THE RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH: A CRITICAL ANALYSIS OF UGANDA'S COMPLIANCE WITH THE ABUJA DECLARATION

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DECLARATION

I, Nalwoga Sharon, declare that this dissertation is the result of my own independent research and has never been submitted to any other University or institution for the award of any degree or academic qualification, except where due acknowledgment has been made within the text.

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Date: 23rd /03/2026

APPROVAL

This is to certify that this dissertation has been submitted in partial fulfillment of the requirements for the award of a Degree of Bachelor of Laws of Uganda Christian University, Mukono Campus.

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CHAPTER FOUR

SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

LIST OF ABBREVIATIONS

UDHR-Universal Declaration of Human Rights

ICESCR-International Covenant on Economic, Social and Cultural Rights

ACHPR-African Charter on Human and People's Rights

CEDAW-Convention on the Elimination of Discrimination against Women.

CRPD-Convention on the Rights of persons with Disabilities

CRC-Convention on the Rights of Children.

OAU-Organization of African Unity

HIV/AIDS-Human Immuno Deficiency Virus/Acquired Immuno Deficiency Syndrome

NGO-Non Government Organization

WHO-World Health Organization

ICERD-International Convention on the Elimination of All Forms of Racial Discrimination.

Abstract

This dissertation investigates Uganda's compliance with the Abuja declaration.it is framed with in a qualitative methodology and the study employs doctrinal analysis of legal instruments, scholarly literature and policy frame works to explore the extent Uganda has complied with the Abuja declaration. Uganda, though a signatory to the Abuja declaration, it has consistently not complied with its commitment under the declaration of allocating 15% of its national budget to the health sector due to persistent challenges such as weak enforcement mechanism, high donor dependency. The research reveals that Uganda's noncompliance with the Abuja declaration has greatly affected the health sector such as inadequate essential medicine, poor medical facilities, under staffing, inequalities hence affecting the equity and universal health coverage in Uganda. This study emphasizes that the underfinancing of the health sector undermines the progress towards equity and health development as well fulfilling the Abuja declaration. It concludes that Uganda should increase the health funding so as to fulfill its commitment under the Abuja declaration. Key recommendations include increased health financing, increased domestic funding, enforcement mechanisms. Ultimately the research affirms that Uganda has not complied with its obligation under the Abuja declaration of allocation at least 15% of its national budget to the health sector.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Introduction

Health is a condition of total physical, mental and social welfare of a person.[1]The right to health means that it is not just a right to be healthy but it places an obligation on the state to ensure that every person meets the highest attainable standard of health.[2]The World Health Organization in the Ottawa Charter on the promotion of Health[3] stated "that health is not just a state but a resource for everyday and not an object of living". The right to health has four essential elements these include; accessibility, availability, acceptability and equality, the state has an obligation to fulfill these elements[4].

The right to health is a fundamental human right of every human being which is recognized in various international and regional legal instruments such as International covenant on civil and political rights, International covenant on Economic Social and Cultural rights, African Charter on Human and People's Rights and more to ensure its protection and realization. In line with this the 1995 Constitution of Uganda also provides for the fundamental rights and freedoms but the right to health is not explicitly provided for however it is implicitly embedded in various provisions of the constitution.[5]

Uganda has ratified various treaties that recognize the right to health including the **Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and**

Cultural rights (ICESCR), the African charter on Human and People's Rights, the Convention on the Elimination of Discrimination Against Women **(CEDAW),** the

[1] Preamble of World Health Organization Constitution
[2] World Health Organization, Constitution of the World Health organization,
[3] Ottawa Charter for Health Promotion ,1986
[4] The International Covenant on Economic, Social and Cultural Rights, General Comment No.14; The right to the Highest Attainable Standard of Health (art12)
[5] The 1995 Constitution of the Republic of Uganda as amended, Art8

Convention on the rights of persons with Disabilities **(CRPD)**, the Convention on the rights of the child **(CRC)** and many others.

In 2001, African Union countries including Uganda committed themselves to allocate at least 15% of their budget every year to health sector in the Abuja declaration. Recently in February 2023, African leaders recommitted to this declaration. The Abuja declaration aimed at resolving the problems, effects and ensuring suitable control of **HIV/AIDS**, Tuberculosis and other related Infectious Diseases. Furthermore, the countries recognized that the outbreak of these infectious diseases are a major threat to Africa's growth, political stability, the existence and life time of African people. The countries pledged to take all necessary measures to ensure availability of resources and effective utilization of these resources and also set a target of at least 15% of their annual budget to the improvement of the health sector.[6]

1.2. Background of the study

Health is a human right and a cornerstone of Uganda's development as a healthy population is pivotal for achieving sustainable economic and social transformation.[7] However, Uganda has been greatly affected by infectious diseases such as malaria, tuberculosis, human immunodeficiency virus (HIV) and neonatal conditions.[8]Together with other significant challenges such as under funding of the health sector, inadequate of health workers, medical education, low doctor to patient ratio with one doctor available for every 25,000.[9]

African leaders of the organization of African unity met in Abuja Nigeria in 2001 at a special summit to deal with the outstanding problems of HIV/AIDS ,Tuberculosis and other related infectious diseases .They analyzed the situation,the effects of these diseases in Africa and reflected on the ways of controlling of HIV/AIDS ,Tuberculosis and other related infectious diseases .Decided to adopt modern appropriate

[6] African Union. (2001).Abuja Declaration on HIV/AIDS, Tuberculosis and other infectious diseases.
[7] Third National Development Plan (NDPIII,2020/21-2024/25)
[8] World Health Organization. (2024).Uganda [country overview].Data.
[9] Ajari EE, Ojilong Assessment of the preparedness of the Ugandan health care system to tackle more COVID-19 cases .JGlob Health.

measures, strategies, and mechanisms at national ,regional and continental levels with an aim of ensuring suitable and effective control of these infectious diseases in our continent. The outbreak of these diseases is a major health crisis as well as an outstanding threat to Africa's growth , political stability ,existence and lifespan of African people. They committed themselves to take all necessary measures to ensure the availability of resources from various sources and effective utilization of these resources. In addition; they pledged to allocate at least 15% of their annual budget to the improvement of the health sector.[10]

The Budget allocation to the health sector has over the years fallen short of the Abuja Declaration Target such as in Financial Year 2025/26 allocated UGX 5.87trillion to the health sector, constituting 8.1% of the national budget which falls short of the Abuja Declaration Commitment.[11]The health budget has consistently been below 15% and this has led to widespread problems such as inadequate infrastructure, shortage of human resources, or access to life saving drugs and inequalities in healthcare provision in both urban and rural areas. These systematic problems raise serious questions about Uganda's compliance with its international and regional obligations and to what extent the government has given a top priority to the right to health in terms of the Abuja declaration.

This study seeks to critically assess Uganda's compliance with the Abuja Declaration with respect to its obligation to uphold the right to the highest attainable standard of health.

1.3. Statement of the problem

The right to health is a fundamental right which means that every person has aright to attain the best physical and mental well being with essential elements such as availability, accessibility, acceptability and equality. This right imposes an obligation

[10] Abuja Declaration on HIV/Aids, Tuberculosis and other related infectious diseases, Abuja, Nigeria 26-27 April.
[11]https://nilepost.co.ug.Uganda Increases Health Sector Budget to shs 5.87 Tn in FY 2025/26.

the state to adopt necessary measures and use it's available resources in the fulfillment of this right.[12]

Uganda has ratified a wide range of international and regional human right treaties related to the enjoyment of the right to health which provide for progressive realization of the right to health. Even though the right to health is not expressly provided for in the 1995 constitution of Uganda, this right is implicitly recognized in the national objectives and directive principles of state policy as well as other provisions of the constitution.[13]

The constitution emphasizes that Uganda's binding international obligations still remain in force and the right to health is one of those obligations.[14] Though Uganda is a signatory to the Abuja declaration, which commits African governments to allocate at least 15% of their annual national budget to the health sector, Uganda has not fulfilled this obligation leaving the health sector underfunded, with the health budget accounting for only 8.1 in the 2025/26 financial year, far below the 15% Abuja declaration target.[15] This under funding has resulted into limited access to health care services, poor infrastructure and supplies, limited access to essential medicines and many others.

Uganda's health sector faces major problems such as inadequate funding, limited access to healthcare services, poor infrastructure and supplies, shortage of professional health care personnel and many others.[16] As well increased funds allocated to the health sector in its annual national budget over the years, it has consistently failed to meet the target of allocating of 15% of its annual national budget to the health sector.

[12] IBID
[13] ibid5
[14] ibid
[15] https://iser-uganda.org.initiative for social and Economic Rights ,Are we failing to progressively Realise the right to health in uganda?
[16] Beyond Borders; A glimpse into Uganda's Health care Challenges and Solutions, Brown Undergraduate Journal of Public Health.

1.4 Objectives of the study

1.4.1 General objective

To critically analyze Uganda's compliance with the Abuja declaration in ensuring the right to the highest attainable standard of Health.

1.4.2 Specific objectives

1. To examine Uganda's legal and policy framework governing the right to health.

2. To assess the extent to which Uganda has allocated financial resources to the health sector in line with the Abuja declaration from 2001 to present.

3. To identify the impact of Uganda's health financing patterns on access to health services and health outcomes.

4. To propose recommendations for strengthening Uganda's commitment to the Abuja Declaration and the realization of the right to health.

1.4.3. Research questions

1. What is the right to health according to national, regional and international law.

2. What is Uganda's allocation of financial resources to the health sector compared to the Abuja Declaration's target of at least 15% of the national budget from 2001 to present?

3. What is the impact of Uganda's health financing patterns on access to health services and health outcomes?

4. What recommendations can be made to strengthen Uganda's commitment to the Abuja Declaration and enhance the realization of the right to health in Uganda?

1.5 Significance of the study

The right to health is essential to human dignity and wellbeing. Understanding how legal and policy frame works implement this right is necessary to promoting equal access to health care and upholding Uganda's commitments under the Abuja declaration.

This study is significant because it contributes to the realization of the right to the highest attainable standard of health in Uganda by examining the country's compliance with the Abuja declaration.

Provide valuable insights and recommendations to policy and decision makers to identify areas for improvement in Uganda's health sector.

Provide a critical analysis of the challenges and opportunities in implementing the Abuja Declaration's commitments in Uganda.

1.6 Justification of the study

As Uganda endeavors to meet its commitments under the Abuja declaration in relation to the right to the highest attainable standard of health a critical evaluation of the country compliance is important.

This bridges the gap by examining Uganda's legal and policy frameworks regarding the implementation of the Abuja declaration targets.

By examining Uganda's compliance, the study provides valuable insights on how existing strategies are functioning and determine areas that need improvement to improve the enjoyment of the right to health for people in Uganda.

The findings of this study serve multiple stake holders.

For policy makers; it provides an analysis of Uganda's progress towards the fulfillment of specific health goals and targets set by the Abuja declaration and proposes improvements that can be implemented towards achieving that goal.

For health practitioners; it offers direction on ensuring that actions, policies, programs are consistent with human rights principles committed to the Abuja declaration.

For scholars; it contributes to the discourse on health rights and governance in Uganda.

Ultimately, the study advances the broader goal of health equity and social justice in Uganda by ensuring constituency with international commitments like the Abuja declaration.

1.8 Scope of the study

1.8.1. Temporal scope

This study focused on Uganda's compliance with Abuja declaration from 2001when the declaration was passed to present. Focused on the trends of the budgetary allocations over this period of time to date.

1.8.2. Thematic scope

This study mainly focused on Uganda's compliance with Abuja declaration of allocating at least 15% of its national budget to the health sector. It adopted a theoretical approach to examine Uganda's fulfillment of its international commitments specifically those provided in the Abuja declaration.

1.8.3. Geographical scope

This research was carried out in central region of Uganda in the district of Mpigi. The research examined Uganda's allocation of national budget to the health sector in line with the Abuja declaration and its impact on the right to health.

1.9 Literature review

Health is a fundamental human right enshrined in various international, regional and national instruments such as article 12ICESCR, article 16 ACHPR, article 24 of the convention on the rights of the child including the 1995 constitution of Uganda. General comment no.14 CESCR[17] lays the foundation for understanding the right to health including the state's obligation in the fulfillment of this right in line with objective no XIV of the constitution that provides for a legal frame work that

[17] UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No: The Right to the highest Attainable Standard of Health (Art.12 of the covenant), 11 August2000,E/C.12/2000/4.

obligates to ensure that all Ugandans have access to basic health services and a clean and safe environment which are fundamental to human development and wellbeing.[18]

The 2001 Abuja declaration mandates African union governments to allocate at least 15% of their total annual budget to the health sector[19].Uganda has over the years failed to meet this target though increased the health sector budget allocation to shs 5.87 trillion in 2025/26 making an increase from last year's shs 2.95 trillion but still falls short of 15% requirement of Abuja declaration approximately 8.1 of the national budget.[20]

Uganda has faced fluctuations in its health sector funding over the year since the commitment in the Abuja declaration in 2001such as from 5.6 in FY 2018/19 to 5.3% in FY2020/21 however the total health spending has been increasing over the years though remained below international targets, with 6.3% of total spending in 2025/26 and stagnated at 1.8% of GDP, against targets of 15% and 5% respectively.[21] However challenges such as over dependence on external funding, high out of pocket spending, weak domestic revenue generation, competing national priorities and limited insurance coverage limit Uganda's fulfillment of the Abuja target to health.

Scholars argue that the health sector in Uganda is under financed which is, below the international targets for health financing meaning due to inadequate funding, the health sector continues to face unfunded priorities such as recruitment of health workers, hospitals struggle with unpaid utilities because they receive less than what they need, inadequate HRH, health infrastructure development, lack of essential medicines, vaccines and other health supplies[22]

Zikusooka .C.M in his Article: Is health financing in Uganda equitable,2009[23]makes a strong argument that ''Uganda's health sector remains significantly underfunded

[18] Ibid
[19] Ibid
[20] National Budget Framework Paper FY2025/26
[21] UNICEF ,Health Sector Financing, Analysis and Strategic Recommendations (FY2025/26)
[22] Swot analysis for health financing ,Ministry of health strategic plan 2020/21-2024/25
[23] Zikusooka, C.M., Kyomuhang, R, Orem, J.N &Tumwine, M (2009). Is health care financing in Uganda equitable? African Health Sciences 9.no.2, S52-S58.

mainly relying on private source of financing especially out of pocket spending with government spending on health at 9.6% of the total expenditure ,below the Abuja target of 15% ‘’. The high reliance on out of pocket payments has contributed to limited pooling of resources hence limiting the government’s ability to allocate sufficient funds to healthcare and there is no compulsory health insurance and low coverage of private health insurance.

Zikusooka‘s article highlights that ‘’Uganda’s health financing objectives have varied in emphasis over the years however despite these efforts ,the country’s health financing outcomes remain far from the intended goals with out of pocket payments remaining high and financial risk protection inadequate’’.[24] However, his discussion remains largely practical and does not explicitly address the legal and human rights perspectives on Uganda’s health financing.

While he provides a strong practical analysis of Uganda’s health financing reforms, he does not adequately address how Uganda’s legal framework enables or hinders health financing reforms for example the right to health is not explicitly recognized in the constitution hence limiting its enforceability under litigation.[25]

Furthermore, he doesn’t adequately address how statutes can domesticate these international treaties and international health obligations in Uganda such as Abuja declaration; they are not integrated into domestic law hence reducing accountability for meeting funding targets.

While Zikusoka’s discussion remains a great contribution to public health law, it would benefit from amore theoretical approach that addresses the legal and human rights perspective of healthcare financing ,service delivery and legal enforcement in Uganda.

[24] ibid
[25] F.Ssengooba, Suzanne N.Kiwanuka, E.Rutebemberwa, E.Ekirapakiracho, The Right to health in Uganda: Implications and Practical steps to Achieving Universal Health Coverage, 2017.

1.10 Methodology

I employed a qualitative research approach, used doctrinal research, drawing from statutes, case law, academic literature and international instruments and more. This part shows how the data was collected and further analyzed to achieve the intended objectives stated in the study.

1.10.1. Research designs

This involved the use of multiple sources of data in collecting and analysis of data which include the use of statutes, case law, articles, journals, internet and more

1.10.2. Doctrinal research

Analysis of Uganda's constitution, international, regional treaties on the right to health, Abuja declaration, Uganda's National budgets. This involved analyzing legal texts, statutes, and international instruments related to health. This approach is also known as the library based approach because it primarily relied on existing legal literature rather than field work.

This kind of methodology enabled me to establish the legal basis for the right to health in Uganda's and assessing compliance with the Abuja declaration targets of allocating at least 15% of the national budget to health sector.

This methodology allowed an in-depth analysis of legal frameworks and an understanding of practical and theoretical challenges in Uganda's compliance with the Abuja declaration on health financing and the realization of the right to health.

Empirical Research: This will involve collecting data from the real world experiences through interviews, questionnaire, surveys with healthcare professionals, community, human rights activists, policy makers and more.

By combining doctrinal research method this study offered a holistic understanding of Uganda's compliance with the Abuja declaration in fulfillment of the right to health.

1.11 Structure of the dissertation

Chapter one introduces the study outlining the Background, Problem statement ,Objectives, Research questions ,Significance, Justification, Scope, Literature review, Methodology.

Chapter two; Establishes the non-legal aspects, discussing non-legal aspects related to the highest attainable standard of health and compliance with the Abuja declaration.

Chapter three; examine the international, regional and domestic perspectives on the right health and Uganda's compliance with the Abuja declaration.

Chapter four; summary of key finding from the analysis, conclusion and provide recommendations for improving Uganda's compliance with the Abuja declaration regarding the right to the highest attainable standard of health.

CHAPTER TWO:

NON-LEGAL ASPECTS OF THE RIGHT TO HEALTH AND UGANDA'S COMPLIANCE WITH THE ABUJA DECLRATION

2.1 Introduction

Uganda's adoption of the Abuja declaration in 2001 emphasizes its commitment to prioritizing health financing as a foundation of national development and Universal health coverage. The declaration of allocating 15% of its national budget to health remains a key indicator for assessing progress towards Universal Health Coverage, goal integral to the realization of the right to health.[26]

Although legal frame works are instrumental in affirming the right to health and its commitment under the Abuja declaration, non-legal factors critically shape the realization of this right and Uganda's ability to meet this commitment, it heavily depends on various non-legal factors such as education, political will and governance, health infrastructure and human resource, intersectoral collaboration, role of civil society and international organizations among others.[27] This chapter is going to focus on how these determinants influence Uganda's health financing, highlighting challenges and opportunities for achieving the right to the highest attainable standard of health.

2.2 Social determinants of health

2.2.1. Education and awareness

This plays a significant role in the realization of the right to health and achieving the Abuja declaration goals, this is through empowering individuals with knowledge, skills and critical thinking abilities that enable them to demand for health services and hold government accountable, push for budget compliance and transparency, make

[26] World Health Organization (WHO) (2023) Health Financing Profile in Uganda.
[27] https://www.who.int,World .World Health Organisation(WHO).Social determinants of health.

informed decisions about their health lifestyles choices understanding health information and navigating complex health systems[28].

According to Ravallion, ''awareness of right and services empowers communities to demand accountability from governments''[29], this means that if citizens in Uganda had sufficient knowledge about the Abuja declaration, they could push government to allocate more funds to the health sector so as to meet that target. Mbonye [30] notes that ''awareness of health rights improves healthcare seeking behavior especially for maternal health''. Further Oku [31] highlights that ''limited health literacy in Uganda's rural areas hinders access to services''.

There is limited awareness and access to information in rural areas as well available information may be hard to understand because it's not provided for in various local languages, the high levels of literacy makes it difficult to understand complex information. Therefore because of low awareness and education about the Abuja declaration, it makes it hard to prioritize health and push the government to allocate 15% to health as set by the Abuja declaration.

2.2.2 Culture and Gender norms

Cultural norms deeply shape how health and diseases are perceived[32].some cultures in Uganda prefer traditional healers and practices for various illnesses than going to hospitals. While some of these practices can complement modern medicines, they can also delay or even prevent individuals from seeking timely medical attention hence leading to health implications.[33]cultural norms can influence individual's decision about accessing health such as women and children hence impacting the health

[28] https;//archpublichealth.biomedcentral.com
[29] Ravallion, M. (2007).Inequality is bad for the poor .World bank.
[30] Mbonye, A, K., et al. (2013).Women's awareness of maternal health care services in Uganda. African Health Sciences.
[31] Oku, A., et al. (2013).Women's awareness of maternal healthcare services in Uganda. African Health Sciences.
[32] Joan Costa, Culture plays arole in personal health decisions, February 25th, 2025.
[33] Ibid

burden for example women might prioritize household spending over their health due to gender norms[34]

Cultural norms may stop people from utilizing the free public health services such as HIV testing, family planning and more, this makes the government to spend more on treating the health outcomes instead of allocating 15% target as per the Abuja declaration.

2.2.3 Health infrastructure and Human resources.

Access to healthcare and the right to health are strongly connected to the availability and access of medical facilities and qualified personnel. Insufficiency of healthcare facilities or lack of enough trained workers makes people struggle to get the care they need, violating their right health rights.

Health infrastructure includes buildings like hospitals and clinics, tools for diagnosis, medical supplies and the systems used to diagnostic health facilities. Having access to medical facilities enables people to receive the necessary medical treatment. Uganda has national referral hospitals, district hospitals and health centers however rural facilities often lack equipment and staff.[35] Together with other challenges such as accessing health services due to distances and poor infrastructure.[36]

Quality and accessible healthcare depends on well-equipped centers, reliable services and a sufficient number of trained healthcare staff .however ,healthcare infrastructure suffers from underfinancing ,unequal distribution and a shortage of staff.[37]The national doctor to patient ration stands at approximately 1:25,000,afigure far below the WHO recommendation of 1:1,000[38].This not only delays treatment but also diminishes the quality of care and violates the right to timely and accessible

[34] Kahn (2007).cultural barriers to healthcare in Uganda. Global Health Action.
[35] Okwir, M.et al. (2020).Assessing healthcare facilities in Uganda. Journal of Health policy ,12(3),22-30
[36] Kigundu, M., ET AL (2019).Health infrastructure challenges in rural Uganda .African Health Review, 15(1), 45-52.
[37] World Health organization, Country Cooperation strategy at glance, Uganda ,may 2018 https://apps.who.int/iris/bitstream
[38] Janepher Wabulyu,Advocacy & communications Coordinator, Uganda Alliance of patients organisations, Kampala Uganda .sep 16,2019,The state of patient safety in Uganda, https://isqua.ord

healthcare .Moreover ,inadequate transportation systems ,frequent drug stock-outs and dilapidated facilities particularly in rural areas limit access to emergency and essential health services ,endangering lives and diminishing human dignity.[39]

2.2.4 Community participation

World Health Organization (WHO, 1991) defines participation in health as a process that involves groups and individuals exercising their rights by playing a direct and active role in the development of the needed health services and in ensuring the sustainability of better health. Participation of the population in all health-related decision making at community, national and international levels is an important aspect of the right to health[40] and is recognized as both a human right and a responsibility. People have the right and duty to participate individually and collectively in the planning and implementation of their healthcare.[41]

Community participation in primary health care and rural health service development has been argued to result in more accessible, relevant and acceptable services.[42]According to the health Sector Strategic and Investment plan (HSSIP),the provision of health services in Uganda has been decentralized, with districts and health sub-districts(HSDs) playing a key role in the delivery and management of health services at district and health sub-districts levels, respectively. On partnership with communities, the plan asserts that community participation as a strategy in health service delivery is important as it ensures the availability of appropriate community based services and addresses barriers to accessing care.

In spite of the accepted general principles of primary healthcare and community participation, real community participation has not taken root and the benefits of the

[39] JOINT ECONOMIC COMMITTEE, ADDRESSING RURAL HEALTH WORKER SHORTAGES WILL IMPROVE POPULATION, HEALTH AND CREATE JOB OPPORTUNITIES January 30th, 2024.
[40] The United Nations Committee ,2000
[41] The Alma –Ata Declaration on primary Health care (1978)
National Rural Health Alliance 2002;Taylor et al.2008

healthcare programs are not equally distributed with PWDs and other vulnerable populations being left out in many rural areas.

2.2.4 International funding and support

This plays a significant role in Uganda's progress towards achieving the Abuja declaration targets for example organizations like WHO, the global fund, USAID and others have helped to bridge financial gaps, strengthen health systems and improved access to health services[43].for example Uganda received funding from the global fund to fight HIV, TB and malaria which has contributed to improved health outcomes.[44]Partners such as USAID, UNICEF, and GAVI among others fund various health programs such as PREPFAR (HIV/AIDS), malaria control, maternal health, immunization, child health, access to vaccines and others as well as providing technical assistance through expertise and capacity building to strengthen Uganda's health systems.[45] However, over reliance on external funding poses sustainability risks as shifts in donor priorities or funding levels impacts Uganda's health budget[46].

2.3 Political will and priorities

The health sector in Uganda competes with other sectors such as security, infrastructure and more for budget allocation. According to the total national budget of FY2025/2026, Infrastructure development remains a top priority with the ministry of works and transport receiving shs. 5.6 trillion, Defence allocated 3.737 trillion to support national security, Energy sector shs. 1.586 trillion. The health sector was allocated shs. 1.398 in development funding, including shs. 103.8billion for upgrades to Mulago National Referral hospital and shs. 91.5 billion for the Uganda cancer institute, an additional shs. 204.7 billion is earmarked for recurrent health expenditure.[47] This clearly shows that the health sector has to compete for the

[43] WHO. (2020).Uganda: WHO and partners support health financing reforms.
[44] Global Fund. (2022).Uganda: overview of global Fund supported programs.
[45] https://.www2.fundforngos.orgNOFO:USAID Strengthening local Health Systems Activity (Uganda)
[46] Oku,A.,Owo,M.,Oku,O.,ASem, F.(20180.Health financing in Uganda: Challenges and opportunities. Journal of Health Research,20(2),1-10
[47] Ministry of finance, Uganda Budget Framework paper 2025/26

available budget resources alongside other government departments, even though health is crucial, other sectors are considered as top priorities while allocating funds in the national budget.

Therefore, if health is not a top priority for leadership while allocating funds in the national budget, the meeting of 15% Abuja declaration target may be hard to achieve hence resulting into underfinancing in the health sector

2.4 Role of civic society and international organizations

Uganda's collaboration with international organizations such as world health organization, non-governmental Organizations has strengthened its health system in areas like health financing, epidemics and universal health coverage. WHO has been supporting Uganda to increase domestic resource mobilization ,improve health financing and enhance equity and financial protection[48]some of these collaborations include national dialogue on health financing by the ministry of health, WHO and other partners aimed at increasing domestic resource mobilization and improving health efficiency[49] together with NGOs such as e Health Africa and other NGOs are advocating for increased funding for African led innovations to strengthen healthcare delivery.[50]

Civil society organizations and development partners fill critical gaps in Uganda's public health system by offering services, mobilizing communities and advocating for accountability[51].for example CEHURD has played a pivotal role in advocating for maternal health rights through strategic litigation and public campaigns.[52]However,

[48] https://www.afro.who.int.WHO and partners back Uganda's commitment to sustainable health financing for universal health coverage 08 may 2025,
[49] ibid
[50] https://www2.fundsforngos.org .The Intersection of Health and Funding :Opportunities for African NGOs.
[51] CEHURD,''Minister asked to issue directive on water disconnections in public health facilities 20th February,2015 https://www.cehurd.org/author
[52] CEHURD,JUDICIAL ENDORSEMENT OF MATERNAL HEALTH RIGHTS IN UGANDA, Wednesday 19th August ,2020 https://www.cehurd.org

this heavy reliance on external actors questions the state's ability to independently guarantee health rights and creates sustainability challenges.[53]

2.5 Conclusion

The realization of the right to health is shaped by a number of non-legal factors such as political will and governance, education, awareness, international support and funding, cultural beliefs and many others. These elements shape the right to health and greatly affect Uganda's compliance with the Abuja declaration

[53] F.Ssengoba ,Suzanne N.K,E.Rutemberwa ,The Right to Health in Uganda : Implications and Practical Steps to Achieving Universal Health Coverage ,2017https://speed.musph.ac.ug

CHAPTER THREE:

ANALYSIS OF INTERNATIONAL, REGIONAL AND DOMESTIC PERSPECTIVES ON THE RIGHT TO HEALTH AND UGANDA'S COMPLIANCE WITH THE ABUJA DECLARATION

3.1 Introduction

This chapter entails an in-depth analysis of the legal aspects governing the right to health and Uganda's compliance with the Abuja declaration. The right to health is enshrined in various international, regional and national instruments such as universal declaration of human rights, international covenant on social economic and cultural rights, Uganda's constitution and many others. This chapter will mainly address the question of how the right to health is defined and interpreted under various international, regional and national legal frameworks. Additionally, this chapter will examine various international and regional instruments that uphold the right to health and have been ratified to by Uganda.

3.2. International instruments

Uganda is a signatory to various international instrument and bound by the provisions of those instruments it ratifies to, as a signatory it commits to uphold the right to health and ensuring accountability of state holders in case of breach of this right.[54]

3.2.1 Universal declaration of Human rights

Article 25(1) [55] of the Universal Declaration of Human Rights 1948 (UNDR) provides for the right to health as a right to a standard of living adequate for health and well being, it also stipulates that everyone has the right to an adequate standard of living which includes quality health standards. This right extends a duty to the state to ensure adequate access to medical care, public health and other services such as food, water, clothing, housing and creation of an environment that promotes enjoyment of the right to health by the people such as by providing security in the

[54] Vienna convention on the law of Treaties (1969)
[55] Universal Declaration of Human Rights ,General Assembly Resolution 217A

case of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond a person's control.[56]

The Universal Declaration of Human Rights further provides for the right to life under Article 3 which emphasizes liberty and security of people. Article 12of the UDHR emphasizes the right to privacy which includes confidentiality and autonomy in healthcare decisions.

Article 26 of the Universal Declaration of Human Rights provides for the right to education. This ensures that people attain adequate knowledge concerning child health, methods of preventing and controlling diseases such as HIV/AIDS and other communicable diseases among others. Education about the right to health enables individuals to make informed choices regarding the enjoyment of the right to health and fight for their rights in case they are violated as well as participating in decisions that affect well being and holding the government accountable for their obligations under various instruments regarding the right to health. These provisions establish a foundation for, influencing national laws and policies, serving as a framework for holding the state and other actors accountable for ensuring access to quality healthcare and protecting people's rights, for example The treatment Campaign in South Africa illustrates how an NGO effectively used social mobilization, advocacy and resort to litigation jointly to ensure equal access to HIV/AIDS treatment. In December 2001 the High Court decided in favor of the Treatment Action Campaign and held that the Government's restrictions were unreasonable. The Government was required to remove restrictions on the availability of nevirapine at public hospitals and clinic that are not research sites and to devise and implement within its available resources a comprehensive and coordinated programme to progressively realize the rights of pregnant women and their newborn children to have access to health services to combat mother-to-child transmission of HIV. [57] Thereby supporting Uganda's commitment under the Abuja Declaration.

[56] Ibid 49

[57] Minister of health v Treatment Action Campaign (2002) 5SA 721(CC) (South Africa); and Mark Heywood, 'Current developments; preventing mother-to-child HIV transmission in South Africa :

3.2.2. The international Covenant on Economic, Social and Cultural Rights (ICESCR, 1967)

The ICESCR is considered as the main legal document for protection of the right to health, recognizes ‘’the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.[58] It directly has an impact on the enjoyment of the right to health in Uganda. Article 12 [59]of the International Covenant on Economic, Social and Cultural Rights recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and obliging states parties including Uganda to take steps to prevent and treat diseases in ensuring the right to health is enjoyed by all people in Uganda.

Article 2(2) of the ICESC ensures non-discrimination based on race, color, sex, language, religion, birth or other status including access to healthcare, this means that state parties have to provide access to medical facilities to everyone without discrimination as well as promoting justice for victims whose right to health is violated. According to the committee on economic, social and cultural rights, other status may include health status e.g. HIV/AIDS. Furthermore, Article 12(2) of the ICESCR obliges states to e improve all aspects of environmental and industrial hygiene, provision of healthcare facilities to treat epidemics, endemics, occupational and other diseases thus achieving the full realization of the right to the highest attainable standard of health.

In addition, General Comment No. 14 [60]defines the right to health to include access to essential medicines, healthcare facilities, and trained healthcare personnel, and emphasizing states’ duty to provide good quality health care services that are

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Background ,Strategies and outcomes of the Treatment Action Campaign’s case against the Minister of Health’ ’South African Journal of Human Rights, vol 19,part2(2003)

[58] Office of the United Nations High Commissioner for Human Rights & World Health Organisation, The Right to Health ,Fact Sheet No 31(2008).

[59] International Covenant On Economic ,Social and Cultural Rights(Adopted by United Nations in 1967),https://treaties.un.org

[60] General Comment NO.14 Adopted on 22nd Session of the Committee on Economic, Social and Cultural Rights, on 11th August 2000. (https:www.ohchr.org).

accessible to all people. General Comment No. 20 (2009) [61]on non-discrimination in Economic, Social and Cultural Rights, clarifies states' obligations to protect the right to health without discrimination. By ratifying the ICESCR, Uganda committed to respect, protect, and fulfill the right to health by ensuring availability, acceptability, accessibility and quality healthcare. These provisions and interpretation provide a framework for understanding Uganda's obligation to promote the right to health which is in line with Abuja declaration where states commit themselves within all means to ensure that the required resources are provided and they are successfully utilised.[62]

3.2.3 The International Covenant on Civil and Political Rights (ICCPR).

Article 2 of the International Covenant on Civil and Political Rights guarantees access to safety of people's rights without distinction of any kind, and adoption of laws to ensure protection of the rights in the covenant and providing remedies in case of violation of the rights by different stakeholders.[63]

Additionally, Article 7 of the International Covenant on Civil and Political Rights ensures the freedom from torture and cruel, inhuman and degrading treatment, this includes protection from physical and psychological harm that may result into violation people's right to health.[64]

Furthermore Article 17 of the International Covenant on Civil and Political Rights safe guards patients' right to privacy, including confidentiality and autonomy in healthcare decisions.[65] Finally Article 2(3) of the ICCPR guarantees the right to access to justice and remedies for victims where violation of the right to health occurs.[66] This includes

[61] Committee on Economic, Social and Cultural Rights, General Comment N0.20,Non-Discrimination in Economic, Social and Cultural Rights(Art 2,par 2)U.N.Doc.E/C.12/GC/20(2009)
[62] Article 26 Ibid10
[63] International covenant on Civil and Political Rights (Adopted on 16thDecember 1966)(By General Assembly Resolution)2200A(XX1)
[64] Ibid 58
[65] Ibid 59
[66] Ibid60

the right to seek compensation and hold healthcare providers accountable through judicial, administrative and legislative proceedings.[67]

3.2.4 The World Health Organization (WHO) Constitution (1946)

The World Health Organization (WHO) Constitution (1946) recognizes the right to health as a fundamental human right.[68] This is validated by its major aim in Article 1 which is to ensure attainment of the highest standard of health by all people.[69] The World Health Organization Constitution further defines health as, the ''state of complete physical, mental and social well-being and not merely the absence of disease or infirmity''. This sets a standard for all states to ensure access to healthcare. Uganda has committed to prioritizing the right to health and ensuring access to quality healthcare which is also in line with allocating 15% of its budget as set out in the Abuja declaration.

3.2.5 The Alma Ata Declaration, 1978

The Alma Ata Declaration of 1978[70] emerged as a major milestone of the twentieth century in the field of public health It identified primary health care as the key to the attainment of the goal of health for all.[71] The preamble of Convention emphasizes that health is a fundamental human right and attainment of the highest possible level of health is a most important world-wide social goal.

The Alma Ata Declaration's principles and recommendations have influenced global health policy in Uganda by shaping healthcare systems and emphasizing the importance of accessible, community-based healthcare. By prioritizing primary health care which emphasizes equity and management of services close to the community within their full participation[72].

[67] Ibid 61
[68] Constitution of the World Health Organization(Adoption in 1946 and entered in 1948)https://www.who.int)
[69] Ibid
[70]World Health Organization (www://www.who.int)
[71] ibid
[72] F.Ssengooba, SN Kiwanuka, E.Rutebemberwa, E, Ekirapa. Kiracho (2017), Universal Health Coverage in Uganda: Looking Back and Forward to Speed up the progress .Makerere University, Kampala Uganda.

3.2.6 The International Convention on the Elimination of All Forms of Racial Discrimination ICERD, 1965).

It was adopted by the United Nations General Assembly in 1965, the ICERD fights against racial discrimination which greatly impacts on the enjoyment of the right to health in Uganda. Article 1[73] of the ICERD provides that states are obliged to condemn and eliminate discrimination of all forms of racial and ethnic minorities, including those who seek healthcare services. Discrimination has a great effect of impairing the enjoyment of fundamental human rights such as the right to health.

Nondiscrimination and equality are fundamental human rights principles and critical components of the right to health and this implies that states must recognize and provide for the differences and specific needs of groups that generally face particular health challenges such as higher mortality rates or vulnerability to specific diseases.[74]

Article 5 of the ICERD requires states including Uganda to ensure equal access to healthcare and medical care , without discrimination to all thus making medical care available for all which ensures people's enjoyment of their right to health.[75]

Further, Article 2 of the ICERD encourages states to take special measures to protect vulnerable groups such as racial and ethnic minorities from discrimination and marginalization. Therefore Uganda's ratification to the ICERD shows its commitment to eliminate discrimination in the healthcare sector hence ensuring that specific health standards are applied to various population groups.

3.3 Regional Instruments

3.3.1 African Charter on Human and People's Rights

The African Charter aims at promoting and protecting human rights and basic freedoms throughout the African continent. Article 16 of the African Charter states that every individual shall have the right to enjoy the best attainable state of physical

[73] The international Covenant on the elimination of All forms of Racial Discrimination, (Adopted by the UN General Assembly Resolution 2106XX) on 21st December 1965.
[74] Ibid 53
[75] ibid

and mental health .This ensures the enjoyment of the right to health in Uganda which protects individual's right to health from being violated by all stakeholders. [76] Therefore, by ratifying the African Charter, Uganda has committed to take all necessary measures to protect, respect and fulfill the health of its people and ensure that they receive medical attention when they are sick.

In the case of Purohit and Moore v The Gambia[77], this was a complaint before the African Commission on Human and people's Rights in 2001 where two mental health Advocates, Purohit and Moore challenged the conditions and treatment of individuals detained in a psychiatric unit. They argued that the Act was outdated, discriminatory and violated various human rights of people with mental disabilities. The Act allowed for arbitrary detention of individuals labeled as ''lunatics' 'without clear procedures for admissions, appeal or periodic review. Furthermore, patients were subjected to poor living conditions, inadequate medical care and stigmatization. The African Commission found that the right to health under article 16 was violated, stressing that mental health is an essential part of the right to health and states are obliged to provide services, facilities and treatment to individuals with mental disabilities.[78]

The Charter's provisions and the African Commission's oversight help ensure that Uganda observes the right to health for all individuals.

3.2.2 The Abuja declaration

The Abuja declaration sets out a commitment by member states to address the health crises facing the continent, including HIV/AIDS. Tuberculosis and other related infectious diseases.

Article 25(1) [79] of the Abuja declaration states that everyone has the right to a standard of living adequate for the health and well-being of themselves and ought to take responsibility in the fight against HIV/AIDS and other diseases in their area.

[76] African Charter on Human and People's Rights (Adopted on June 01,1981 https://au.int
[77] Purohit and Moore v The Gambia ,Communication No.241 of 2001
[78] ibid
[79] ibid

Furthermore, the Declaration reaffirms the commitment undertaken by the member states to allocate 15%of their annual national budget towards the progressive achievement of universal access to health .This commitment has significant legal implications for analyzing the right to health and Uganda's compliance with the Abuja declaration.[80]

3.3 National Instruments

The National legal framework, relating to the right to health is embedded in different laws and policies as discussed below.

3.3.1. The constitution of the republic of Uganda 1995 as amended

The 1995 constitution of the republic of Uganda, as amended provides a foundation for the promotion of the right to health. Article 8A of the constitution of the republic of Uganda was considered by Justice Bart Katureebe in the case of Godfrey Nyakaana v Attorney General and others[81] where reference was made to article 8A of the constitution and the National Objective and directive principles of state policy. Court held that these are in place to uphold the right to health.

The National Objectives and directive principles of state policy uphold the right to health for example ,objective xx provides for access to medical services where the state is obliged to take all practical measures to ensure the provision of basic medical services to the population .Further, Objective XXIII provides for food security and nutrition where the state is required to take appropriate steps to encourage people to grow and store adequate food, establish national reserves and encourage and promote proper nutrition through mass education and other appropriate means in order to build a healthy state in the case of Mulumba Moses and another V Attorney General and 2 others, the applicant bought acclaim against the Attorney General and other respondents for violation of the right to health due to deaths that occurred due to outbreak in Uganda. It was worsened by the high charges in hospitals to attain medical care yet the ministry of health remained silent. Court issued an order of

[80] ibid
[81] Constitutional Appeal No.05 of 2011.

Mandamus compelling the government of Uganda and the Medical and Dental Practitioners' Council to intervene by making regulations on fees chargeable by hospitals managing COVID 19[82].This was further elaborated in Health Equity and Policy Initiative V The Minister of Health, Dr. Jane Ruth Achieng and Another.[83]

[84]These cases clearly show that the right to health is observed in Uganda and courts have made decisions in favor of victims whose right to health has been violated such as in the case of CEHURD and Nakayima Fatumah V The executive Director ,Mulago National Referral Hospital and The Attorney General where the second applicant gave birth to a baby from Mulago Hospital and neither the baby nor the dead body was given to her, Court ordered that Fatumah be given a monetary compensation of Uganda Shillings fifty million due to the psychological trauma she went through that affected he mental health and well being. Court held that failure of the hospital to give Fatuma her baby after birth and provide her with information concerning the whereabouts of her baby dead or alive is a violation of her right to health.[85]Based on the above cases, it is evident that the right to health is recognized in Uganda and its violation can lead to sanctions to the offender.

Furthermore, the constitution establishes the health Commission .Article 169 of the constitution of the republic of Uganda empowers an advisory body to support the president in ensuring effective performance of health service-related functions, as provided under article 172. This advisory body plays a crucial role in shaping the health service, ensuring effective management and promoting the well being of healthcare professionals by appointing, confirming, disciplining and removing personnel, reviewing terms and conditions and making recommendations to the government. Uganda's constitution upheld the right to health, conforming with the Abuja declaration's aim to enhance health systems however implementation and funding gaps hinder realization of the right to health in Uganda.

[82] High Court MiscAppl.No.198 of 2021.
[83] Miscellaneous Cause No.210 of 2018.

[85] High court Misc. cause No.327 of 2016

3.3.2 The Medical and Dental Practitioners Act

The Uganda Medical and Dental Practitioners Act provides for the regulation of the medical and dental practice and for related matters.

Section 2 of the Medical and Dental Practitioners Act establishes the medical and dental practitioner's council whose functions is established under section 3 of The Medical and Dental Practitioners Act and includes exercising disciplinary control over medical and dental practitioners, maintenance of medical ethics, suspension of medical practitioners, inquiries into medical negligence of medical practitioners among others.[86]

In the case of The Matter of an Inquiry by the Uganda Medical and Dental Practitioners Council into the death of Jennifer Anguko at Arua Regional Referral Hospital where it is alleged that the staff of Arua Regional Referral Hospital had received the late Anguko who was in labor but neglected her and she eventually died from a ruptured uterus. The Uganda Medical and Dental Practioners Council forwarded Grace Wanican to the Uganda Nurses and Midwives Council over her negligence and other sanctions. The medical and dental practitioners act ensures that healthcare providers are qualified and follow standards precisely impacting the quality of healthcare hence supporting Uganda's efforts to improve health outcomes, aligning with the Abuja Declaration.

3.3.3 The HIV and Aids Prevention and Control Act

This act provides for the prevention and control of HIV/AIDS, rights and obligations of persons living with and affected by HIV/AIDS, obligation of the state among others.[87]Article 24 provides for the state's responsibility in the control of HIV/AIDS such as providing essential medicine, universal HIV treatment, prevent and control HIV transmission, provide adequate funding for HIV and AIDS programmes among

[86] The Medical and Dental Practioners Act cap 300
[87] The HIV and Aids Prevention and Control Act.

others.[88] This helps Uganda to promote the right to health through providing access to treatment and care, protect people with HIV from discrimination while accessing healthcare, penalizes those who intentional transmit the disease or negligently lead to the spread of the disease. for example in the case of Rose Mary Namubiru v Uganda[89], a health worker who was living with HIV used an injection on a child yet she had pricked herself using the very injection. Court held that such negligent acts would result in the spread of diseases such as HIV. This supports Uganda's obligation under the Abuja declaration to improve the health sector including HIV/AIDS services however the implementation of this commitment is cut short by inadequate funding hence affecting the realization of the right to health in Uganda.

3.4 Comparative Legal Perspective: Lesson from Global Model

The Abuja declaration 2001 sought to encourage African governments to allocate at least 15% of their national budget to health sector.[90]While Uganda struggles to meet this target over the years since its commitment to the Abuja declaration, analyzing the experiences of other countries like South Africa offers significant perspectives on health financing in Uganda. South Africa with its advanced constitution and well established health system, offers an enlightening report for Uganda's own efforts to comply with the Abuja declaration. This examines the relative legal view on health financing in Uganda and South Africa emphasizing lessons Uganda can get from South Africa's experience.

The South African Constitution (1996) explicitly guarantees the right to access health services under section 27, hence imposing an obligation on the state. This constitutional recognition has enabled robust judicial enforcement of the right to health as seen in the Case of Minister of Health and 8 others V Treatment Action Campaign and 2others[91]The Constitutional court ordered the government to remove

[88] ibid
[89] 2014 HCT-CR-CN-0050-2014
[90] ibid
[91] Minister of Health and 8 others V Treatment Action Campaign and 2 others Constitutional Court of South Africa case CCT8/02

restrictions on access to anti-retroviral drugs for HIV/AIDS treatment, affirming that health rights are justiciable and require proactive state action.

South Africa is one of the few African countries that has met the Abuja declaration target of allocating 15% of its national budget to the health sector, south Africa has consistently met the 15% allocation target to health since 2015 allocating15.2%to15.3% of its national budget to health from 2015to 2021.[92]this is due to the a robust health system such as a national health insurance scheme that aims to achieve universal health coverage by pooling funds which reduces high out of pocket payment hence maintaining the financial protection, it's health sector is largely domestically funded with limited dependency on donor funds and many others.

In line with that, a study on Health Financing in Ghana, South Africa and Nigeria highlights that overall South Africa meets the Abuja target while Nigeria and Ghana don't. It further notes the potential discrepancies in calculating the target but confirms South Africa's compliance with the spending goal.[93]As of 2020, only south had reached the Abuja declaration target of allocating and spending a minimum of 15 percent of its government expenditure on health.[94]

A review by the World Bank in 2011 just 10years after the signing of the Abuja declaration on progresses made in signatory countries meeting of the 15% target found that only South Africa out of the 16 SADC member states had the potential to achieve that target.[95]

Furthermore an article by the Human rights watch highlights that two decades after the 2001 Abuja declaration ,where African Union(AU)states committed to allocating at least 15%of their national budgets to healthcare, most countries are falling far below

[92] https;//gilanalytics.com.Abuja Declaration on health -20 years later.
[93]Burke, Rachael S, Sridhar, Devi Lalita (2013): Health Financing in Ghana, South Africa and Nigeria. Are they meeting the Abuja target? GEG Working Paper, No 2013/80, University of Oxford, Global Economic Governance Programme (GEG), Oxford.
[94] Responsive Primary Health Systems can help African Countries Reach (village Reach) an article of august 2020 highlights.
[95] Jack Bwalya: SADC and the Abuja Declaration honoring the pledge, February 2021.

this target.in fact, only of the 55AUmember states, caboverde and South Africa achieved the15%goal in2021.[96]

Despite Uganda falling short of the Abuja declaration target, South Africa has achieved this target over the years, aligning with its commitment under the Abuja declaration. South African model shows the constitutional recognition of the right to health, providing Uganda a blue print for amending its constitution to explicitly recognize the right to health such reform can enhance accountability for the state to ensure health services are provided to the people as well as funding the health sector in fulfillment of its commitment under the Abuja declaration.

South Africa's fulfillment of the Abuja declaration is determined by several factors such as limited reliance on donor funding which enables the state to effectively raise health funds domestically, strong health financing reforms such as National Health Insurance that aims at pooling funds and reducing out of pocket payments hence enhancing financial protection and many others. This provides a blue print to Uganda to reduce reliance on external aid for health by raising funds locally, implementing policies that can effectively provide funds so as to increase health financing hence aligning with its commitment under the Abuja declaration.

3.5 **CONCLUSION**

In conclusion, this chapter has provided a broad scrutinization of the laws governing the right to health and Uganda's commitments to upholding it's obligation.

The right to health is reinforced by its ratification to international treaties such as the Universal Declaration of Human Rights, the International Covenant on Economic Social And Cultural Rights as well as Regional instruments like African Charter on Human and People's Rights, Abuja Declaration, however, Uganda's compliance with the Abuja Declaration budget allocation for health remain a challenge.

[96]Pratyasha Ghosh: African Gov'ts falling short on Health care funding, Human Rights Watch, 28, Apri2024.

CHAPTER FOUR

SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

4.1 Introduction

This chapter provides a synopsis of the key research insights, linking them with the study's objectives and questions.it then outlines conclusions based on the assessment in the other chapters and offers valuable solutions aimed at strengthening the realization of the right to health in Uganda and ensuring Uganda's Compliance with the Abuja Declaration.

4.2 Summary of findings

This study employed a qualitative methodology with library based research as its main approach through thorough examination of primary legal texts, international, domestic instruments, scholarly literature.it sought to determine Uganda's compliance with the Abuja Declaration. The results disclosed in the chapters above show Uganda's noncompliance with the Abuja declaration which has negatively affected the health sector in Uganda with its funding lying below the 15% target as committed in the Abuja declaration.

The major finding is that Uganda has consistently failed to meet the Abuja declaration target with its national health allocation often falling below the pledged percentage, while Uganda has made some improvements within the health sector; its national funding has not yet met the required percentage of 15% as set out in the Abuja declaration.

The study revealed that systematic challenges such as over reliance on donor funding, high out of pocket spending, weak policy implementation, corruption and resource mismanagement, competing priorities, limited fiscal space, debt obligations, lack of

accountability, proper governance and more have led to Uganda's noncompliance with the Abuja declaration Target.[97]

The non-compliance is evidenced by the national budget together with existing literature, reports and more for example in Health budget for 2016/17 was 8.9 to 8.1 in FY 2025/26, which falls below the 15% Abuja Declaration target and this has greatly impacted the quality of healthcare provided in health facilities.[98]

In line with that, the Uganda Medical and Association (UMA) recently expressed concern over declining government funding for health sector, calling for alternative solutions to address the affected interventions and high donor dependency. And in an interview with Nile post, Dr Herbert Luswata, the UMA president, stated that ''Uganda needs to adhere to the Abuja Declaration, to which it is a signatory and allocate 15percent of the national budget to the health sector''.[99]

The study revealed over dependency on external aid is one of the major factors that has led to Uganda's noncompliance. The health care in Uganda has both local and international funding ,however the health sector largely depends on external financing. Uganda's healthcare system has heavily relied on external funding with USAID playing a crucial role in supporting vital programs such as HIV/AID treatment, malaria prevention and others, many people especially in rural areas have depended on this for survival, however recently the united states cut USAID funding to Uganda ,this has greatly affected the health sector because over 1.3million HIV-positive Ugandans rely on antiretroviral therapy(ART)now face the risk of severe shortages and AIDS related deaths.[100]

Furthermore, Uganda as one of the top ten most malaria affected countries; there is a struggle to provide essential resources such as treated mosquito nets, malaria drugs

[97] Oleribe OO,Momoh J,Uzochukwu BSC,et al.Identifyingkey challenges facing healthcare systems in Africa and potential solutions ,int J Gen Med.2019;12:395-403.
[98] Center for Economic and Social Rights; Development without rights? Uganda to face United Nations Scrutiny.sept 12,2016 info@cesr.org
[99] ibid
[100] Onencan Richard Apil; Health in Peril: Uganda's Healthcare Crisis Exposes Systematic Failures. https://parliamentwatch.ug

and diagnostic kits. This has led to increased malaria related death.[101]This undermines the sustainability of the health system in Uganda.

The study revealed that due to the failure to meet the 15% target has led to chronic shortages of essential medicines and medical supplies in public health facilities which have led to poor service delivery and increased out-of-pocket expenditures for patients[102] ,a persistent and unequal health expenditure gap which is often negative as actual expenditures fall short of the target [103], nonfunctional infrastructure, under staffing with the doctor to patient ratio approximately 1:25000 which is lower than the world health organization recommended standard, high maternal and infant rates and more.

The study also found that rather than prioritizing healthcare in the national budget, the government priotizes other sectors such as military, infrastructure which it funnels in massive resources while leaving the health sector underfunded and lagging behind and this is as a result of corruption, wasteful spending and misplaced priorities.

4.3 Conclusion

This dissertation sought out to examine Uganda's compliance with the Abuja declaration. Through doctrinal and literature -based analysis, it has demonstrated that Uganda has completely failed to comply with its pledge under the Abuja declaration of allocating 15% to the health sector in its annual national budget despite significant increase in health budget allocation to 8.1% in FY 2025/26.heavy reliance on donor funding and gaps in budget execution pose notable challenges to achieving Universal Health Coverage.

The under financing of the health sector has negatively affected the quality of healthcare in Uganda for example it has led to inadequate essential medicine ,under

[101] ibid
[102] Ministry of Health (2023) Annual Performance Report 2023, Kampala: Ministry of Health.
[103]Government Health Expenditure Gap Analysis: A study on the Commitment to international Agreement and the role of Economic and Institutional Factors. Health Economics and Management Review, 6(1), 96-110. https://doi.org/10.61093/hem.2025.1-06

staffing, nonfunctional health infrastructure, poor service delivery, high maternal mortality as a 2023 report by United Nation Population Fund Uganda showed that about 16 women die every day from pregnancy-related causes[104], high out of pocket expenditure and Some of the proposed reforms are not operational such as the National health insurance scheme which is aimed at reducing out of pocket expenditures was proposed, discussed and passed by parliament but has not been signed by the president.

Therefore continuous efforts to increase domestic funding and confront strategic challenges are essential to enhance healthcare impacts in Uganda. Uganda needs to embrace the Abuja Declaration to which it is a signatory and provide 15% of the country's budget to the health sector. This local commitment will push our health sector to greater heights .we need to embrace the alternative funding of the health sector through the national health insurance scheme which was passed by parliament.[105]

4.4 RECOMMENDATIONS

Strengthening implementation mechanism. Uganda should explicitly recognize the right to health in its legislation such as in the 1995 constitution ,the 1995 constitution of Uganda lacks express provision about the right to health, this makes the enforcement of the right to health hard with the right just implied in some constitutional clauses, the national objectives and directive principles of state policy ,however implicit nature of the right to health in Uganda makes it easy for its realization, this makes the right to health justiciable, hold the government accountable and enforce compliance with constitutional provisions.

Increase Health Sector Financing. The government should meet the Abuja Declaration target of allocating 15% of the national budget to the health sector. This increased funding will improve the healthcare system in Uganda such as building more medical

[104]UNFPA Uganda ,Transforming Lives, Inspiring Change ,Annual Report ,2023 https://uganda'umfpa.org

[105] Muhammad Matovu; Big Interview-: Uganda must adopt Abuja Declaration to address declining health funding –medics president. Sunday, July 14, 2024.

facilities and upgrading them, providing essential medicine, human resource and more this can strengthen the health system, improve access to health are as well as fighting diseases.

Reduce donor dependency. The government should transit from donor dependency to domestic sustainability. The health sector in Uganda is heavily depending on external aid for health financing especially mainly in critical diseases such as HIV/AIDS, Malaria, Tuberculosis, due to the recent funding cuts for HIV/AIDS, Tuberculosis and more it has led to shortage of essential drugs hence affecting the health of Ugandans. Raising funds locally such as collaborating with the private sector, introducing new taxes and more can help to increase health financing.

Strengthening health systems. The parliament proposed the national insurance scheme bill which the president has not yet assented to hence delaying its implementation. Adopting such a scheme is a great strategy that can increase health financing by accumulating funds through compulsory contributions, reduce out of pocket spending, achieve universal health coverage, improve accessibility of health services to the vulnerable.

Human Rights-Based Education and Awareness. Civic education programs aiming on the right to health should be included into national and community engagement. This will empower citizens to demand their rights and hold state actors accountable. To secure profound impact, medical and health-related academic programs should insert rights-based principles in their programs. Furthermore, the education should address Uganda's obligations and it's commitment under the Abuja declaration. This can help make informed decisions as well as increase health financing.

In conclusion, Uganda should concentrate on increasing its health budget allocation to meet the 15% target as declared in the Abuja declaration, strengthen domestic funding and improve governance to increase healthcare services. Effective execution of these strategies will enable Uganda make notable steps in attaining Universal health Coverage and enhance the well-being of its citizens.

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