties why they were in the office. Later asked the children to express their views when the parents and their friends they

had come together with and the local council official who had reported the case were all present.

The boy child told the gathering that irrespective of free universal primary education the government has provided, his father had refused to give books and pens for them to go to school. When the girl tried to supplement her brother's explanation, the CDW responded

"Stop! Girls are not supposed to talk in public fora, let your brother explain to us, it is good you are here to listen". Consequently the girl child ended up not giving her views.

The Community development worker there after requested the parent to give his views. The father said that children were disrespecting him and this is why he refused to give them scholastic materials. He further said;

'Since I was born I had never seen children accusing their parents to authorities. This exemplifies what they do at home and above all the girl child should not even have come here to accuse me'.

The community development worker there after requested the father to cross-examine the boy child. The father asked '**why of all my children it is only you two that I have refused to provide the services?**' in a rude way. The boy kept quiet. The CDW responded: '**if you don't want to talk I am going to make my judgment**'. The local council official who had reported the case asked '**why are you going to make the judgment when the children have not responded to their father's question**' (participated)? The CDW told the gathering that what do you mean by child participation? '**To me children are here with us. It is not my role to force them talk. I can go ahead and give my judgment**'. This means that according to the CDW the presence of children during the case hearing is a sufficient indicator for child participation in child neglect case proceedings. Even to him boy children represent the girl children when it comes to such case hearings.

In the same case the judgment was written and read in English and yet the children did not understand English. This made the children fail to participate any further. Requested the CDW to explain what he meant, he told them "**take your copy of judgment to those who know English I have finished my work it is not my problem**

that your parents did not take you to school". Thus to my interpretation for the CDW, the presence of the children is an indicator of child participation.

From the above child neglect case proceeding records it is evident that there is gender bias in children's participation. Locating gender bias in relation to Hart (1992) ladder of child participation the girl's participation can be ranked at second level (decoration) while the boy at third level (tokenism).

Child neglect case records of number **PR/46/2002** between parent and his three children **boys aged (15 and 11 years)** and ,a girl **(13 years)** showed that the children themselves reported the case to the probation and welfare department, that they were not getting good and enough food. They were getting one meal per day. The parents were called; the children told the CDW that it is better not to explain to our parents as a matter of confidentiality. On the day of hearing the CDW requested the parents to go out and first talked to the children alone. There after he called the parents and sent the children outside the office in order to talk to the parents also. The CDW later met both and started telling the parents what the children had told him contrary to children's wish. Then the boy child tried to explain to all of them as a form of participation.

The CDW said;

"What is it that you want to say now? You report the case your self to me and explained every thing .Now stop wasting my time. He further said that boys at least should complain but you girl, you should always respect your parent's views and you should not give what she called "orders" to your parents".

This statement shows how child participation was gendered. At least boys where given time to furnish their views though not adequately respected compared to a girl child who was totally denied a chance to give her views. Thus placing children in this case at different ladders of child participation, tokenism and decoration levels respectively.

Irrespective of such kind of lack of understanding of the concept of child participation, the probation in this case indicates that child participation is of paramount importance. Children are sometimes highly included effectively and efficiently in matters affecting them because this is exemplified in this case's record

where CDW sent the parents a way to interview the children alone and vice versa. However CDW's perceived the concept of child participation as children having reported the case themselves. To the CDW, that was an indicator of child participation and yet very many issues were messed up like lack of confidentiality.

In Child neglect case records of **PR/37/2001** between parent and his two daughters aged **(12 and 14 years)** and **his son (16 years)** .The children reported the parent for having refused to provide beddings and clothes to them. The matter was put to book. The CDW called all parties. The children had lost their mother and thus they were mistreated by their step-mother. The boy who was older told CDW together with the parent that they preferred to be at their aunt's place and they requested to be getting clothes and beddings when they were at their aunt's place.

The daughter who was sick had sent written report to the CDW .The CDW refused to recognize it saying that she should have come and presented her self. He said **"I don't believe in written reports as a form of child participation"** The parent insisted that the children be taken back to his family and provide the basic needs there. The children refused their father's suggestion. He further said **"that he does not understand the reason why girls are just complaining when they are 16 years they can go ahead and get married and get the needs they are interested in from their husbands'**. Despite being below the legal age for marriage as per the children statute. The CDW said;

"that your participation has enabled me to judge your character, learn to respect your parent; children should take the word of their parents seriously; defying them means disrespect of your parents".

In this case the girl children were not even given time to express their view. The CDW did not even take time to listen to the children's grievances .Only to direct them to respect their parent's views. After the elder brother had expressed his views the CDW believed that even the girl's views were equally expressed and could not believe in written report as a form of child participation. The CDW decided to give the judgment, and then the aunt who had come with the children requested the CDW to give chance to the present girls to express their views. The CDW replied that their **"older brother has talked; this is a wastage of my time. Let all of them go back to the father's place if they need to be provided basic necessities'**.

By this act the CDW ruled against the interest (views) of the children describing child participation as “**an act of disobedience to the parents and their elder brother having participated on the girl’s behalf**”. Despite the fact that any action or any decision concerning the child that is made by the court, local council or any person whether parents or not must always be guided by the views of the child¹¹. Thus the law entails mandatory participation of children as holders of the rights. Even to the CDW face to face interaction is the indicator of child participation not written reports. Like other case records analyzed, the boy child was given some time to participate like reporting the case and explaining to the CDW during case hearing, (assigned but informed) compared to girls (decoration) thus making child participation process gendered and placing children at different ladders of participation.

Child neglect case proceeding number **PR/ 42/2002** was reported to the office of probation and welfare by the aunt of the children (girl **08 years**) and (a boy **12 years**) both were suffering from measles. After the CDW visited the family, the children who were seriously sick were unable to talk to the professional effectively. The boy told the CDW that they had spent almost two weeks on traditional drugs rather than being taken to the hospital for proper treatment.

There after the CDW requested the parents to take both children immediately to the hospital but due to gender stereotype the boy child was taken immediately to the hospital and the girl child at a later date. The girl child requested the aunt who had reported the case to represent her but the CDW refused. That he needed to hear from the child herself not through children’s representative. There was no record to show up what happened later. However from the immediate action of CDW I conclude that the views of both the aunt and the girl child were ignored by the professional compared to a boy. Thus putting children in this case at different ladder of participation decoration and assigned but informed respectively.

In this case, there is an indicator that the CDW understands child participation as “two way communication between the CDW and the child”. Even, CDW that handled these case record proceedings described child participation as “being involved in what is happening at the moment during hearing only”. Also many child neglect case proceedings describe child participation to mean “cases reported by children, presence of children during case proceeding, respecting parents/guardians

¹¹ The children statute 1996 part 1 section 4 sub section 1

views during case hearing”. In the above child neglect case record proceedings describe child participation to mean “helping the children to develop respect for themselves and for the staff during case hearing; to make the children feel important; to give children the opportunity to talk about themselves.”

The child neglect case of number **PR/18/2001** was reported by the relatives of the children. Parents had refused to provide good shelter. The CDW requested the children to put their application in writing. The children got a relative to write for them in English. There after the CDW called upon the parents. The CDW was not well versed with the local language (Rukiga) and decided to use the official language (English). This made the children fail to participate from the start. The relatives who had helped the children to draw the application could not also interpret to the children properly thus the children ended up not participating further. However, these relatives were both aunt and uncle of the children. Surprisingly enough the CDW allowed only the uncle of the children to talk to the children during the hearing. Thus, however much the CDW observed during hearing that it is important to value child participation, Ugandan society in itself is not conducive to child participation of whatever form and it is presumptuous to imagine that children can participate in the society where even adults’ participation is not encouraged and the government itself is not democratic.

The above analysis of child neglect case record proceedings reveals that children’s participation in child neglect proceedings is dependent on notions of ‘childhood’ as well as practices of ‘femininity’ which excluded girls from, and marginalized them in, the process of participation. Gender hierarchies that subordinate femininity to masculinity in many households and public spaces support and recreate the perception about men as ‘proper’ representatives of the household, and thus giving their explanation about a household situation more legitimacy. In intersections of gender and age, this legitimacy can be seen through the tendency among decision-makers to listen to boys (and especially older boys). When both boys and girls are present during case hearing boys are allowed to represent both themselves and their sisters). Furthermore age hierarchies demand the obedience of children towards parents, but in intersection with gender, daughters are expected to be even more obedient than sons. Thus during child neglect case hearing the legitimacy of boys views always prevails over that of their sisters.

The assumptions of femininity as domesticated, bound by marriage life, make it easy to perceive even young girls (only) as future wives, who then will be obedient to their husbands, as they are now to their fathers; as such, again, they are not seen as having anything to say for themselves, as their fathers, brothers and husbands will always speak for them. Gender stereotyping in socialization affects child rearing practices, making boys more involved in the productive work hence more assertive than girls who are more involved in the maintenance of the homestead and therefore less able to assert themselves in public spaces. Gender inequity is learned and accepted in this socialization process that starts at home but also extends itself into public institutions such as the legal systems, the probation and welfare office the practices of which reproduce and maintain these gender ideologies in their proceedings. Because boys can express more confidence and assertiveness in giving their views, they are placed at a higher level in the ladder of child participation than girls. At all different levels of ladder of child participation boys participate more than girls.

All five case records (out of 288) on child-neglect define participation differently. Child participation seems to be linked with the family economic background and the moods of the CDW. These determined the objective, value and strategy that were used during the case proceedings. This study found out that there is high level of children's participation at implementation level, minimal levels of involvement at formulation level and hardly any participation at the case follow-up level during child neglect case proceedings.

4.6 Concluding remarks

Despite well established and elaborate legal instruments that make and support child participation as the right, the ways in which CDWs talk to children in the child neglect case proceedings greatly affects how children participate in decision-making process. As Claire O'Kane noted, our perception about children influences the way we talk to them, explaining things to them, and choose to include or exclude them from decision-making in daily lives (O'Kane 1998 in Johnston 1998:36).

The analysis record proceedings on the handling of child neglect cases by probation and welfare office show that CDWs do not have a clear understanding or conceptualization of the concept beneficiary participation and the value attached to it.

Understanding and practices of child participation in child neglect process is found to be gendered, thus putting boys at higher ladder of children participation than girls. There is no evidence of child participation above level four (assigned but informed) of all cases that were analyzed during this study. The conclusion that can be drawn from the above analysis is that probation and welfare staff understanding/ perception of the concept of child participation is very low and gendered. They understand neither the objectives nor the values of participation and for that reason are poorly placed to implement the law.

CHAPTER FIVE
TRANSFORMING PRACTICES OF CHILDREN'S
PARTICIPATION:
THE WAYFORWARD

5.1 Introduction

Boy's and girl's participation in child neglect case proceedings can be enhanced or constrained by several factors; these factors among others are determined by the organizational environment in which it is operating. This chapter offers a perspective on the socio-economic, cultural and policy environment in which the probation and welfare office attend to child neglect cases. It reveals the factors that either constrain or enhance children's participation.

5.2 What inhibits child participation and way forward?

Challenge to children's participation in Uganda and Kanungu district in particular can be traced to history (NCC Report 2004:67). While interest in children's participation grows, there is still wide gap between child participation in principle and practice).

5.2.1 Unresolved tension between universalized norms and local understanding of the concept of child participation

Okwany, A (Feb. 2007) asserts that "one size does not fit all". Ugandan children statute (1996) did not consider all Ugandan cultures/beliefs in its process of legal framework formulation. 'The statute enacted was not compatible with customary laws thus traditional chiefs are often reluctant to integrate national law with local customs' (Temba, et al 2002:24). Therefore the concept of child participation is inconclusive. Stakeholders interpret and practice it differently due to diversity of communities mainly basing on different notion of how childhood is socially and culturally constructed. Even there are deep seated cultural, traditional religious beliefs and practices which hinder the operation of the law in such communities.

For example district chair person of the local government said;

“I want the mass media to quote me. I’m directing parents in my district not to abide by the law that legalizes children do what and when they want most especially young girls.” (Uganda child right NGO network 2005: 3-4).

This explains how dominant notion of childhood and hierarchies of age and gender affect boys and girls differently. Therefore using child-rights based approach by universalizing the law without considering the context and needs of specific groups has greatly contributed to tension between the universalisation of norms and local understanding and practice of the concept child participation.

In addition, the law fails to accommodate all traditional cultures and beliefs. The need for legal pluralism is pronounced where the tenets of the formal discourses of law on child participation do not fit easily within the customary practices that are embedded in traditional family setting. By providing the room for the legitimacy of children’s voices in public places and for child reporting on parents to legal authorities without a clear understanding of gender-based formation of legitimacy and voices in practices of ‘childhood’, the legal system is more inclined towards the boys’ views to the extent of excluding girls in affairs that affects them. In this regard, attitudes of individual professionals are very important for the success or failure of children’s participation as the general perception held across the organization and society at large (Owuor-oyugi 2002:13). Pre-conceived attitude towards boy’s and girl’s participation sometimes can lead to misinterpretation of laws and reinforcement of gender-biased norms, values and practices.

Uganda has taken long strides in the dissemination of children’s rights instruments; but there remains a misconception about the meanings of child rights in practice. The children statute (1996) has been translated into twelve spoken local languages and some misconception has arisen from the vernacular interpretation of the concept children’s rights, which gives misleading meanings to different people. Some professionals, parents and community members have negative attitudes about children statute, in particular child participation and its use of child right that it means child freedom meaning that the children are free to do whatever they want at all times (Human Rights Report 1998). Translation does not pay sufficient attention to the meanings of children’s rights as being connected with the wellbeing

of girls and boys. Attitude towards boys and girls has also been slow to change and views about children tend to be conservative. Emphasis rests primarily on their duties and responsibilities in the home (Human Rights Report 1998:10).

While boys and girls are not powerless, they can be manipulated by adult agenda (Ansell 2005:240). Ansell (2005) further noted that 'if children perceive adults as powerful, they may hesitate to report their genuine views' (Ansell 2005:241). It is necessary to establish trust and try to distinguish between normative statements delivered from popular discourses and those closely reflecting children's own feelings and experience (Johnson 1996 in Ansell 2005:241). All over the world, in settings where there is lack of trust, children learn that it is safer to be quiet, especially about difficult emotional experiences or issues of shame or guilt (Hart 1998 in Johnson et al 1998:30).

5.2.2 *Organizational structure and culture*

Reflections about dominant notions and practices of femininity and masculinity and gender hierarchies and how they intersect with dominant notions and practices of childhood and age hierarchies are part and parcel of organizational structures and cultures. Boy's and girl's access to decision-making structures does not mean that children will participate. For boys and girls to effectively participate in decision-making, it is crucial that the physical and social environment in which meetings are conducted is made conducive for their participation and this to a greater extent is determined by the whole culture or an organization (Tresseder, 1997). Most of the meetings conducted to attend child neglect cases are mainly conducted during the day when children are supposed to be at school. Whereas such meetings may be conducive for the professionals, it immediately excludes children differently mostly due to subordinate gender roles that are promoted during childhood, where by girls will always fail to come due to household chores than boys.

The venue and the type of meeting conducted affect boys and girls differently. The offices that are located far away from the village that requires the children to pay transport hinders the children from participating as most of them have no capacity to walk such long distances and neither do they have means/money to transport them to the venue. Boys are in most cases involved in the productive work, thus are in position to make it to the office than girls who are all the time

occupied with reproductive work at household level, and travel may be seen dangerous for them. More often than not, meetings with children take place at the venue where professionals feel comfortable even though children are more likely to feel at ease in their own territory (Tresseder, 1997). Many of these meetings are formal; every word is recorded, attentively cross examined, allowing one voice at a time. Formal practices tend to put the girls more on tension than boys and end up making girls fear to talk.

In addition the logistics of dealing with the legal, economic and bureaucratic institutions are often formidable and work against the victims (boys and girls), preventing them from taking their claims. Some may decide to do so if they have rich and educated relatives who can mediate (Agarwal B, 1995: 283). Children typically from poor families who are mainly victims of child abuse are not able to catch up with complicated procedures and red tape involved in dealing with formal administrative bodies, thus victims end up not reporting the cases (Ibid : 283). This is one of the reasons why victims – especially girls due to strong feminine belief that girls are supposed to be obedient and respectful to the parents than boys – are unable to pursue the claims in formal legal institutions.

5.2.3 *Lack of real access to information*

Withholding vital information from boys and girls appears to be yet another hindrance to effective participation. Girls are more denied public information due to the stereotyping attached to boys and girls during socialization in childhood. In the process of socialization boys are in position to get more information that facilitates them to participate more than girls. Information is very important to decision-making, yet in most of Ugandan communities accessing relevant information is quite difficult. Just like boys, girls need to be well informed about the issues that are to be tackled in any discussions well in advance so that the decisions they make are both informed and to the point (Tresseder, 1979, CRC, 2001 in Owuor-Oyugi 2002:13). Lack of real access to information renders boys and girls toothless in case proceedings. It is the role of professionals to make sure that both boys and girls acquire appropriate information for them to participate effectively and equally during the case proceedings.

5.3 Way forward: thinking outside the box

In the past, children were largely invisible in social science investigations (Qvortrup and others, 1994; Alderson, 1995; Morrow and Richard, 1996; Butler and Williamson, 1994). This is based on an underlying belief in adults' abilities to explain on behalf of children prevailed (Fine and Sandstrom, 1998). The past decade has, however, witnessed a quite revolution in the way children are viewed (Van Bueren, 1996), and there has been an increasing interest in listening to their experience and viewpoints (O'Kane 1998:37). Thus currently the level of children's participation has progressively increased with boys at higher ladder than girls. To overcome this problem the following aspects are important to consider.

5.3.1 *Need for diverse solutions that are contextual and group specific*

Since childhood is socially and culturally constructed, universalisation of norms should be taken seriously for the effective child participation. To address the tension between universalized norms about child participation and local understanding/practice, there is great need for provision of diverse solutions that are contextual and group specific.

The truth and reality about participation of boys and girls is not necessarily fixed, but rather are constructed within a set of norms and expectations that are context bound, therefore there is no need for universalizing the interpretations about the lives, identities and experiences of boys and girls. Dealing with local and individual situations requires a critical perspective on the social, political and economic contexts that frame children's lives (Waldman, J 2003). There is need to use the lens of social, historical and cultural relativity to make sense of current experience and issues that affect boys and girls differently in participation. Identifying the ways in which different societies construct and respond to children's needs and wants may widen the lens of understanding of our own communities and cultures that shapes participation of boys and girls differently. Understanding of issues of child participation from the perspective of a local context may help the professionals to develop new tools and networks at their disposal to practice in creative, forward-thinking ways.

For this reason, in attempting to facilitate the participation of boys and girls who seem less competent than might be expected, one must identify situations which

will maximize a child's opportunities to demonstrate her competence (Hart 1992:37). He further noted, 'rather than developmental capacity, then we need to be aware of power relations within the culture and to use all our talents to try to put boys and girls in a position where they are comfortable and in modes of communication with which they are familiar' (Opcit: 30).

The professionals need to be sensitive to the cultural norms before they start interacting with the boys and girls during case proceedings. If there are potentially contentious issues that are related to the child's gender, age, religion or ethnicity, these should be seriously considered otherwise the child will not express his/ her views. It is also important that male professionals attend child neglect cases of the boy and female to the girl case (although this is certainly always the case). Similarly, children from racial, ethnic or religious minority may feel uncomfortable and guarded if his or her case is being attended by a person from the dominant group (Marshall 1997: 122). Therefore putting the above issues into consideration will greatly enhance children's participation.

5.3.2 *Making probation and welfare department gender sensitive*

There is need for responsive policy framework influenced by research and lessons from successful innovations that address the socio-cultural and economic gender barriers to participation. This policy framework should be locally initiated to address the diversities therein, where by an active dialogue concerning gender relations and roles, is emphasized this cannot be imposed by outsiders but must come from within (Sutton, 1998).

Participation in child neglect proceedings is not related to gender only, but also shaped by social class, age, ethnicity, (dis)ability, geography, and race. Therefore, the diversity of needs requires a diversity of solutions that is context and group specific that accommodates the varied differences, between and amongst boys and girls. Participation is and meets a basic human right and empowers both boys and girls. Thus children (both boys and girls) should participate because of who they are: 'being' not 'becoming'. All in all there is need to go beyond the rhetoric on the importance of girls' participation and call for strong political will and setting priorities, refocusing goals to emphasize equity and capability enhancement.

5.3.3 *Building rapport*

Driskell D, (2002) noted that, “professionals often forget what it was like to interact with the adult as a young person. Few young people feel completely comfortable around adults, and even fewer will quickly and easily tell adults what they truly think and feel” (Driskell D, 2002: 88). Therefore, for meaningful boy’s and girl’s participation in child neglect case proceedings require that professionals build the relationship of familiarity, trust and respect with them bearing in mind the diversities among boys and girls. When the children become friendly, familiar with the professionals and realize that professionals care, believe and want to help them then the children will voluntarily begin to express their views and ideas in more direct manner (Driskell D, 2002: 88).

Whatever method that is used, the main thing to put into consideration is that boys and girls must feel comfortable before they can participate effectively. In practice this means that the professional is to take time to know the children and allow them to get to know the other side (ibid: 88). Difference amongst children can affect their participation in many ways. Methods such as informal observations, hanging out conducting child-led conversation first, are some of the examples that cannot threaten children. This helps to build rapport between children and professionals and can provide an extended understanding of children’s lives, language, perspectives and ideas (Driskell D, 2002: 108). All these will make the boys and girls express their ideas more freely. The professional can help create a friendly, comfortable atmosphere through informal tone at the beginning of case hearing. There is need to devote enough time and energy to build rapport with the boys and girls depending on group specificity before the professionals start discussing with them.

Similarly, there is need to provide boys and girls with appropriate information for them to participate in child neglect case proceedings depending on characteristics of the group. Lansdown (2001) clearly put it, if boys or girls are not provided with appropriate information; they can not make informed choices or express reasoned views. Information needs to be provided for children in formats that are accessible and age-appropriate (Lansdown 2001:9).

5.3.3 *Sensitization*

Many adults - including some who see themselves as advocates for children - have attitudes towards young people that undermine their support for child participation (Driskell D, 2002:37). They always look at boys and girls as fragmentary and therefore unable to participate. Changing adult's and professional's attitudes to boy's and girl's participation is an essential step towards building support that is necessary for children's participation in matters that affect them. This should be done through intensive, repeated and widespread sensitization trainings for all stakeholders in the process of juvenile justice, coupled with effective monitoring and follow-ups of child neglect case proceedings. Further to that Marshall (1997) argued that public education programmes are an important backup to a serious commitment to the principle of boy's and girl's participation. Truly serious commitment would involve a radical rethinking of the decision-making systems in relation to children, culture, expectations and procedures. The time scale of proceedings, the availability and form of information and the organization of any event should all be arranged in the light of the needs of the child and the reality of participation by children (Marshall 1997:110).

Public education programmes together with other measures will consequently lead to higher rates of children (boys and girls) participation in child neglect case proceedings. Because it is the adults that run the world, they hold the power to determine what changes should happen, when they should happen and where they should happen (ibid: 37). Therefore a meaningful programme for children's participation requires a network of adults who have the power to implement change in the local area and are willing to engage children in reaching consensus on what needs to be done, and are committed to using their power to make it happen . While these still provide no guarantee to success boys' and girls' participatory process will bear little fruit without it (ibid).

CHAPTER SIX

CONCLUSION

The main obstacle that hinders children's participation in child neglect case proceedings is the behaviour of the adults in general and professionals in particular. The concept of child participation as per my analysis is well explained and recorded in the Ugandan legal documents but not put into practice because of unresolved tension between universalisation of norms and local understanding of the concept "child participation", and the way these local norms and dominant local notions of age and gender. Despite the developing initiatives to enable children's voices to be heard, there are still many examples of tokenism and manipulation, however, with major gaps between rhetoric and reality. The study concludes by raising major questions about possible ways forward, including questions about the need for wider institutional and adult attitudinal change.

Child-rights based approach can hardly be effectively implemented without contextualizing norms to group specificity. The tension between universalized norms and local understanding of the concept of child participation needs to be addressed to bring practices of child participation into real lives beyond the letters of the law. The concept of child participation is known by major stakeholders but from the implementation analysis of child neglect case proceedings in the probation and welfare department it can be noted that the application of child participation is not only a gendered process, it is also ineffective and inefficient. The knowledge of CDWs about the benefits of child participation in general and child beneficiary participation in particular is extremely low. The concept of child participation is misunderstood and in many cases misapplied. It is often used without clear understanding of its objective and values. Even the CDW's have not been well trained to understand and implement child participation without gender bias. Much as all children do not effectively and adequately participate in child neglect legal proceedings, their levels of involvement in relation to gender differ. In most of the case records analyzed, girls are at second level (decoration) and boys at third level (tokenism); none of them as per my analysis has gone beyond fourth ladder of child participation. Thus, activities which boys do figure in the proceedings, but they can not exert substantial influence.

Situating child participation within the context of the community, an exclusive focus on children alone may cause conflict with families or other groups within their communities. Such a focus may damage relations at home, leading to a backlash in the promotion of children's rights, but it also misses the opportunity to incorporate those who have the greatest impact on children's daily lives. As a result, it is essential that child participation be considered within the context of the family and community, especially as children's participation invariably involves interaction with adults (Twum-Danso 2001: 66)

The study realized that when adults are exposed to effective participatory practices they recognized that many of their concerns are based on misconceptions such as fear of losing influence and control over their children as they become more assertive due to participatory programmes¹². Furthermore, the evidence reveals that once adults have seen the results of a positive participatory process with children, they become more supportive¹³. Therefore, as Twum-Danso rightly put it, the inclusion of adults into child participation initiatives will be further enhanced once the societal benefits become apparent. Thus, it is crucial that time is invested in working with adults (as well as children) in order to devise effective strategies for children's participation.

Notably, advocating for child participation in child neglect proceeding involves a deep social and institutional transformation beyond the legal framework. The challenge for Kanungu district is how to initiate change from the bottom up by involving all stakeholders to form a new understanding of boys' and girls' rights and necessity of their participation, and the significance of this understanding for future generation.

¹² Probation and welfare report 2002 Kanungu district Uganda.

¹³ Twum-Danso thematic reports. on Africa a hostile environment for children participation

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