



Introduction to the Right to Health in Uganda

**A Handbook for Community Health
Advocates**



ISER

Facilitating Social Justice

INITIATIVE FOR SOCIAL AND ECONOMIC RIGHTS

WHAT IS THE RIGHT TO HEALTH

The right to health is a fundamental human right.

- ▶ It is defined as the right to the ***highest attainable standard of physical and mental health.***
- ▶ The right to health includes other underlying determinants of health such as:-
 - » ***The right to a clean and healthy environment.***
 - » ***Access to shelter.***
 - » ***Access to safe water.***
 - » ***Safe food and nutrition.***
 - » ***Healthy occupational and environmental conditions and health related education and information.***

- ▶ It requires participation of the population in all health-related decision-making at the community, national and international levels.
- ▶ It is linked with principles of equity and non-discrimination and prioritises the needs of the poor and vulnerable groups.
- ▶ The right to health is linked with the realization of all other rights and forms the basis for enjoyment of other rights.

Essential Elements of the Right to Health

Availability: Adequate healthcare infrastructure including hospitals, community health facilities, trained healthcare professionals, drugs, equipment and health services must be available in all geographic areas and to all communities.

Accessibility: Access to health care must be universal and guaranteed for all on an equitable basis. Healthcare must be affordable and comprehensive for everyone and physically accessible where and when needed.

Acceptability: Health care providers must respect dignity, provide culturally appropriate care, be responsive to needs based on gender, age, culture, language, and different ways of life and abilities. They must respect medical ethics and protect confidentiality.

Quality: All health care must be medically appropriate and of good quality, provided in a timely, safe, and patient centred manner and have quality standards.

Other Human Rights Values that pertain to the Right to Health

Non Discrimination: Health care must be accessible and provided without discrimination on account of health status, race, ethnicity, age, sex, sexuality, disability, language, religion, national origin, income, or social status.

Equality and Equity: In the provision of health services, everyone should have equal opportunity. Equity requires resources and services to be distributed according to people's needs.

Transparency: Institutions that organise, finance or deliver health care must operate transparently and health information should be easily accessible.

Participation: Individuals and communities must be able to actively participate in decisions that affect their health, including in the planning, organisation

and implementation of health care.

Accountability: There must be enforceable standards put in place to monitor and hold agencies accountable for realising the right to health.

GOVERNMENT OBLIGATIONS

The right to health, like all human rights, imposes obligations on States parties: the obligations to **respect**, **protect** and **fulfil**.

Respect

The obligation to respect requires States to *refrain from interfering* directly or indirectly with the enjoyment of the right to health.

Protect

The obligation to protect requires States to *take measures that prevent third parties* from interfering with the right to health.

Fulfil

Finally, the obligation to fulfil requires States to *adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures* towards the full realisation of the right to health.

Legal Protection for the Right to Health.

International

▶ Uganda has ratified a wide range of international and regional human rights treaties related to the enjoyment of the highest attainable standard of physical and mental health ('right to health'), including:

» the International Covenant on Economic, Social and Cultural Rights (ICESCR);

» the Convention on the Elimination of All forms of Discrimination against Women (CEDAW);

» the Convention on the Rights of the Child (CRC);

» the African Charter on Human and Peoples' Rights (ACHPR).

▶ International commitments to human rights, including the right to health, provide a guiding framework for

legislation, policies and programming at national level.

- ▶ These instruments provide for progressive realisation so state parties have to move as expeditiously and effectively as possible towards full realisation of the right.
- ▶ States are also required to guarantee non-discrimination in the realisation of the right to health.

National

- ▶ The Constitution of the Government of Uganda (1995) provides among its social and economic objectives that the State shall ensure that all Ugandans enjoy rights and opportunities and access to health services.
- ▶ While the right to health is not incorporated among its operational

articles, the Constitution protects the right to health within other articles of the bill of rights. The Constitution includes provisions against discrimination and the spread of infectious diseases and provisions relating to specific groups, such as the rights of women, children, persons with disabilities and minorities.

- ▶ The Constitution also protects the right to a clean and healthy environment, which is an underlying determinant of health.
- ▶ The Constitution, moreover, emphasises that Uganda's binding international obligations still remain in force and the right to health is one of those obligations.
- ▶ Uganda has also put in place policies that elaborate on the right to health and provide a framework for realising the right to health.

NATIONAL DEVELOPMENT PLAN (NDP) II 2015/16-19/20

The NDP II provides a broad framework for the country's development over the next five years.

It outlines key health interventions to drive growth 2015-2020.

These include:

- Scale up training of health cadres in short supply.
- Develop community structures for improved health education, promotion and disease prevention, including the Community Health Extension Workers strategy.
- Support implementation of primary health care.
- Improve effectiveness and efficiency in the delivery of health.

NATIONAL HEALTH POLICY (2010)

The goal is to attain “a good standard of health for the people of Uganda.”

The priority areas are:

- Strengthening health system in line with decentralisation;
- Reconceptualising and organising supervision and monitoring of health systems at all levels;
- Establishing a functional integration within the public and private sector;
- Addressing the human resource crisis;
- Universal Access to Uganda National Minimum Health Care Package, which includes promotive, preventative, curative, rehabilitative and palliative care.

HEALTH SECTOR DEVELOPMENT PLAN 2015/16-2019/20

It outlines a broad plan to realise the right to health for 2015/16-2019/2020 and defines the long and medium term agenda for health.

Health Sector development priorities include:

- Strengthening national health system including governance;
- Disease prevention, mitigation and control;
- Health education, promotion and control;
- Curative services;
- Rehabilitation;
- Palliative care services;
- Health infrastructure development.

THE PATIENT CHARTER

Aims to ensure the rights of patients are protected as they seek health services and to empower them to demand quality health care. It seeks to enhance community participation and accountability.

Key provisions include:

- » **The right to medical care; including the provision that payment of fees should not be a condition to access emergency medical care.**
- » **Prohibition on discrimination.**
- » **Right to participate or be represented in development of health policies.**
- » **The right to a healthy and safe environment.**
- » **Proper medical care with regard to both its professionalism and quality assurance.**
- » **The right to informed consent.**
- » **Confidentiality and privacy during consultation and treatment.**
- » **The right to medical information including a copy of the patient's medical records.**
- » **The right to redress.**

Enforcement Bodies on the Right to Health in Uganda

Government

- ▶ The Ministry of Health provides overall leadership, strategic guidance and stewardship of the health sector.
- ▶ Since services are decentralised in Uganda, local Governments are mandated to extend the provision of health care services to the local levels. Services they should provide include hospitals, other than referral hospitals; first aid posts; maternal health; control of communicable diseases; rural ambulance services, primary health care services; environment sanitation; health education; and community based health centres.
- ▶ District health offices coordinate the planning, supervision and implementation of the health agenda

set out in policies.

- ▶ At the facility level, the Patient Charter requires the In-Charge of the facility to receive, investigate and process complaints regarding the quality of medical care.

Quasi-Judicial Mechanisms

1. Uganda Human Rights Commission

- ▶ The Uganda Human Rights Commission (UHRC) has a Right to Health Unit mandated to monitor Government of Uganda compliance with the right to health.
- ▶ UHRC also has a tribunal that hears complaints concerning human rights violations. It has the power to order payment of compensation or any other legal remedy or redress.
- ▶ Complaints regarding the right to health can be submitted by filling in

a complaint form online or visiting UHRC regional offices.

2. Equal Opportunities Commission

- ▶ The Equal Opportunities Commission (EOC) was created to eliminate discrimination and inequalities against any individual or group of persons on the grounds of race, sex, age, ethnic origin, tribe, birth, creed or region, health status, social or economic standing, political opinion or disability. It takes affirmative action in favor of marginalized groups on the basis of gender, age, disability or any other reason created by history, or custom for the purpose of redressing imbalances which exist against them.
- ▶ The EOC has the power to investigate complaints or inquire on its own initiative into any act or omission that is discriminatory or

undermines the enjoyment of equal opportunities.

- ▶ A person may file a complaint related to discrimination and marginalisation with the EOC. Complaints can be filed by: writing a letter; bringing the complaint in person, sending it by post or filling in a form online.
- ▶ The EOC handles your complaints even if you do not have a lawyer. It protects witnesses that appear before it.

Courts

- ▶ Violations of the right to health can also be handled by courts. Uganda's Constitution under article 50 allows a person to go to court to seek a remedy if their right is violated.



About the Initiative for Social and Economic Rights - Uganda
ISER is a registered national Non - Governmental Organisation (NGO) in Uganda founded in February 2012 to ensure full recognition , accountability and realization of social and economic rights primarily in Uganda but also within the East African region.

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