

**SUPPLEMENTARY
INFORMATION ON THE
STATUS OF WOMEN'S
ECONOMIC SOCIAL AND
CULTURAL RIGHTS IN
UGANDA**

**TO THE COMMITTEE ON ECONOMIC, SOCIAL,
AND CULTURAL RIGHTS DURING ITS 55TH
SESSION**

**PREPARED AND SUBMITTED BY THE WOMEN NGOS ON ESCRS IN UGANDA
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Supplementary Information on the status of women's economic social and cultural rights in Uganda to the Committee on Economic, Social, and Cultural Rights during its 55th Session

Introduction:

The Government of the Republic of Uganda submitted a periodic report to the Committee on Economic, Social and Cultural Rights, in conformity with article 16 of the International Covenant on Economic, Social and Cultural Rights. In this report, the Ms. Nakibuuka Noor Musisi of the Center for Health, Human Rights and development, Dr. Hilda Tadria of MEMPROW Uganda, and Ms. Violet Akurut Adome from the Grassroots women Development Initiative (GWODI) provide supplemental information into the government report, highlighting issues that need further clarification especially with regard to the realization of rights by girls and women in the country. The team is grateful to their partners, Programme on Women's Economic, Social and Cultural Rights (PWESCR) based in India for the continued technical support provided to women in abid to the realization of their rights.

The unfulfilled status of women's economic social and cultural rights in the Uganda cannot go unemphasized. Women play a big role in the society and their protection and realization of their rights is crucial to their unique status. The Constitution of the republic of Uganda indeed recognises this speciality when it mandates the state to protect women and their rights, taking into account their unique status and natural maternal functions in society¹.

The government is commended for all strategies put in place to realize these rights; however, there still exist appealing situations that hinder the realization of women's ESCR. Almost all ESCR are not constitutionally guaranteed. They are only muted in National objectives and Directive Principles of the state policy. The lack of specific provisions on ESCR in the Constitution has partly contributed to their none realization in Uganda. For example Uganda's maternal mortality ration is alarmingly high with 438/100,000 women dying of preventable causes; the Health budget has stagnantly remained between 7-8% for the last five years, while access to safe and clean water is almost illusory, among others. All these rights and many more have no specific provisions in the Constitution and this explains the lack of priority to these rights and hence their limited realization.

Uganda is, however, a signatory to numerous important Regional and international Human rights instruments which if well implemented can lead to the realization of women's ESCR. These instruments include Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (MAPUTO Protocol)², International Convention of Economic Social and Cultural Rights, African Charter on Human and Peoples' rights among others. As women activists, we commend the government of the Republic of Uganda for laying such strategies for realization of women's ESCR. We strongly recommend that Government domesticates of these instruments to have them effectual, Ratifies the Optional protocol to the International Covenant

¹Article 33(3) of the 1995 Constitution of the Republic of Uganda as amended.

²The primary objects of this protocol are to consolidate as well as advance women's rights at the African regional level with a focus on equality and non-discrimination.

on ESCR and uplift the reservation on Article 14 (2) (c)³the Protocol to the African Charter on Human and people's rights on the rights of women in Africa (Maputo Protocol.) In the subsequent discussions, we will provide more information on the status of women's ESCR.

Information on the substantive provisions in the ICESCR

ARTICLE 3 — NON-DISCRIMINATION AND EQUALITY:

Failure to implement non-discriminative laws:

Uganda's Constitution is progressive with provisions on non - discrimination. Article 21(2) outlaws discrimination on the grounds of sex, Article 32 requires government to take affirmative action in favour of groups marginalized on the basis of gender and Article 33 thereof spells out the rights of women including being accorded full dignity with men, the right to equal treatment among others. Although we commend the government for such progressive provisions, women continue to experience discrimination on the basis of sex and gender particularly in areas such as access to productive resources such as land and business capita⁴

The major challenge continues to be in the implementation, where patriarchal attitudes about the status of women are applied in making decisions even in the formal sector. This partly explains why women are paid lower wages than men for the same work; for example, in 3 out of the 9 identified occupations, women earn less. The States Party's report acknowledges that there is a seemingly structural segregation of women into low paying sectors whereby 50% of employed women are in the three lowest paying sectors namely agriculture, household and mining/quarrying as compared to 33% of men. Additionally, in the private sector women are less than 75% of the average male wage.⁵

Age of consent, marriage and Divorce law:

Although the Constitution requires 18 years as the minimum legal age for marriage for both men and women, the customary laws marriages do not abide by this as marriages are fixed for young girls before that age. The proposed Marriage and Divorce Bill, places marital age at 18 years, allows women the right to choose their spouse and the right to divorce spouses for cruelty and prohibits the practice of widow inheritance, defines matrimonial property, provides for equitable distribution of property in case of divorce and recognises some property rights for partners that cohabit. It was not passed by Parliament and until this law is legalized in the country, women will continue to suffer from discrimination⁶.

Child marriage violates a number of human rights that are recognized under international and

³Article 14 (2) (C) enjoins states to adopt appropriate measures to protect the reproductive rights of women by authorizing medical abortion in cases of sexual assault, rape, incest, and where continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus.

⁴Uganda, Consideration of reports submitted by States parties under articles 16 of the ICESCR, state Report P.15

⁵MFPED, 2009

⁶ Women's rights in Uganda: gaps between policy and practice, International Federation for Women's Rights 2009 available at <https://www.fidh.org/IMG/pdf/uganda582afinal.pdf>

regional law. In terms of Article 6 of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol), State Parties are obliged to ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. Article 21(2) of the African Charter on the Rights and Welfare of the Child (African Children's Charter) asserts that child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years. Consequently, State Parties are required to enact appropriate national legislative measures which legislate a minimum age for marriage, eliminate harmful practices and address the root causes of child marriage. Yet despite these and other obligations, early forced marriage especially for girls remains highly prevalent in Uganda

There are reports in the country where young girls have been compelled into marriages without their consent. Indeed, 46% of girls are married before the age of 18⁷. This is usually an agreement between the parents and this denies the young girls a chance to study and become better citizens.

Unconstitutional Provisions still part of Uganda's legislation:

Over the years, Uganda has undergone litigation to ensure that its legislation is in conformity with the rights based approach. This litigation focused on a wide range of issues but in reference to women's ESCR, the Succession Act and Divorce Act were challenged on grounds that they infringe on the right to non-discrimination for women⁸. Although courts have ruled that these provisions are discriminative in nature, unconstitutional, and therefore Null and void, proposals to amend the said laws before the Uganda Law Reform commission are yet to be tabled. The Government has been slow to act on these provisions and realization of women's rights has remained stunted.⁹

Question to the state

1. The Committee should ask the government to explain its strategies towards implementation of the Constitutional Provisions on non-discrimination against women including articles 21, 33 and 32 as expounded above.
2. The Committee should ask government to explain the variance between Constitutional court's rulings on unlawful laws and the laws themselves. The state should tell how much time it needs to have the said laws and many others amended.
3. The Committee should ask Government its plan to ensure that the Marriage and Divorce law is successfully tabled and discussed before parliament.
4. Committee should ask Government what strategies it has designed to end child marriage.

⁷ See <http://www.girlsnotbrides.org/girls-not-brides-members-launch-the-uganda-alliance-to-end-child-marriage/>

⁸ Sections 4,5,22,23,24,26 of the Divorce Act were challenged for contravening freedom from non-discrimination

⁹See *Law and Advocacy for Women in Uganda v Attorney General (Constitutional Petition No. 5 of 2007)*. In this case the Constitutional Court found sections *14, 15, 23, 26, 29, 43, 44*, of the Succession Act Unconstitutional

Recommendation:

We recommend that the government quickens the process of amending the discriminate laws that have already been declared unconstitutional.

ARTICLE 6 – RIGHT TO WORK

A majority of Uganda's rural women over 80% are in agriculture sector and hence contributing to the Country's GDP. However we are deeply concern that the National budget only allocates 3% to agriculture sector that employs a majority of women hence denying women access to work with improved technologies and value addition to their products and availing ready markets for their commodities. According to Abuja Declaration, 15% of National budget was to be committed to agriculture sector; however this has not been done.

Questions to the State

The Committee should ask Government what strategies are in place to meet this target and the political will to do so.

Recommendation

The Committee should recommend Government to come up with a Women Livelihood Fund to boost women in agriculture and other sectors.

ARTICLE 7 – THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

Minimum wage:

The government report notes that Current minimum wage for unskilled labour in Uganda was set at Uganda shillings 6000 (an equivalent to \$ 2) in 1984 by Statutory Instrument No.38/1984.¹⁰ In 1995 Government of Uganda constituted the minimum wages Advisory Committee under Notice 176/1995 in accordance with section 3(1) of the minimum wages which recommended that the economy could support minimum wage of Uganda shillings. 75000 (an equivalent of \$25) per month for the unskilled labour but which remained unimplemented. Uganda shillings 6000 (an equivalent of \$2) is still the legal minimum wage however the Government recognizes that this wage is outdated and does not reflect the current economic realities.

The lack of a minimum wage affects everybody and has contributed to the big poverty gaps; however it affects women more adversely given that they form the majority of unskilled labour, and the report has already noted that 50% of employed women are in the 3 lowest paying sectors.

Lack of support for nursing mothers.

In 2006, the State came up with an Employment Act which recognises rights of women to a 60 (sixty working days) maternity leave¹¹. We commend the Government for this initiative, however, it is noted that nursing mothers need further support in order for them to be efficient in

¹⁰See Platform for Labour Action 53 (NDP 2010/11-2014/15)

¹¹Section 56 of the Employment Act 2006

the work place and effectively play their roles as mothers¹².

Questions to the state.

1. The Committee should ask government what plans it has to ensure that it provides a favourable playing field for nursing women to participate in economic development.
2. The Committee should task government to explain strategies it has towards revising the minimum wage and ensure that women benefit from this wage.

Recommendations

We recommend that the State revises the minimum wage from Ushs 6000 to Ushs 75,000 (\$2 to \$25) to ensure that women in the different sectors benefit from it.

We also recommend that the state learns from the Uganda Human Rights Commission and puts up a center for nursing mothers given the importance of breastfeeding to preventing infant mortality and stunted growth. It would also enhance women's performance and their contributions to economic development.

ARTICLE 10 – PROTECTION OF THE FAMILY, MOTHERS AND CHILDREN

Article 21 provides for equality and freedom from discrimination that all persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respects and shall enjoy equal protection of the law.

In order to protect women and their families, a Marriage and Divorce Bill was drafted and presented before Parliament, however, it was thrown out on contested issues of cohabitation, marital rape and property issues all of which impact on women's realization of the right to a family. The domestic Violence Act cannot on its own protect women and their children in the absence of a Marriage and Divorce law. Indeed men have absconded from their mandatory primary responsibilities and women have since become the bread winners in family environments where their property rights are not protected in the absence of the law.

It is important to note that the women are bread winners in families yet government has remained silent in ensuring that they enjoy their rights to family.

For example,

Uganda has a number of children who were born in captivity by girls and women who were abducted during the conflict in the Northern part of the Country. Further, due to the high maternal mortality, with 16 women dying in child birth every day, children have been left without the care of their mothers as the case described here shows

In 2011 for example, Center for Health, Human Rights and Development (CEHURD), Mugerwa David and his children filed a case against Nakaseke District Local Administration citing violation of the right to a family and rights of children, This followed the maternal death of Irene Nanteza in Nakaseke Hospital on the 5th of May,

¹² Read <http://www.newvision.co.ug/news/633941-Can-working-mothers-breastfeed-exclusively-.html> for cases of mothers that have suggestions on how best the state can cater for nursing mothers

2012. On that fateful day, Nanteza was taken to Nakaseke hospital by her spouse, Mugerwa David to deliver her baby. While at the hospital, a nurse detected that the deceased suffered an obstructed labour that required urgent intervention by a doctor. The doctor on duty only arrived at the hospital after over eight hours when it was already too late for any medical intervention to reverse the haemorrhage that had arisen due to a ruptured uterus. The judge held Nakaseke District vicariously liable for the acts of the doctor and administrator who failed to ensure the provision of emergency obstetric care urgently required by deceased. He further noted that the deceased did not receive the care and protection she was entitled to under the Constitution as a result of a flagrant act of neglect from the doctor on duty. The deceased's children and her spouse were similarly denied the care and companionship of their mother and wife respectively¹³.

This is not the first case going to court because of violation of the right to a family and children's rights. This right should be noted is violated on preventable causes and the state has no specific explanation to the same

It is likely that the over flow of street children is a result of weak protection mechanisms that could be provided in the Marriage and Divorce Act as well as improved access to maternal and reproductive health rights.

Questions to the state

1. The Committee should ask the Government to explain what strategies it has put in place to realize rights of children born out of captivity
2. The Committee should ask Government to explain what it has put in place to re-introduce the Marriage and divorce Bill in parliament and to ensure that women enjoy their right to family without dying due to preventable causes.

Recommendation

We recommend that:

- Government ensures protection of women and their families by tackling the causes of maternal mortality that have denied them this right.

ARTICLE 12 – RIGHT TO BEST ATTAINABLE STANDARD OF MENTAL AND PHYSICAL HEALTH:

Increased maternal mortality rates and restrictive reproductive health laws.

Uganda's maternal mortality ratio is increasingly high with over 438/100,000 women dying of preventable causes¹⁴. Only 48% of women receive antenatal care across the duration of their pregnancy, and skilled birth attendants are present at only 58% of all births¹⁵. According to the Ministry of Health, Uganda loses 6000 mothers to pregnancy and child-birth related

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¹⁴ Uganda Demographic Health Survey (UDHS, 2011), Uganda Bureau of Statistics. 2011

¹⁵ Ibid.

complications every year¹⁶. The factors responsible for this state of affairs are numerous: health facilities across the country are understaffed, lack drugs and other medical equipment necessary for safe delivery. Women's low educational and economic statuses are a further barrier to their accessing the health facilities.

In addition there are high rates of unsafe abortions contributing to maternal deaths. 26% of the 438/100,000 deaths are due to unsafe abortions¹⁷. These deaths could be avoided if the country amended the restrictive abortion laws (sections 141-143 of the penal Code Act), widened the circumstances under which abortions can be performed and sensitized the communities on the use of modern family planning services to avoid unwanted and unintended pregnancies.

Affordability of health care services; In March 2001, the president abolished cost sharing in the public sector and user fees were stopped to ensure access to health services. This was influenced by a report that cost sharing was leading to unnecessary suffering and even death. This has, however, not only had positive but also negative implications to the lives and health of the women. It should not be assumed that the end of cost sharing resulted in free health care services to the patients. In other instances, informal "under the table" payments to health workers are a feature of many nominally free health services. This practice has resulted into death of women, some are highlighted below:

- Sylvia Nalubowa delivered a baby at Manyi Health Centre III, a government health care facility in Mityana in 2009. It was then established that she was to have twins and required emergency obstetric care to deliver the second baby and was referred to Mityana Hospital where the attendant (now an emergency case) was first asked to pay for three bottles of rehydrating water, which she did. In the words of the attendant, Rhoda Kukkiriza, "at this time the deceased was in extreme pain and crying for help. I went where she was and whatever came out of her was blood and I had no way to help her." Rhoda Kukkiriza adds that in pain Nalubowa "pledged her kibanja [squatter piece of land], hens and pigs if the nurses had helped her out". These pledges did not however help, Sylvia Nalubowa bled to death¹⁸
- Cecilia Nambozo, a teacher at Busamaga Primary School in Mbale Municipality, knew it was time, so she did what was expected - checked into a hospital at 6am so she could give birth with expert attention at her disposal. But that was not to be, for more than 10 hours after Nambozo checked into Mbale Regional Referral Hospital to bring unto the world a life, she was ignored, neglected and writhing in pain. Her crime? She did not have the Shs 300, 000 (Three hundred shillings)¹⁹. The hospital medical staff demanded before they could attend to her. And so she wasted away in September 2011 as her

¹⁶Government of Uganda, Road Map for Accelerating the Reduction of Maternal and Neonatal Mortality and Morbidity in Uganda (2007-2015) p.1.

¹⁷ <http://www.gutmacher.org/pubs/FB-Abortion-in-Uganda.html>

¹⁸ See, CEHURD, Advocating for the right to reproductive healthcare in Uganda: The import of Constitutional Petition N. 16 of 2011 (2011) online: <<http://www.cehurd.org/wp-content/uploads/downloads/2012/01/Petition-16-Study.pdf>>.

¹⁹ CEHURD, "The sick hospital system in Uganda" (2011) online: <http://www.cehurd.org/2011/10/the-sick-hospital-system-in-uganda/>.

husband, Mr. Richard Wesamoyo, made desperate runs around the village to raise the money²⁰.

These are just examples of many cases of women that have died but have gone unnoticed; the State service delivery has remained largely ineffective and below set goals as he examples below show:

Provision of emergency obstetric care

According to the Ministry of Health's HSSIP mid-term review (2013) only 36% of HC IVs were providing such care, as compared to the 50% set by the Ministry to be achieved by 2015. Other reproductive health indicators, particularly in rural areas, remain meagre. The Contraceptive Prevalence Rate (CPR) has increased from 2.7% as indicated by to 26% in 2011 (UDHS, 2011). Despite this, there is a variation in the use with a reported 41 percent of women having an unmet need for family planning. Of the countries with a Demographic and Health Survey (DHS) Uganda has the highest level of unmet need for family planning among currently married women²¹. There is a wide gap in the use of any method between rural and urban areas (23 versus 39 %). The percentage of women using a contraceptive method is highest in Kampala at 48% while the sub regions of Karamoja at 8% and West Nile at 15% have the lowest (UDHS 2011)

Utilities for primary health care

Inadequate supply of water and electricity, continued load shedding of electricity from public health facilities and disconnection of water from these facilities have continued to violate women's rights to reproductive health care. On March 17 2014 for instance the only National Referral Hospital- Mulago National referral Hospital was disconnected of water.²² This disconnection of water translates into deaths in theaters and incubators. The act of disconnecting the water supply also puts the lives of thousands of patients and hospital staff at risk as hospital facilities such as; dentistry, emergency, pediatric, intensive care, and labour wards, as well as daily dialysis treatments for kidney patients, consequently come to a standstill. In addition, other health facilities have resorted to delivering women with torches²³. In such circumstance, we can argue that there is retrogression in realizing women's maternal health rights and their unique status in society that the Constitution describes is not realized.

It cannot go without mention that the budget for health sector is far below that commitment made by government. The budget has for the last 5 years been stagnated between 7-8% yet Uganda committed to have 15% of its national budget allocated to the health sector- This commitment was made in the Abuja Declaration. Hence making the realization of the right to health not progressive.

²⁰ CEHURD, "The sick hospital system in Uganda" (2011) online: <http://www.cehurd.org/2011/10/the-sick-hospital-system-in-uganda/>. Also see <http://www.monitor.co.ug/News/National/-/688334/1237880/-/bj7s7pz/-/index.html>

²¹ **Unmet Need and the Demand for Family Planning in Uganda Further Analysis of the Uganda Demographic and Health Surveys, 1995-2006**, Shane Khan Sarah E.K. Bradley Joy Fishel Vinod Mishra August 2008

²² <http://www.newvision.co.ug/news/653689-mulago-hospital-water-supply-cut-off.html>

²³ <http://www.monitor.co.ug/SpecialReports/ugandaat50/When-midwives-turned-to-mobile----phone-light-to-save-mothers/-/1370466/1638594/-/10v07u4/-/index.html>

Questions to the state:

1. The Committee should ask government to explain measures it is putting in place to ensure that the rates of maternal mortality are reduced?
2. The Committee should ask government explain its plans to ensure to ensure access to youth friendly reproductive health services and combat the high rates of teenage pregnancies .
3. The government should explain its strategies towards ensuring an increment in the health budget and the retention and motivation of health workers.

Recommendation:

1. We recommend that government increases service provision, especially in rural areas; train, recruit, motivate, and retain health workers, especially midwives; Increase availability of emergency obstetric and neonatal care (EmONC) at all facilities; Increase access to youth-friendly family planning and reproductive health services; Increase community awareness about causes of maternal deaths, birth preparedness, delivery by skilled birth attendants, facility-based births, and antenatal care; legalize and strengthen use of maternal death audits, amend restrictive laws on abortion and draws a mechanism to ensure that there is provision of free services in health facilities. Budget for family planning and access for adolescents for reproductive health information and services.
2. We also recommend that government recognizes health as a right and include it in the Bill of Rights and enacts this into law; increases the budget allocation to the Health Sector; strengthens accountability mechanisms within the Health Sector; and revise and improve the salary scale structure of health professionals.

ARTICLE 14 RIGHT TO EDUCATION

We commend the government for putting in place policies and programs that are designed to ensure the right to education such as the Universal Primary and Universal Secondary Education, supplemented through Public Private Partnership (PPP).

The Uganda government is also beginning to pay attention to the scale of high school drop out of girls although the report is silent on this issue.

We are deeply concerned that although government has achieved in the MDG on EFA through high enrolments in primary education, the biggest challenge has been low completion rate of only 30% in primary 7.

Statistics from UNFPA show that Uganda falls among the 15 worst African countries with high numbers of child brides with 46% of underage girls below 18 forced or lured into marriage and a report from Uganda has the highest school drop-out rate for females in East Africa. There are many related causes such as early marriage and teen pregnancy. Another factor is excessive housework; with a far higher proportion of households with female children (30.5%) attributing domestic work to non-enrolment, compared to households with male children (19.9%).²⁴

²⁴Out of school children **Christine MbabaziMpyangu (PhD), Eric AwichOchen (PhD), EriaOlowoOnyango (PhD) Yovani A Moses Lubaale (PhD)**
March 2014

In doing so, the fundamental right of the girl child is being denied and in turn, if not addressed effectively will have negative impacts on girls' and women's access to and enjoyment of other fundamental rights. The government probably needs to prove and take up that notion that once you educate a girl child, you have educated the nation.

Although government is able to annually graduate over 400,000 students from universities and other tertiary institutions, only 100,000 jobs are available in the job market, hence making the majority of this educated, un and under employed.

Question to the State

What strategies is Government laying to curb high unemployment rate especially among the youth and what is it doing to redesign the curriculum to train students on much needed skills to make education curriculum relevant.

Recommendation

1. We recommend that Government does not abdicate its responsibility of provision of education to private providers, but improve public education which takes care of a majority of the rural poor parents who cannot afford private education for their girl children
 2. We recommend that government fast tracks the review of the curriculum on education and ensure that there is meaningful stakeholder participation in its development.
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