

**THE CRITICAL ANALYSIS ON THE RESPECT AND OBSERVANCE OF THE  
PATIENT'S RIGHTS IN UGANDA**

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DECLARATION

I WILBROAD TINDIMWEBWA hereby declare that the information presented in this dissertation is a result of my own initiative. This dissertation has never been presented to any other institution for an academic award.

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## ABSTRACT

This dissertation provides the critical analysis on the respect and observance of the patient's rights in Uganda. It explores the legal framework governing patient's rights both at national and international level. The study investigates the extent to which the rights of patients have been observed and respected by different actors in Uganda. Through a combination of qualitative and physical library data collection analysis the research identifies key challenges undermining the Patient's Rights.

The study, therefore, provides recommendations which include allocation of funds, a structured framework for tele-medical and digital health, legal and ethical education, and support training in cultural competency

APPROVAL

I, the undersigned, hereby certify that I have thoroughly reviewed the dissertation report and find it suitable for submission. I recommend it for acceptance by the board of examiners, leading to the award of the Bachelor's Degree in Laws at the Uganda Christian University



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DATE: 22<sup>nd</sup> May 2025

## DEDICATION

I truly and sincerely dedicate this work to the almighty God who has given me life and the strength to finish my education; I dedicate myself fully to him. I dedicate this dissertation to my amazing family in appreciation of their unwavering support throughout my academic career.

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## Chapter 1

### Introduction

This research analyzed the respect of rights of patients in Uganda. This chapter presented the background to the study which comprised the statement of the problem, purpose of the study, objectives, research questions, significance, justification and scope of the study.

### Background

The right to health is an essential component of human rights and is closely linked to the concepts of life and dignity. Formally known as the right to enjoy the highest attainable standard of physical and mental well-being, this principle is not a recent development. It was first introduced in the 1946 Constitution of the World Health Organization (WHO), where the preamble defines health as the absence of disease or infirmity.<sup>1</sup>

The World Health Organization, dedicated to achieving health for all, upholds the universal declaration recognizing every member of the human family. The concept of patient rights emerged from this foundational understanding of human dignity, equality, and the intrinsic value of each individual.<sup>2</sup>

Uganda as a country has made significant progress in advancing medical services over the years. On the other hand, there are still various challenges that hinder access to

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<sup>1</sup> The constitution of the WHO was adopted by the international Health Conference held in New York 19 June to 22 July 1946 available from <https://apps.who.int/gb/bd/PDF/bd47/EN/constitution-en.Pdf>.

<sup>2</sup> 10.5005/jp-Journals.10035-1011

health care for many individuals and these challenges can be influenced by factors such as socio-economic conditions, geographical location, cultural beliefs, infrastructure, limitation and government policies hence by looking at this research topic.

### **Statement of the problem**

The research addresses the analysis, respect and observance of the patients' rights in Uganda. Since October 2009, when Uganda ratified the Patients' charter, patients' rights have been attained and enforced to some extent. Unfortunately, the majority of patients and health workers were unaware of the Uganda Patients' Charter. More than half of the patients (55.5%) reported that they did not fully understand their rights as patients, despite 72% having received secondary education. Regarding specific rights outlined in the charter, 60% of patients demonstrated awareness of at least half—or 25—of the 43 rights. However, most patients were only familiar with 10 of the 43 rights, whereas 80% of health workers had knowledge of up to 30 (69.8%) of the 43 patient-specific right<sup>3</sup>. This means that there is a significant gap in awareness and knowledge among healthcare providers and patients regarding patients' rights in Uganda, hindering the respect and observance of these rights.

Despite the existence of national and international frameworks on patients' rights, there is a persistent lack of effective Safeguarding and advancing these rights in Uganda, leading to violations and neglect of patients' rights.

This research aims at enhancing the existing knowledge base in Uganda and propose measures that can be implemented to address this gap. The findings will assist in

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<sup>3</sup> <http://www.researchgate.net/publication/260376481-Awareness-of-responsiveness-to-and-patients'-rights-at-Uganda's-national-referral-hospital>. (Accessed on 20<sup>th</sup> march 2025)

enforcement of new procedures that can ensure the protection of the right to health in Uganda

## **Objective of study**

### **General objective of the study**

The aim of the study is to critically analyze the respect and observance of the patient's rights in Uganda.

### **Specific objective of the study**

To analyze the national, regional and international legal and policy framework on the right to health in Uganda.

To identify the challenges in the implementation of Constitutional provisions on the right to health in Uganda.

## **Research question**

1. To what extent are the rights of a patient respected and observed in Ugandan health care setting?
2. What are the challenges and barriers to the respect and observance of patients' rights?
3. How do healthcare providers and policymakers in Uganda perceive and prioritize patients' right?
4. How do existing laws and policies in Uganda address patients' rights?
5. What gaps or challenges exist in the legal and policy framework?

### **Significance of the study**

The research is meant to inform public about patients' rights and create awareness among patients and stakeholders to know about the observance and enforceability of the patients' rights.

The study is further, aimed at informing patients their rights in a patient doctor relationship and this will assist in educating them of the duty of care owed to them by different actors, and hence where breach occurs, the procedure to follow in order to solve their grievances.

### **Geographical scope**

This research was carried out in the central region of Uganda specifically in Kampala.

### **Literature Review**

This study builds on existing research by numerous scholars and organizations at local and international levels to analyze the observation of the patients' rights in Uganda. Despite the abundance concerning existing studies the persistence of this issue indicates significant gaps in addressing its complexities.

This study aims to contribute to the ongoing effort to understand and mitigate the challenges faced by patients, identifying areas for improvement in addressing the critical issues. The following paragraphs will highlight the specific loopholes that persist in solving this problem.

In her article titled *Awareness of Responsiveness to and Patients' Rights at Uganda's National Referral Hospital*, **Harriet Rachel Kagoya** highlights that the majority of patients (81.5%) and health workers (69.4%) were unfamiliar with the Uganda Patients'

Charter. More than half of the patients (55.5%) admitted partially understanding their rights as patients, despite 72% having attained secondary education. Regarding specific rights outlined in the charter, 60% of patients demonstrated awareness of at least half—or 25 (58%)—of the 43 rights. Despite this, most patients were only familiar with 10 of the 43 rights, whereas 80% of health workers had knowledge of up to 30 (69.8%) of the 43 patient-specific right<sup>4</sup>.

In his article titled *Quest for Legitimizing Patient Rights in Uganda*, Talibita Moses highlights that the fulfillment of patients' rights within Uganda's resource-limited and overburdened public healthcare system continues to pose a challenge to quality healthcare delivery, health-seeking behaviors, and overall health outcomes. Although the Uganda Patients' Charter of 2009 grants patients the authority to seek the best possible care, issues such as unequal access and rights violations remain widespread.<sup>5</sup>

## **Methodology**

The research included various methods, such as data collection, selection, research designs, sample size, area, and population study, data processing, presentation, and analysis, as well as ethical considerations. This section outlined the research instruments to be used in investigating the problem. It involved the methods by which respondents were to be selected; it also contained the methods and procedures to be used for data analysis. Here, the researcher employed qualitative research methodology, along with its designs, techniques, and methods

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<sup>4</sup> <http://www.researchgate.net/publication/260376481-Awareness-of-responsiveness-to-and-patients'-rights-at-Uganda's-national-referral-hospital> ( accessed on 20<sup>th</sup> march 2025)

<sup>5</sup> Quest for legitimizing patient rights in Uganda

## **Research design.**

The researcher collected data using the desktop research review method. The study, which combined desktop research with qualitative data collection, was entirely doctrinal. The main components of the research were content analysis of previously published publications and the text of the law.

The study included a desk review of the theories on barriers to enjoyment to the right to health, the effective laws and policies governing the right to health care in Uganda, as well as the level of awareness among Ugandan citizens.

Secondary data: Secondary data was gathered without visiting the field; in this case, the researcher will employ statistical tools and produce reports.

The research included online surveys in Uganda and existing samples of barriers hindering the realization of health rights from different parts of the country. The researcher also collected data from specialized and general libraries. The ideal approach for this study was to employ the desktop technique, which saved money on budgeting and required less time since it eliminated the need for travel to gather information—all information was obtained on a desktop using previously published materials. Finally, the researcher selected the desktop research method to obtain information from persons whom the researcher is unable to meet.

## **Data collection instruments.**

The researcher used desktop and qualitative methods as the data collection approach. The desktop review method of research focused on data pertaining to the effective

laws and policies on the barriers to the realization of health rights in Uganda. The researcher reviewed various reports, articles, laws, books, and case law to establish the topic of study and determine whether they have been respected and upheld.

### **Conclusion**

In collecting the data, the researcher explored both quantitative and desktop review research approaches, which involve reviewing doctrinal literature.

The research findings from scholarly materials, laws, and journals provided a clear understanding of the analysis of the barriers to the realization of health rights in Uganda.

### **Limitations of the study**

The major constraints/limitations of this research was the limited availability of literature, limited time and financial problem.

## CHAPTER TWO.

### THE NON-LEGAL ASPECTS OF THE PATIENTS' RIGHTS IN UGANDA.

This chapter explores the fundamental aspects of patients' rights beyond legal frameworks, focusing on their significance within Uganda's healthcare system. It delves into the core principles of patient-centered care. Additionally, it examines the essential components of quality healthcare that uphold patients' dignity, autonomy, and well-being. Key considerations will be emphasized throughout to ensure a comprehensive understanding of how patients' rights contribute to equitable and effective healthcare delivery.

#### Components of health care.

##### Health promotion.

Through the use of diverse strategies, health promotion seeks to enhance both individual and collective involvement in health-related initiatives while strengthening existing programs<sup>6</sup>. These methods are applied through comprehensive strategies that ensure engagement across all levels of society, enhancing their impact on health<sup>7</sup>. While the idea of health promotion has existed for some time, the term itself was largely confined to a specific field until the 1980s.<sup>8</sup> The advancement of health promotion was significantly shaped by the evolution of various broad approaches to

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<sup>6</sup> Egger, G. et al. (1990). Health promotion strategies and methods. Mc. Gram-Hill Book company, Sydney, p.5. Available at: [Health promotion strategies and methods: Egger, Garry: Free Download, Borrow, and Streaming: Internet Archive](#). [accessed May 6, 2025]

<sup>7</sup> Egger, G. et al. (1990). Health promotion strategies and methods. Mc. Gram-Hill Book Company, Sydney, p.5. [Health promotion strategies and methods: Egger, Garry: Free Download, Borrow, and Streaming: Internet Archive](#). [accessed May 6, 2025]

<sup>8</sup> Syeda, S. [2019] Assessing Barriers to Healthcare Access in Oyam District, Uganda. Available from: [Assessing Barriers to Healthcare Access in Oyam District, Uganda - ProQuest](#) (accessed May 6, 2025)

human development, including the increasing acknowledgment of poverty as a fundamental contributor to illness, the rising demands for social justice and the rights of women, children, and minorities, the health-for-all initiative, and efforts aimed at safeguarding and enhancing the physical environment<sup>9</sup>.

The pursuit of effective methods to prevent disease and improve overall well-being has driven the advancement of health promotion.<sup>10</sup> In order to enhance health, there has been a growing understanding of the necessity of addressing behavioral, lifestyle (including detrimental cultural practices), and other underlying socioeconomic, physical, and biological factors—collectively referred to as the broad determinants of health<sup>11</sup>.

#### **Curative care (diagnosis and treating acute illness and injury).**

A major cause of the unfavorable patient outcomes in these environments is the general shortage and unequal distribution of healthcare professionals<sup>12</sup>. Physicians are noticeably scarce especially in rural locations where child death rates are highest<sup>13</sup> because they are not qualified to identify emergencies and act quickly, non-physician

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<sup>9</sup> Lukwago, D. (2016). Health spending in Uganda: Implications on the national minimum health care Package. Advocates Coalition for Development and Environment (ACODE) Policy Briefing Paper No. 32.

<sup>10</sup> Dr. Nabukeera, M. (Mar-Apr. 2016) challenges and barriers to the health service delivery system in Uganda. Available: <https://www.iosrjournals.org/iosr-jnhs/papers/vo15-issue2/version-5/D0502053038.pdf> (accessed on 6th May 2025)

<sup>11</sup> Uganda Bush War [no date]. Available from: [https://en.wikipedia.org/wiki/Ugandan\\_Bush\\_War#Names](https://en.wikipedia.org/wiki/Ugandan_Bush_War#Names)

<sup>12</sup> World Health Organization. The world health report (2006). Working together for health. Available from: <https://www.ncbi.nlm.nih.gov/PMC/articles/PMC4388510/#pone.0122559.ref002> (accessed on 6<sup>th</sup> May 2025)

<sup>13</sup> Uganda demographic and health survey. (2011). Uganda Beaura of statistics, Available from: <https://www.ncbi.nlm.nih.gov/PMC/articles/PMC4388510/#pone.0122559.ref003> (accessed on 6<sup>th</sup> May 2025)

clinicians handle patients with acute illnesses and injuries, particularly in remote places.<sup>14</sup>

### **Rehabilitative care (monitoring and treatment of chronic illness and disability).**

To enable persons with physical disabilities to live more independently and with more function, Kawempe division offers free and subsidized rehabilitation treatments at Katalamwa Rehabilitation Center and Mulago Hospital Physiotherapy Department. The reasons behind the high number of physically disabled individuals who do not use the services are unknown. Furthermore, nothing is known regarding the frequency with which individuals with physical disabilities use rehabilitation services. Records from the Katalamwa Rehabilitation Center and Mulago Physiotherapy Department indicate that just 15.2% (3000 out of 19,776) of the PWDs in the division have made use of the services<sup>15</sup>.

### **Characteristics of a good health care system in Uganda.<sup>16</sup>**

#### **Patient centered.**

An effective healthcare system must be equipped to recognize the needs of stakeholders, prioritize their concerns, and provide the necessary accountability. Additionally, it should uphold a rights-based approach, ensuring social justice and equity.<sup>17</sup> This primary goal and benefit of patient-centered care is to improve individual

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<sup>14</sup> Ibid

<sup>15</sup> Swaibu, Z, et al. (2019). Prevalence and factors associated with utilization of rehabilitation services among people with physical disabilities in Kampala. Available from: <https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-019-8076-3>

<sup>16</sup> Ockville, MD. (2015). Agency for health care research and quality. Six domains of healthcare quality. Available from: [https:// www.ahrq.gov/talkingquality/measures/six-domains.htm](https://www.ahrq.gov/talkingquality/measures/six-domains.htm)

<sup>17</sup> Universal Declaration of Human Rights. Available from: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

health outcomes rather than concentrating solely on population-wide health, although it can also contribute to broader health advancements. This approach benefits not only patients but also healthcare providers and the system as a whole.<sup>18</sup>

Patient-centered care is implemented in various ways across different healthcare environments, ranging from family and specialty providers to acute, emergency, and long-term care services. Below are a few examples.

### **Personalized medicine.**

Patient-centered care encompasses both treatments and therapies provided by clinicians. Care plans are not only tailored to individual needs, but medications are also personalized. Factors such as a patient's genetics, metabolism, biomarkers, immune system, and other unique biological markers can now be utilized-particularly in the management of diseases like cancer-to develop targeted medications and therapies. Additionally, companion diagnostics assist clinicians in identifying the most effective drug for each patient based on their specific biological profile.<sup>19</sup>

### **Efficiency and Effectiveness.**

A well-functioning health system ought to accomplish its stated aims and objectives. Positive health-promoting behaviors like spacing out children and the patient's gratitude for the services received are examples of potential indicators that can be

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<sup>18</sup> Explore the definition, benefits, and examples of patient-centered care. How does patient-centered care translate to new delivery models? By NEJM Catalyst. Available from: <https://catalyst.nejm.org/doi/full/10.1056/CAT.17.0559>.

<sup>19</sup> Ibid

used to gauge efficacy and efficiency<sup>20</sup>.for example this has been seen in infrastructure and facility design, Supply Chain Management and Health Information Systems.

### **Accessible.**

This largely depends on the health facility's scope and capacity to reach out to many patients. Accessibility can also be looked at through the lenses of the distance one has to move to get the service.<sup>21</sup>

### **Responsive.**

This has to do with moral concerns like secrecy, autonomy, and respect. This also includes aspects of customer care including the time spent with patients and the caliber of services provided.<sup>22</sup>

### **Challenges faced by patients in Uganda.**

#### **Limited infrastructure.**

In many parts of Uganda, especially rural areas, there is a lack of well-equipped health care facilities. This scarcity makes it difficult for individuals to receive timely and quality health care services. People may have to travel vast distances to obtain medical care due to inadequate infrastructure, which can be difficult for individuals with restricted mobility or financial resources. Additionally, the shortage of healthcare

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<sup>20</sup> Ibid

<sup>21</sup> Human Rights and Health. Available from: [https://www.physio-pedia.com/Human\\_Rights\\_and\\_Health#cite\\_ref-0\\_1-7](https://www.physio-pedia.com/Human_Rights_and_Health#cite_ref-0_1-7)

<sup>22</sup> Supra

facilities can result in overcrowding and longer waiting times, further hindering access to health care<sup>23</sup>.

### **Cultural Beliefs.**

While cultural beliefs can be a source of resilience and strength, there are also factors that may unintentionally have a detrimental effect on mental health. Among the negative outcomes include stigmatization, discrimination, and the suppression of conversations about mental health. People may find it difficult to seek professional assistance or to express their emotions in public due to societal standards that prevent doing so.<sup>24</sup>

### **Impact on Recognition, Identification, and Management:**

The cultural environment has a big impact on mental health awareness, diagnosis, and care. Inadequate knowledge could lead to postponed action, and the stigma around mental health problems can prevent candid conversations. Cultural prejudices can make diagnosis difficult, and evidence-based treatments may not always take precedence over traditional healing methods.<sup>25</sup>

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<sup>23</sup> Limi, A. (2021). Estimating the impact of improved Roads on Access to health care: Evidence from Uganda Available from: <https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-024-17830-5#ref-CR37> [accessed on 6<sup>th</sup> May 2025]

<sup>24</sup> Nile post. (17th November 2023). Cultural perspectives and mental health in Uganda. Available from: <https://nilepost.co.ug/health/178931/cultural-perspectives-and-mental-health-inuganda#:~:text=Cultural%20myths%20surrounding%20mental%20health,evil%20spirits%2C%20or%20moral%20of%20ai>. (accessed on 6<sup>th</sup> May 2025)

<sup>25</sup> Lukwago, D. (2016). Health spending in Uganda: Implications on the national minimum health care Package. Advocates Coalition for Development and Environment (ACODE) Policy Briefing Paper No. 32

### **Health professional shortage.**

This is crucial to know. In Uganda, where there is approximately one doctor and one nurse for every 24,725 and 18,000 people, respectively, staffing shortages continue to be a major problem. Respectively, the majority of those are concentrated in cities.<sup>26</sup>

In Uganda, there is a shortage of health professionals, including doctors, nurses, and other healthcare providers<sup>27</sup>. This shortage is due to various factors such as limited training opportunities, brain drain (where skilled professionals leave the country for better opportunities), and inadequate funding for healthcare education and infrastructure. As a result, there aren't enough healthcare providers to meet the healthcare needs of the population. This shortage leads to longer wait times, limited access to specialized care, and lower quality of healthcare services. It's a complex issue that requires attention and investment in healthcare education and recruitment<sup>28</sup>.

### **Conclusion.**

In conclusion, to the non-legal aspects of patients' rights in Uganda, have some challenges. Health promotion and disease prevention play a crucial role in improving patients' rights. Additionally, rehabilitative care is important for those who need ongoing treatment. A good healthcare system should have characteristics such as affordability, availability, and quality services

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<sup>26</sup> MOHU. Human resources for health bi-annual report: improving HRH Evidence for decision making October 2014/march 2015. Kampala: ministry of health of health Uganda; 2015 available from: <https://equityhealthj.biomedcentral.com/articles/10.1186/s12939-020-01371-5#ref-CR69>. (accessed on 6<sup>th</sup> May 2025)

<sup>27</sup> Dr. Barry, F. [2014]. Addressing healthcare challenges in Uganda. Available from: <https://thinkmd.org/project/addressing-healthcare-challenges-in-uganda/> (accessed on 6<sup>th</sup> May 2025)

<sup>28</sup> Ibid

## CHAPTER 3

### Legal framework on the rights of patients in Uganda.

#### Introduction.

The Universal Declaration of Human Rights (UDHR)<sup>29</sup>, the Convention on the Rights of the Child (CRC)<sup>30</sup>, the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>31</sup>, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>32</sup>, and the Convention on the Rights of Persons with Disabilities (CRPD)<sup>33</sup>, and many other international instruments that recognize the right to health have all been ratified by the Ugandan government. Uganda is a member of the World Health Organization (WHO), which defines health as a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity<sup>34</sup>. Reducing maternal mortality was one of the goals of Millennium Development Goal (MDG) 5 in the international policy framework before 2015.

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<sup>29</sup> United Nations (UN) (1948) universal Declaration of Human Rights. Accessed from [https://www.un.org/en/udhrbook/pdf/udhr\\_booklet\\_en\\_web.pdf](https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf) (assessed 20 march )

<sup>30</sup> convention on the Right of the Child (1990) Available from <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/crc.pdf> (access 20 march )

<sup>31</sup> United Nations (UN) (1967) International Covenant on Economic, Social and Cultural Rights. Available from [https://treaties.un.org/doc/treaties/1976/01/19760103%2009-57%20pm/ch\\_iv\\_o3.pdf](https://treaties.un.org/doc/treaties/1976/01/19760103%2009-57%20pm/ch_iv_o3.pdf) (accessed 20 march )

<sup>32</sup> convention on the Elimination of all forms of discrimination against women(1981).Available from <https://www.ohchr.org/sites/default/files/documents/professionalInterest/cedaw.pdf> (accessed 20 March 20, 2025

<sup>33</sup> Callahan, D. (1973). The WHO definition of health. Hastings Center Studies, 77-87

<sup>34</sup> [World Health Organization\(WHO\) Definition Of Health - Public Health](#).(accessed 30/04/2025)

## **International Law on the right to health concerning the patient.**

The following list of international laws pertains to the right to health.

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

Article 25(1) of the Universal Declaration of Human Rights (UDHR) guarantees a standard of living adequate for everyone's health and well-being, encompassing food, clothing, housing, medical care, and security in case of illness. Article 25(2) specifically highlights the importance of maternal care, ensuring mothers receive special care and assistance, as well as protection for all children, regardless of their birth status. Additionally, Article 27(1) recognizes the right to participate in cultural activities and benefit from scientific progress, which can include access to modern medical services and traditional healthcare. Importantly, Article 30 emphasizes that no state, organization, or individual can interpret the UDHR in a manner that compromises any of the rights enshrined therein, thereby safeguarding Ugandans' right to access healthcare services without undermining it through any UDHR provisions<sup>35</sup>.

### **International Covenant on Economic, Social and Cultural Rights.**

Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right to the highest attainable standard of physical and mental health, outlining steps states must take to implement this right. These measures include reducing stillbirth and infant mortality rates, improving environmental and industrial hygiene, preventing, treating, and controlling diseases, and ensuring access to medical care in the event of illness. In accordance with Article 2(1), states commit to

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<sup>35</sup> Assembly, U.G. (1948). Universal declaration of human rights. UN General Assembly, 302(2),14-25

progressively achieving the full realization of human rights, utilizing the maximum of their available resources.

### **Regional laws on patients' rights**

#### **The African Charter on Human and Peoples' Rights.**

The African Charter on Human and Peoples' Rights (ACHPR) is a key instrument for protecting human rights in Africa. Article 1 requires member states to recognize the rights, duties, and freedoms enshrined in the Charter. Additionally, Articles 4, 5, and 16 guarantee the right to life, dignity, and health (including physical and mental well-being), respectively. The ACHPR provides a valuable framework for promoting and protecting human rights, including patient rights, in Africa, and its provisions can be used to advocate for improved healthcare services and patient care.

### **Domestic Laws**

#### **The 1995 Constitution of the Republic of Uganda.**

The Constitution of the Republic of Uganda is the supreme law of the land, and any law, culture, or custom inconsistent with it is void to the extent of its inconsistency, as stated in Article 2.<sup>36</sup> The Constitution takes precedence over all laws, including health laws, which must conform to its provisions to avoid nullification. The Constitution includes a Bill of Rights, guaranteeing fundamental entitlements to Ugandans. Although it does not explicitly provide for the right to health, Article 8A requires the state to be

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<sup>36</sup> The 1995 Constitution of the Republic of Uganda

guided by national objectives and directives of state policy when applying or interpreting the Constitution.<sup>37</sup>

### **Mental Health Act 2018.**

In Uganda, laws and policies protect the rights of people with mental health issues, including the Mental Health Act 2018 and the United Nations Convention on the Rights of Persons with Disabilities. The term "mental illness" lacks a universally agreed-upon definition. Some authors describe mental illness as encompassing various disorders that cause significant disturbances in thinking, feeling, and relating to others. Individuals with mental illness face the same everyday life demands as others. The World Health Organization (WHO) defines mental disorders as a broad range of problems with diverse symptoms, characterized by abnormal thoughts, emotions, behavior, and relationships with others.<sup>38</sup>

Furthermore, the Mental Health Act 2018 of Uganda defines mental illness as a diagnosis of a mental health condition, based on accepted diagnostic criteria, made by a qualified mental health practitioner or medical practitioner. According to this definition, mental health conditions include, but are not limited to, depression, bipolar disorder, anxiety disorders, schizophrenia, and addictive behavior due to alcohol or substance abuse, among others.<sup>39</sup>

**The Mental Health Act 2018**, under Part IV, provides for the protection of the rights of persons with mental illness. It stipulates that the rights of patients and the duties of

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<sup>37</sup> Review of Constitutional provisions on the Right to Health in Uganda by Centre for Human Right and Development (CEHURD)

<sup>38</sup> Report of the sectoral committee on health on the mental health bill. 2014

<sup>39</sup> Section 2 of the Mental Health Act Cap.308

mental health practitioners outlined in this part are supplementary to those in other parts of the Act and any other law. Furthermore, in upholding the rights and performing the duties under this part, consideration shall be given to the best interests of the patient.<sup>40</sup>

### **How other East African states have observed the patients' rights**

The development of patients' rights has reinforced the recognition of the right to health as a fundamental human right. Several countries, including Kenya and Tanzania, have explicitly enshrined the right to health in their Constitutions, recognizing its significance for human dignity and well-being.

#### **Kenya.**

The rights of patients in Kenya are protected by various laws and regulations, including the Constitution of Kenya 2010, the Kenya Health Act 2017, and the Kenya National Patients' Rights Charter 2013. According to Article 43(1) (a), every person has the right to the highest attainable standard of health. This Constitutional provision ensures that every individual in Kenya has the right to health without discrimination or limitation based on factors such as ethnicity, gender, religion, or socioeconomic status.<sup>41</sup>

Patients also have the right to be informed about their medical condition, treatment options, risks, and benefits, enabling them to make informed decisions. Healthcare providers are obligated to provide accurate and timely information, empowering patients to participate in their care.<sup>42</sup>

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<sup>40</sup> Section 51 of the Mental Health Act Cap.308

<sup>41</sup> Patient Rights and Privacy in Kenya by B.M.Musan & Company Advocates

<sup>42</sup> Section 9 of the Health Act 2017

There have been landmark legal decisions holding the governments accountable for respecting patients' rights. For example, in **Okiya Omtatah Okoiti v. The Attorney General & 5 others**, the Constitutional right to healthcare and the government's obligation to provide essential healthcare services were addressed. The petitioner argued that the government's failure to provide adequate healthcare services, including the lack of essential drugs in public hospitals, violated citizens' Constitutional right to health. The Court ordered the government to allocate sufficient resources to healthcare services in public health facilities and implement policies aimed at improving healthcare delivery, including addressing shortages of medical personnel and infrastructure. The judgment underscored the government's duty to prioritize the right to health.<sup>43</sup>

**KELIN and Others v The Cabinet Secretary for the Ministry of Health and Others**,<sup>44</sup> a presidential directive was contested due to its plan to collect updated information on school-age children living with HIV, their guardians, expectant mothers with HIV, and breastfeeding mothers with HIV. The petitioners argued that this posed risks of stigma and discrimination and infringed upon rights such as health, privacy, equality, protection from cruel, inhuman, and degrading treatment, and the principle of the best interest of the child. In its ruling, the Court determined that the right to privacy had been violated but not the right to health, further noting that directive was intended to support the fulfillment of the right to health

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<sup>43</sup> (2018) eKLR

<sup>44</sup> [2016] KEHC 8450 (KLR)

**Maimuna Awour and Another v The Attorney General and others**<sup>45</sup>, the petitioners were held in poor conditions until their spouses and families could gather enough funds to cover their fees. The case addressed issues of unlawful detention, the right to health, dignity, liberty, and protection from cruel, inhumane, and degrading treatment. The Court, guided by the Committee on Economic, Social and Cultural Rights, determined that state parties must ensure that health services are available, accessible, acceptable, and of high quality. Additionally, the Court recognized that accessibility is compromised when excessive costs make healthcare unattainable

### **Tanzania.**

The Constitution of the United Republic of Tanzania, 1977 (not 1997), is a key instrument that protects life, and under Article 14, the right to life and protection of life is explicitly guaranteed.<sup>46</sup>

Furthermore, mental patients are protected by specific laws regulating their care, protection, and management. The Mental Health Act provides for voluntary or involuntary admission to mental health care facilities, outlines procedures for admitting individuals with mental disorders, and establishes penalties for wrongful admission.

The HIV and AIDS Act also protects patients against compulsory HIV testing, as outlined in Section 15. Additionally, the Act emphasizes the importance of counseling and testing, as well as the confidentiality of results, as per Section 16. Furthermore, Section

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<sup>45</sup> Constitutional Petition No.562 of 2012 High Court of Kenya

<sup>46</sup> The Constitution of the United Republic of Tanzania

17 protects the confidentiality of a person's identity and status regarding their HIV/AIDS diagnosis.<sup>47</sup>

### **Status of patient rights litigation in Uganda.**

#### **The legal protection and entitlement afforded to patients in Uganda.**

When the current Constitution was enacted in 1995, it achieved unprecedented advancements in recognizing human rights and freedoms in Uganda. However, it neglected several socio-economic rights, including the right to health, placing them within the National Objectives and Directive Principles of State Policy, which serve as a framework for policy development and implementation. In 2005, the Constitution Amendment Act was passed, introducing various changes, including Article 8A on national interest, which enhanced the enforceability of the National Objectives and Directive Principles.<sup>48</sup>

#### **The 1995 Constitution of the Republic of Uganda**

The Constitution of Uganda serves as the highest law in the country, rendering conflicting laws, cultural practices, or customs invalid to the extent of their inconsistency, as stated in Article 2. It holds authority over all other laws, meaning that all health-related legislation must align with its provisions; otherwise, they risk being overturned. The key constitutional provisions regarding the right to health in Uganda include the following:<sup>49</sup>

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<sup>47</sup> HIV and AIDS Act No28 2008 of Tanzania

<sup>48</sup> Ibid

<sup>49</sup> The Constitution of the Republic of Uganda (1995) as Amended.

**Article 20(1)** recognizes human rights as inherent, not granted by the state. Additionally, Article 20(2) establishes a responsibility for all government institutions, agencies, and individuals to respect, promote, and uphold every human right, including those related to health. This forms the foundation for implementing the Constitutional right to health, as it imposes duties on both public and private actors<sup>50</sup>. These responsibilities are further reinforced by Article 21(4), which ensures that provisions against discrimination do not prevent parliament from enacting laws essential for implementing policies and programs designed to address societal imbalances or regulate matters that are deemed acceptable and justifiable in a free and democratic society.<sup>51</sup>

**Article 22** safeguards the right to life for all individuals, including unborn children, by prohibiting the unlawful loss of life<sup>52</sup>. This provision establishes that any intentional action leading to loss of life, such as abortion or executions-must be carried out in accordance with a specific law enacted by parliament and following due legal processes. Furthermore, any deaths resulting from poor health conditions, including maternal and child mortality, contradict the Constitutional guarantees of the right to life and health

**Article 27**, of the Constitution ensures the right to privacy by prohibiting unauthorized searches and access to individuals, their personal information, or property<sup>53</sup>. This provision forms the basis for several professional duties of care that healthcare

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<sup>50</sup> Article 20(1) & (2) of the Constitution

<sup>51</sup> Article 21(4) of the Constitution.

<sup>52</sup> Article 22 of the Constitution.

<sup>53</sup> Article 27 of the Constitution.

personnel owe their patients, including maintaining confidentiality and obtaining informed consent before administering medical treatment. Likewise, careful handling of patient records is essential to prevent unauthorized disclosure of their health status. A violation of this Article constitutes professional negligence.

### **National legislation.**

Uganda has a number of legislation that either completes or addresses some of the gaps in the Constitution. The Uganda parliament is required under **Article 79** of the Constitution to enact legislation that promotes Uganda's development, peace, order, and good government. The Parliament is designated as the principal legislative body by this legislation. Every act that the Parliament proposes must be ratified by the president and follow the Constitution in order to become law. The protection, fulfillment, and respect of the right to health are the goals of a number of acts<sup>54</sup>. For example;

### **The Health Service Commission Act (Republic of Uganda)<sup>55</sup>**

The act defines the responsibilities of health workers concerning patients' rights, emphasizing their duty to always act in the patients' best interest. It mandates that healthcare providers secure informed consent, uphold patient privacy and confidentiality, refrain from actions harmful to the community, and adhere to all laws and professional regulations

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<sup>54</sup> Ibid

<sup>55</sup> The Health Service Commission Act, 2001

### **The Patients' Charter 2009<sup>56</sup>.**

Affirms government commitment to ensure access of all people to high-quality health as granted in the Constitution and further indicates that Uganda is progressively realizing the right to health.

The Charter provides for rights of patients under its provisions which includes the right of all persons seeking medical attention are entitled to an impartial access to treatment, unconditional emergency medical care, the right of patient's to be accorded the appropriate medical health care, the right to patients to be adequately and accurately informed of the nature of their illness and the proposed treatment for one to make decisions on the next course of action.

### **The Persons with Disabilities Act<sup>57</sup>.**

Particularly seeks to provide other legal protection to persons with disabilities in light of affirmative action reflected in Article 32 of the 1995 Constitution. The provision for equal enjoyment of rights of people with disabilities with other members of society and the obligation to ensure the sign language is introduced in the curriculum for medical personnel, interpreters are included in the hospital organizational structure, and labels on medicine are pre-brailled.

### **Judicial implementation.**

Judicial constitutionalism is a widely adopted approach globally, where Courts uphold the Constitution as the supreme law. This principle empowers Courts to apply

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<sup>56</sup> The Patients Charter 2009

<sup>57</sup> The Persons with Disabilities Act, 2020

Constitutional provisions, ensuring that no law supersedes the Constitution.<sup>58</sup> In Uganda, Article 126 of the Constitution vests judicial power in the courts, guiding them to exercise this power in accordance with the law, values, and norms of the people<sup>59</sup>. The judiciary must remain autonomous and operate without interference from any individual or entity<sup>60</sup>. The Constitution establishes the principle of public interest litigation, allowing any individual or organization to initiate legal action in response to the infringement of another person's rights. This enables individuals and civil society to present rights-related concerns before the Court.<sup>61</sup>

**CEHURD and 3 others v Attorney General** establishes a significant precedent for health rights advocates. By limiting the political question doctrine's applicability, the Supreme Court affirmed that government actions and policies, including healthcare, are subject to judicial review for constitutional compliance. This ruling safeguards access to justice and advances the enforceability of the right to health and other socio-economic rights, aligning with CEHURD's appeal. The case did not enable the Supreme Court to establish definitive guidelines on maternal health treatment. However, it reinstates confidence among litigators who had previously been disheartened by the Constitutional Court's precedent

In **CEHURD and 2 other V.s the Executive Director, Mulago Referral Hospital and Attorney General**<sup>62</sup>, the Court has demonstrated its commitment to upholding the right

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<sup>58</sup> Comparative review: Implementation of Constitution Provisions on the right to health in Kenya and Uganda. By CEHURD

<sup>59</sup> Ibid

<sup>60</sup> Article 128 of the Constitution of Uganda

<sup>61</sup> GP Mukubwa 'The promotion and protection of human rights in Africa' (2000) 6 East African Journal of Peace and Human Right 130

<sup>62</sup> High Court Suit No.212 of 2013

to health. Justice Lydia Mugambe emphasized that denying parents the opportunity to bury their child exacerbated their suffering, constituting psychological torture that violates Constitutional provisions and the relevant international instruments. The psychological torture inflicted on the baby's parents amounted to a violation of their right to health in contravention of Article 5, objectives XX and XIV (b) of the Constitution, Article 12 of the ISECR, and Article 16 of the African Charter. The judge commended the plaintiff for drawing the nexus between psychological torture and the right to health to her satisfaction.

**In Rosemary Namubiru v Uganda**<sup>63</sup>, the appellant, a nurse at Victoria Medical Centre in Kampala, was administering intravenous antibiotics to a child when the child's resistance caused her to accidentally prick herself with the needle. Instead of replacing it with a sterile one, she proceeded to use the contaminated needle on the child. The incident was reported to hospital management, and it was later revealed that the Appellant was living with HIV.

She was charged in the Magistrate Court for engaging in careless behavior that may contribute to the transmission of infection, which was in violation of Section 171 of the Penal Code Act. The Court determined that her actions were unlawful and negligent, further concluding that she had reason to believe her conduct exposed the child to risk of HIV.

On appeal, the High Court considered various factors, including the Appellant's advanced age (64 years), her status as a mother and grandmother, and her health

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<sup>63</sup> (2014),HCT-00-CR-CN-0050

condition, as she was sickly and HIV positive. The Court also noted that the toddler remained HIV-free and found no evidence that the Appellant had intended to cause harm. While the High Court upheld the lower Court's ruling, it reduced her sentence from three years to time served, which amounted to five months

### **What gaps or challenges exist in the legal and policy framework?**

The right to health is governed by specific laws that rights and responsibilities of patients. But however, the legislation have not completely tied to solve all challenges that are faced by patients. And these include;

#### **Legal statute,**

#### **Patients' Charter: Patients' rights and responsibilities.**

The Patients' Rights and Responsibilities Charter (2019), developed by the Ministry of Health of Uganda, is a crucial policy document aimed at safeguarding patients' rights and promoting ethical, inclusive, and high-quality healthcare. It outlines both entitlements and responsibilities of patients in their interactions with health service providers. While the charter represents a progressive step toward realizing the constitutional right to health, its implementation faces several critical gaps and challenges. These include limited legal enforceability, inadequate public awareness, and systemic barriers such as resource constraints and weak enforcement mechanisms.<sup>64</sup>

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<sup>64</sup> Ministry of Health. (2019). *Patient Rights and Responsibilities Charter*. Government of Uganda.

### **Limited Public Awareness.**

The most significant challenge in the implementation of the Patients' Rights and Responsibilities Charter is the lack of public awareness among the general population. Although the Charter outlines essential rights such as access to proper healthcare, informed consent, confidentiality, and redress mechanisms, many patients in Uganda are unaware of these entitlements. This challenge is acknowledged in the Patients' Charter itself, where it states:

This lack of awareness means patients are less likely to question unethical practices, report mistreatment, or actively participate in their own healthcare decisions. For example, a patient who is unaware of their right to informed consent may undergo a procedure without fully understanding the risks involved. Similarly, those unaware of the redress process may not report abuse, leading to unchecked violations.<sup>65</sup>

The problem is worsened in rural and underprivileged communities, where literacy rates may be lower, and access to media or the internet is limited. Without targeted outreach, community engagement, or translation of the Charter into local languages, the document remains largely inaccessible to the populations it is meant to protect.

### **Limited legal enforceability.**

Uganda's Constitution does not explicitly guarantee the right to health, which weakens the legal foundation for enforcing patient rights. The 1995 Constitution of Uganda is defined in Article 2 as the Supreme law of Uganda and shall have binding force on all authorities and persons throughout Uganda. The subsequent clause (2) bans application

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<sup>65</sup> Patient awareness and role in attaining healthcare quality. By Wudma Alemu, Eshetu Girma, Tefera Mulugeta. Available from: [www.elsevier.com/locate/ijans](http://www.elsevier.com/locate/ijans) (accessed on 08th May 2025)

of law that is inconsistent with the supreme law, and article (3) defends the Constitution. The implication of this paragraph is to prove that unless the right to health is specifically stated in the Constitution, authorities and persons cannot be held to account or liable for meeting claims and obligations to health, so citizens cannot demand the enjoyment of the right to health even in the Courts of law.<sup>66</sup>

Our legal system requires that a person whose right has been violated must have been enjoying a right which has been violated and the perpetrator is brought before court cum Cause of Action.<sup>67</sup> This has been seen in the few cases that have been brought against the state for the violation of the right to health and the rights of the patients. As it was in the case of **Joyce Nakacwa V.s Attorney-General and Others**,<sup>68</sup> the petitioner claimed that the state's denial of medical and maternity care amounted to a violation of her human rights under Article 33(3), which mandates the state to safeguard women's rights while considering their distinct status and natural maternal roles in society. In response, the state raised a preliminary objection, arguing that the Constitutional Court's jurisdiction is confined to matters under Article 137 of the Constitution, which pertains to Constitutional interpretation, and the petition should be dismissed.

### **Burden of proof.**

According to Black's Law Dictionary, the burden of proof is the obligation placed on a party in a legal dispute to provide sufficient evidence to support their claims or

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<sup>66</sup>Ibid

<sup>67</sup> The fact or combination of facts that gives a person the right to seek judicial redress or relief against another.

<sup>68</sup> Constitutional Petition No 2 of 2001

defenses.<sup>69</sup> A doctor's liability for negligence can stem from contract law, tort law, or consumer protection laws. However, the patient bears the responsibility of proving the doctor's negligence.<sup>70</sup> Courts may award damages to patients for a doctor's breach of duty. However, to receive compensation, the patient must demonstrate a direct link between the doctor's action and the resulting harm. It has two prongs, viz, causation and foreseeability. Therefore, a patient shall prove causation as well as foreseeability of injury.<sup>71</sup>

In **Barnett v. Chelsea & Kensington Hospital Management Committee**,<sup>72</sup> a doctor was negligent in failing to attend to and examine a patient who had reported symptoms of vomiting. The patient subsequently passed away. However, based on the balance of probabilities, it was determined that even if the doctor had conducted an examination, it would not have changed the outcome, as the death was deemed inevitable. Consequently, the plaintiff's claim was dismissed on the grounds that he was unable to prove, on the balance of probabilities, that the doctor's negligence directly caused the patient's death.

Determining negligence in a medical case requires careful consideration of the specific facts. The burden of proof may shift between parties and court may infer negligence based on the circumstances, which relieves a patient from the onerous task. In such a situation, onus shifts to the doctor.<sup>73</sup> In **Nadiya v. Proprietor Fathima Hospital and**

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<sup>69</sup> Black's Law Dictionary 9<sup>th</sup> edition p.223

<sup>70</sup> Paul v. Dr. K.P. Bakshi & another (2001) I.C.P.J.466;

<sup>71</sup> Burden of proof in medical negligence cases : A critical analysis by Dr. Venugopal B.S

<sup>72</sup> [1968] 1 All E R 1068 (Q.B.)

<sup>73</sup> Ibid

others,<sup>74</sup> the complainant sought surgery at the respondent hospital to increase her height. She underwent a corticotomy procedure with an external fixator. However, following the operation, her left leg remained shorter by 1.5 inches, requiring her to use a walker for support as she had to lean on the affected leg. The respondents argued that the patient bore some responsibility due to contributory negligence. The ruling determined that the burden of proof rested on the respondents to demonstrate that they had exercised reasonable care and skill in performing the procedure.

### **Medical negligence compensation.**

Medical negligence compensation is a financial remedy pursued by individuals who have experienced harm or injury due to negligence within a healthcare environment. When medical professionals fail to uphold the expected standard of care in their field, leading to patient injury, affected individuals have the right to seek compensation for the physical, emotional, and financial hardships they face. This compensation is intended to help restore their lives to the state they were in before the suffering by covering medical costs, rehabilitation expenses, lost income, and other related damages.<sup>75</sup>

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<sup>74</sup> (2001) 2 C.P.J. 93

<sup>75</sup> Understanding how medical negligence compensation works. By Nermeen Salahuddin. Available from. <https://www.patientclaimline.com/expert-information/understanding-how-medical-negligence-compensation-works/> (accessed on 11<sup>th</sup> May 2025)

## **Chapter 4:**

### **Summary of findings, conclusion, and Recommendation.**

#### **Introduction.**

This chapter contains the information that was gathered during the research process and an analysis of the data that was gathered. Recommendations are also given in this chapter.

#### **Summary of findings.**

The right to health has been enshrined in a number of international and regional treaties to which Uganda is a signatory. And it therefore imposes an obligation on them to make every possible effort to protect, fulfill, respect, and promote the right to health of their citizens.

In the process of the research, the researcher found that various aspects have a bearing on the right to health and the patient's rights, which include, among others;

#### **Legal framework and enforcement.**

Even while the legal system offers both criminal and civil law remedies for medical negligence, it is insufficient to hold the professional accountable for their actions and to force the government to pay damages.

Additionally, as stated under Article 52 (1) of the 1995 Constitution,<sup>76</sup> the UHRC is tasked with looking into human rights violations on its own initiative or in response to a complaint from any individual or group. It also monitors government compliance with

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<sup>76</sup> Ibid note 14

international human rights agreements and advises parliament on effective measures to ensure the respect of human rights violations.

Nevertheless, an examination of its operations reveals that even while the organization gets a lot of complaints, it lacks the funding and staff to respond to them quickly. Furthermore, the majority of state actors against whom orders of compliance are filed either delay or completely disregard the orders when the complaints are handled, depriving the claimants of their compensation.<sup>77</sup>

Therefore, even while the UHRCR's work is crucial to the advancement of the right to health, there are insufficient enforcement mechanisms to support its ability to effect change and address violations through its surveillance mandate.

### **Political will.**

The government has stated that it is politically willing to develop and implement laws that promote the realization of the right to health as a component of the Constitution.<sup>78</sup>

The human rights based approach (HRBA), which has established many techniques to enable the state to fulfill its commitments in the health sector, is an example of such an endeavor.

Uganda Vision 2040, which gives guidance to all governmental activities aimed at the fulfillment of its tasks and obligations, including the provision of healthcare, serves as

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<sup>77</sup> Bakayana, I. (2006). From protection to violation? Analyzing the right to a speedy trial at the Uganda Human Rights Commission. Available from: <https://www.asclibrary.nl/docs/373734425.pdf>. [ Accessed 12th May 2025]

<sup>78</sup> Soohoo, C., & Goldberg, J. (2009). The full realization of our rights: The right to health in state constitutions. *Case W. Res. L. Rev.*, 60, 997. Available from: <https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=1341&context=caselrev> (accessed on 12<sup>th</sup> May 2025)

the executive's guide<sup>79</sup> (National Planning Authority, 2013). For Uganda's human rights campaigners, the framework's recognition of the state's duty to uphold and advance human rights is crucial. To improve government officials' ability to uphold and defend human rights, it also binds the government to making sure that human rights-based approaches (HRBA) are included in laws, policies, and programs.

Ten-year development plans make up the vision's execution plan. The second national development plan (NDP II), which covers the years 2010-2020, is presently being implemented in Uganda (National Planning Authority, 2015). By guaranteeing that every Ugandan has access to high-quality healthcare, NDP II aims to realize the goals of Vision 2040.<sup>80</sup>

#### **Monitoring and evaluation mechanisms.**

Although there are many laws and policies on the right to health, the majority of them lack explicit procedures for keeping track of how well duty bearers are performing and how to hold them accountable. With the exception of professional regulations, the majority of laws and policies focus monitoring on private sector entities and individuals rather than the state, which is the principal responsibility bearer. The majority of monitoring mechanisms are outlined in the subsidiary legislation.<sup>81</sup>

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<sup>79</sup> Matte, R. (2017). Bureaucratic structures and organizational performance: A comparative study of Kampala capital city authority and national planning authority. *Journal of Public Administration and Policy Research*, 9(1), 1-16. Available from: <https://academicjournals.org/journal/JPAPR/article-full-text-pdf/43C64DF62435.pdf> [accessed 12th May 2025]

<sup>80</sup> Second national development plan (NDP II) 2015

<sup>81</sup> Calland, R., & Bentley, K. (2013). The impact and effectiveness of transparency and accountability initiatives: Freedom of information. *Development policy review*, 31, s69-s87. Available from: <https://onlinelibrary.wiley.com/doi/10.1111/dpr.12020?msocid=264ffdf3fc3061830bd5e8e1fd3560e9>

For example, the majority of regulations require health service providers to submit operational or compliance reports and conduct inspections. Furthermore, they give the regulators the power to seize equipment, close medical institutions, or levy punitive fines in any way they see fit. Patients thus lose access to essential medical treatment, particularly in the isolated locations where medical service providers invest little in line with the level of growth in rural areas.<sup>82</sup>

Government health organizations, on the other hand, rely on administrative procedures to ensure that they are meeting their responsibilities under the right to health. Examples of this type of work include periodic or distributed reviews of policies and budgets, audits, both internal and external, evaluations of projects, and impact analyses. Given that the monitoring is carried out either internally or by individuals under contract from the same state agency, performance reviews may be lenient.<sup>83</sup>

Furthermore, while private actors may face harsh repercussions for their misdeeds, public institutions are not always required to follow suit. Such a double standard needs to be addressed since the state has the primary responsibility for preserving, advancing, and safeguarding the right to health.

## **Challenges.**

### **Lack of political will.**

It is important to remember that Uganda lacks national legislation on the right to health, despite the fact that the constitution has a detailed bill of rights in chapter

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<sup>82</sup> The Constitution of the World Health Organization was adopted by the international Health Conference held in New York 19 June to 22 July 1946 available from: <https://apps.who.int/gb/bd/PDF/bd47/EN/constitution-en.pdf> [Accessed 12th May 2025]

<sup>83</sup> Syeda, S. [2019] Assessing Barriers to Healthcare Access in Oyam District, Uganda.

four. Nevertheless, there are a few policies and methods for mainstreaming human rights in healthcare.

#### **Outdated laws.**

Although the parliament must pass legislation to maintain Uganda's order and promote good governance, the country does not yet have a comprehensive health law. Rather, there are several laws covering different facets of health. Some of them date back to the colonial era, when the current Constitution was drafted. Over time, countless scientific and technical advancements have rendered many of them outdated.

#### **Ignorance.**

The great majority of people in the general public and healthcare professionals are ignorant of the right to health. The laws and policy frameworks that support and uphold the Right to Health, the acceptable course of action to follow, and the proper place to seek redress in the event of a violation are unfamiliar to a large portion of Ugandans. In addition, the health professionals are not well trained in this area, which leads to programs and policies that do not fully incorporate human rights.

#### **Recommendations.**

The researcher advocates that government and other stakeholders implement programs for capacity building, review of outdated laws, formulation of regulations, and sensitization of the populace, among other strategic interventions that are traversed herein;

The government of Uganda is motivated to review its legislations and policies to assess their consistency with human rights standard and put in place institutional mechanisms

and enough resources that will ensure their implementation, enforcement, and monitoring.

The government should also regulate the health sector by setting the minimum and maximum charges for the services offered in private health facilities to avoid exploitation of the patients who go there to seek better services.

An effective legal framework plays a vital role in safeguarding patient rights, promoting ethical standards, and elevating the overall quality of healthcare. Through innovation, addressing inequalities, and encouraging collaboration, Uganda can strengthen its medical law framework and further develop its healthcare system to better serve all its citizens.

The Government should establish a structured framework for telemedicine and digital health, ensuring that key concerns like data security, patient privacy, and cross-border consultations are effectively addressed. Furthermore, it should develop clear guidelines and standards for telemedicine practices to uphold quality care and ensure adherence to legal regulations.

The Government should allocate funding and provide support for research initiatives centered on medical law and ethics, identifying challenges and developing evidence-based solutions. Additionally, it should work alongside academic institutions and international organizations to conduct studies and share research findings effectively.

The Government should implement thorough patient safety standards across all healthcare facilities and promote a culture of accountability within medical

organizations ensuring that errors and near misses can be reported freely without fear of punishment.

The Government should incorporate legal and ethical education into medical training programs, ensuring healthcare professionals are well-versed in areas such as medical negligence, patient rights and ethical decision-making. Additionally, Continuous education options, such as training sessions, symposiums, and virtual classes on medical law and ethics, should be provided to keep professionals informed and up to date.

The Government should prioritize equitable healthcare access for all socioeconomic groups, particularly low-income and marginalized communities. Additionally, it should offer support to patients facing financial or social barriers to quality healthcare and provide legal aid to those in need.

Healthcare professionals should receive government supported training in cultural competency, enabling them to better understand and respect the diverse background of their patients. Additionally, guidelines should be established to incorporate cultural practices into medical care, ensuring that treatment plans are both sensitive to and considerate to patients' beliefs.

### **Conclusion.**

Here below is a brief overview of what “the critical analysis of” the “respect and observance of the patient’s rights in Uganda” conclusively says; where in Uganda, there are various challenges on the rights of patients. Some of the national frame works in place aim to address these challenges and also the international conventions also play a role in observing the Rights of patients.

However, there are still challenges that need to be overcome, such as Ignorance, outdated laws and many other barriers, additionally; socio economic factors and cultural beliefs can further impact the right of patients. To improve healthcare access, some recommendations include regulating the health sector, integrate legal and ethical training into medical education, and addressing social-economic and cultural factors.

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