

**HUMAN RIGHTS AND PUBLIC HEALTH PROTECTION: AN EXAMINATION  
OF UGANDA'S RESPONSE TO THE COVID-19 PANDEMIC**

**BY**

**MUHINDO PATIENCE AUDREY**

**2021-01-03212**

**SUPERVISOR**

**PROF. GODARD BUSINGYE, LL. D**

**A DISSERTATION SUBMITTED TO THE SCHOOL OF LAW IN PARTIAL  
FULFILLMENT OF THE REQUIREMENTS  
FOR THE AWARD OF A DEGREE OF MASTER  
OF PUBLIC INTERNATIONAL LAW OF  
KAMPALA INTERNATIONAL  
UNIVERSITY**

**NOVEMBER, 2023**

## **DECLARATION**

I **Muhindo Patience Audrey** do hereby declare that this dissertation was written by me, and the same has never been presented anywhere else for any examination or award, save for other sources herein referred to, and disclosed.

Candidate: **Muhindo Patience Audrey**

**Signature**

**Date:**

### **CERTIFICATION**

I certify that I have supervised this dissertation and that in my opinion, it conforms to the acceptable standards of scholarly presentation and is adequate in scope and quality. It meets the requirements for the award of a Degree of Master of Public International Law of Kampala International University.

Name of Supervisor: Prof. Godard Busingye, LL. D

Signature:

Date:

## **DEDICATION**

I dedicate this dissertation to my beloved father, Mr. Muhima S. Ignatius, my late Mother Night Racheal and all my siblings and Friends. Your love and support is invaluable.

## **ACKNOWLEDGEMENTS**

I acknowledge with thanks and appreciation, the love and support of my Father, Mr. Muhima S Ignatius. It is because of your love for Education that I am this far. I am also indebted to my Supervisor Prof. Godard Busingye for guiding me throughout the whole journey. I thank you for your professionalism; any shortcoming in this research is attributed to me alone. May God Bless You.

## **LIST OF ACRONYMS/ABBREVIATIONS**

AU	African Union
CAT	The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
COVID-19	Corona Virus Disease of 2019
EAC	Establishment of the East African Community
CRC	Convention on the Rights of a Child
ECCMS	Electronic Court Case Management Information System
ECHR	The Council of Europe adopted the European Convention for the Protection of Human Rights and Fundamental Freedoms
GANHRI	Global Alliance of National Human Rights Institutions
GOU	Government of Uganda
HRAPF	Human Rights Awareness and Promotion Forum
HSDP	The Health Sector Development Plan
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice

IGAD	Agreement Establishing the Intergovernmental Authority for Development
IGP	Inspector General of Police
LDU	Local Defence Unit
MOH	Ministry Of Health
NDPIII	Third National Development Plan
NPI	Non-Pharmaceutical Interventions
OAU	Organization of the African Union
ODIHR	Office for Democratic Institutions and Human Rights
OHCHR	Office of the United Nations High Commissioner for Human Rights
PHA	The Public Health Act
SC	Security Council
SMEs	Support for Small and Medium-sized Enterprises
SOPs	Standard Operating Procedures
UDHR	Universal Declaration of Human Rights
UHRC	Uganda Human Rights Commission
UN	United Nations
UNDP	United Nations Development Programme
UNGA	United Nations General Assembly
UPDF	Uganda Peoples’ Defense Forces
UPF	Ugandan Police Force

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The Human Rights Enforcement Act, 2019

The Penal Code Act, Cap. 120

The Police Act, Cap. 303

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The Public Health Act, Cap. 281

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The Ratification of Treaties Act, Cap. 204

The Uganda Peoples' Defence Forces Act, No. 7/2005

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National Guidelines for Management of COVID-19, Issued April 1, 2020

COVID-19 Guidelines for Meeting at Work Places Issued March 1, 2020

COVID-19 Guidelines for Prisons, Issued March 1, 2020

COVID-19 Guidelines on Mass Gatherings Issued March 1, 2020

COVID-19 Guidelines for Discharged Patients, Issued May 1, 2020

Guidelines for Prevention of COVID-19 in Markets, Issued March 1, 2020

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The American Convention on Human Rights, 1969

The Code of Conduct for Law Enforcement Officials, 1979

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984

The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 1998

The European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950

The Hague Evidence Convention, 1972

The International Convention on the Elimination of All Forms of Racial Discrimination, 1965

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## TABLE OF CONTENTS

<b>DECLARATION .....</b>	<b>i</b>
<b>CERTIFICATION .....</b>	<b>ii</b>
<b>DEDICATION.....</b>	<b>iii</b>
<b>ACKNOWLEDGEMENTS .....</b>	<b>iv</b>
<b>LIST OF ACRONYMS/ABBREVIATIONS.....</b>	<b>v</b>
<b>NATIONAL LAWS.....</b>	<b>vii</b>
<b>INTERNATIONAL INSTRUMENTS.....</b>	<b>x</b>
<b>GENERAL COMMENTS AND RECOMMENDATIONS BY TREATY BODIES ON THE RIGHT TO HEALTH .....</b>	<b>xi</b>
<b>TABLE OF CASES .....</b>	<b>xiv</b>
<b>TABLE OF CONTENTS.....</b>	<b>xvi</b>
<b>ABSTRACT .....</b>	<b>xx</b>
<b>CHAPTER ONE.....</b>	<b>1</b>
GENERAL INTRODUCTION .....	1
1.1 Background to the Study .....	1
1.2 Statement of the Problem .....	3
1.3 Research Questions .....	4
1.4 Objective of the Study .....	4
1.5 Significance and Justification of the study .....	5
1.6 Scope of the Study .....	5
1.7 Research Methodology .....	6
1.8 Literature Review.....	6
1.9 Organizational layout .....	15
<b>CHAPTER TWO .....</b>	<b>16</b>
LEGAL FRAMEWORK RELEVANT TO PUBLIC HEALTH AND HUMAN RIGHTS PROTECTION IN UGANDA .....	16
2.0 Introduction .....	16
2.1 National Legal Framework.....	16
2.1.1 The Constitution of the Republic of Uganda, 1995 .....	16
2.1.2 The Uganda Public Health Act, Cap. 281 .....	19
2.1.3 The Police Act, Cap. 303 as amended in 2006 .....	23

2.1.4 The Local Government Act, Cap. 243 .....	24
<b>2.2 National Institutional Framework .....</b>	<b>26</b>
2.2.1 The National Policy for Disaster Preparedness and Management, 2010 .....	26
2.2.2 Uganda’s Vision 2040 .....	27
2.2.3 The Health Sector Development Plan (HSDP) 2015/16 - 2019/2020.....	28
2.2.4 Third National Development Plan (NDPIII) 2020/21 – 2024/25.....	30
<b>2.3 Major International Human Rights Treaties applicable to Public Health Protection during pandemics in Uganda .....</b>	<b>32</b>
2.3.1 Charter of the United Nations, 1945 .....	32
2.3.2 The Universal Declaration of Human Rights (UDHR), 1948.....	35
2.3.3 The Constitution of the World Health Organization (WHO), 1946.....	36
2.3.4 The International Covenant on Civil and Political Rights (ICCPR) 1966, and its two Protocols, 1966 and 1989 .....	38
2.3.5 The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966.....	40
2.3.6 The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1984.....	43
2.3.7 Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), 1979.....	45
2.3.8 Convention on the Rights of the Child (CRC), 1989.....	48
2.3.9 International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), 1966.....	50
<b>2.4 Regional Human Rights Legal Framework Applicable to Public Health Protection during Pandemics in Uganda .....</b>	<b>52</b>
2.4.1 Constitutive Act of the African Union, 2000.....	52
2.4.2 African Charter on Human and Peoples’ Rights, 1981 .....	55
2.4.3 Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, 2003.....	57
2.4.4 Treaty for the Establishment of the East African Community, 1999.....	59
2.4.5 The Dar-Es-Salaam Declaration on Peace, Security, Democracy and Development in the Great Lakes Region, 2004.....	61
2.4.6 Agreement Establishing the Intergovernmental Authority for Development (IGAD), 1986.....	62
<b>2.5 Conclusion.....</b>	<b>64</b>
<b><u>CHAPTER THREE.....</u></b>	<b><u>66</u></b>
<b>NON-LEGAL MEASURES ADOPTED BY GOVERNMENT IN FAVOUR OF PUBLIC HEALTH PROTECTION DURING COVID-19 PERIOD IN UGANDA .....</b>	<b>66</b>
3.0 Introduction .....	66
<b>3.1 Political Measures .....</b>	<b>66</b>
3.1.1 Leadership and Coordination.....	66

<b>3.2 ECONOMIC MEASURES</b> .....	<b>68</b>
3.2.1 Economic Stimulus Package.....	68
3.2.2 Support for Small and Medium-sized Enterprises (SMEs).....	69
3.2.3 Agriculture Sector Support .....	70
3.2.4 Monetary Policy Measures .....	72
3.2.5 Digital Transformation and E-commerce .....	73
<b>3.3 Social-Cultural Measures</b> .....	<b>74</b>
3.3.1 Public Health Awareness .....	74
3.3.2 Community Engagement .....	75
3.3.3 Inclusiveness.....	76
3.3.4 Mental Health Support.....	78
<b>3.4 Conclusion</b> .....	<b>79</b>
<b>CHAPTER FOUR</b> .....	<b>80</b>
<b>EXAMINATION OF THE RESPONSES UNDERTAKEN TO PROTECT PUBLIC HEALTH AND HUMAN RIGHTS DURING COVID-19 PERIOD IN UGANDA</b> .....	<b>80</b>
4.0 Introduction .....	80
4.1 The COVID-19 Legal Framework.....	81
4.2 Lockdowns and Movement Restrictions.....	82
4.3 Quarantine and Isolation Centers.....	84
4.4 The COVID-19 Policy Response.....	86
4.5 Surveillance and Contact Tracing.....	89
4.6 Censorship and Suppression of Information .....	91
4.7 Court Closures .....	92
4.8 Restrictions on Religious Gatherings.....	94
4.9 Closure of Educational Institutions.....	95
4.10 The COVID-19 Enforcement Measures .....	97
<b>4.11 Conclusion</b> .....	<b>99</b>
<b>CHAPTER FIVE</b> .....	<b>100</b>
<b>Conclusions</b> .....	<b>100</b>
5.1 Summary of Findings .....	100
5.2 Conclusions .....	101
5.3 Recommendations.....	103

<b>BIBLIOGRAPHY .....</b>	<b>107</b>
<b>Books .....</b>	<b>107</b>
<b>Journals/Articles .....</b>	<b>108</b>
<b>Websites .....</b>	<b>121</b>
<b>Others .....</b>	<b>128</b>
<b>APPENDICES .....</b>	<b>133</b>
<b>APPENDIX 1 .....</b>	<b>133</b>

## **ABSTRACT**

*This study explored the connection between human rights and public health protection within the context of the COVID-19 pandemic in Uganda. It delved into the legal mechanisms and non-legal measures implemented to safeguard public health and how they impacted individual human rights. The research utilized both doctrinal and non-doctrinal methods. The doctrinal approach focused on legal materials, investigating international and national laws relevant to human rights and public health protection. Meanwhile, the non-doctrinal approach examined the interaction between law and society, analyzing decision-making processes and the experiences of those affected by the law. The study revealed that while certain international frameworks and declarations don't explicitly address pandemics, they indirectly contribute to safeguarding human rights and improving public health outcomes. It also found that the combination of non-legal measures and Uganda's legislative and institutional framework effectively managed various aspects of lockdown scenarios, including public health concerns. The study's recommendations include urging the Ugandan government to ensure that law enforcement agencies uphold human rights even during national crises. It also suggests involving civil society in the legislative process and emphasizes the importance of ongoing research to maintain updated insights into the study's subject matter.*

# CHAPTER ONE

## GENERAL INTRODUCTION

### 1.1 Background to the Study

COVID-19 broke up in Uganda in the month of March, 2020, and immediately the country undertook legislative measures to curb the spread of the disease.<sup>1</sup> The legislative measures adopted empowered the government to, among others, institute lockdown measures to prevent the spread of COVID-19 from one place to the others.<sup>2</sup> Lockdown measures entailed people being prevented moving from their residences to others residences, and also from place to place. In effect, the lockdown measures disintitled people in the country from freedom of movement, which in turn disintitled them from enjoying a number of human rights.<sup>3</sup> For example, the sick and expectant mothers, had problems of reaching medical facilities, those in need of food had problems of reaching market places to buy it, and families that lived in different parts of the country could not re-unite during the lockdown period.<sup>4</sup>

Legislative measures to protect public health against COVID-19 were reactivated and others introduced and enforced.<sup>5</sup> The legislative measures were reinforced by Presidential Directives that were issued from time to time during that period. Those legislative measures were largely in form of Rules, Guidelines, Circulars and Standard Operating procedures (SOPs) issued under the ambit of the Public Health Act, Cap. 281. Task Committees and Forces were formed and public health enforcement tightened. Movements were curtailed because of the total lock-down for enforcement of social distancing.<sup>6</sup> The study interrogates

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<sup>1</sup> Uganda discovered its first COVID-19 case on 18 March 2020. More information available at, Timeline of Uganda's Response-COVID-19, <<https://covid19.gou.go.ug/timeline.html>> accessed on 28 January 2023.

<sup>2</sup> Covid-19 State Legislation Database.

<sup>3</sup> Anna Hedstrom, Paul Mubiru, et. al., "Impact of the early COVID-19 Pandemic on Outcomes in a Rural Ugandan Neonatal Unit: A Retrospective Cohort Study" (Plos one 2021) Vol. 16 (12) PubMed Central, available at, <<https://doi.org/10.1371%2Fjournal.pone.0260006>> accessed on 28 January 2023.

<sup>4</sup> See, In Uganda, Mothers in Labour Die Amidst Coronavirus Lockdown, available at, <[www.reuters.com/article/us-health-coronavirus-uganda-idUSKCN21R2FA#:~:text=KAMPALA%20\(Reuters\)%20%2D%20Scovia%20Nakawooya's,lockdown%2C%20a%20rights%20group%20said](http://www.reuters.com/article/us-health-coronavirus-uganda-idUSKCN21R2FA#:~:text=KAMPALA%20(Reuters)%20%2D%20Scovia%20Nakawooya's,lockdown%2C%20a%20rights%20group%20said)> accessed on 28 January 2023.

<sup>5</sup> For example see, the Uganda Public Health (control of COVID-19) Rules, 2020 S.I 55 of 2020.

<sup>6</sup> Covid-19 State Legislation Database.

the relationship between these measures, the need for public health protection and realization of human rights for persons that were in Uganda during that time. During the COVID-19 pandemic, the whole world was affected and reports indicated rising death toll day bay day.<sup>7</sup> It was a learning experience and the measures taken were not universal. For instance, to save lives and protect public health, borders and inter-state flights were shut down all over the globe to reduce the spread of the virus from one country to another.<sup>8</sup> The study makes it clear that respect for individual human rights cannot be sacrificed at the expense of public health protection. The various international human rights and even the national human rights laws examined in the study provides for non-derogable human rights, which are fundamental for survival of individuals in any circumstances. Applying the same yardstick and depriving all persons in Uganda the rights and freedom, in favour of public health during the COVID 19 pandemic, as highlighted in this study is faulted. In Uganda, and some other countries, mandatory testing for COVID-19 measures, sanitizing of hands, orders for not burying the dead by their families and communities, and wearing of face masks, were enforced.<sup>9</sup>

Much as the government of Uganda attempted to fulfil its obligation to the public by putting in place stringent measures to prevent the rapid spread of COVID 19, it did not fully comply with international and national human rights standards for individuals in the country. The zeal for public health protection overshadowed her vision to ensure and guarantee respect for particular human rights, especially for the vulnerable such as the sick, the hungry, who could not easily get out of their homes. The sick and expectant mothers found it difficult to seek appropriate medical care.<sup>10</sup> The starving population were not able

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<sup>7</sup> WHO Coronavirus (COVID-19) dashboard, available at, <https://covid.who.int/> accessed on 28 January 2023.

<sup>8</sup> Travel Restrictions and Border Shutdowns, available at [www.aljazeera.com/news/2020/6/3/coronavirus-travel-restrictions-border-shutdowns-by-country](http://www.aljazeera.com/news/2020/6/3/coronavirus-travel-restrictions-border-shutdowns-by-country) accessed on 12 September 2022.

<sup>9</sup> See the COVID-19 Response information hub, available at [https://covid19.gou.go.ug/document.html?document\\_type=4](https://covid19.gou.go.ug/document.html?document_type=4) accessed on 28 January 2023.

<sup>10</sup> See, In Uganda, Mothers in Labour Die Amidst Coronavirus Lockdown, available at, [www.reuters.com/article/us-health-coronavirus-uganda-idUSKCN21R2FA#:~:text=KAMPALA%20\(Reuters\)%20%2D%20Scovia%20Nakawooya's,lockdown%2C%20a%20rights%20group%20said](http://www.reuters.com/article/us-health-coronavirus-uganda-idUSKCN21R2FA#:~:text=KAMPALA%20(Reuters)%20%2D%20Scovia%20Nakawooya's,lockdown%2C%20a%20rights%20group%20said) accessed on 20 July 2023.

to get out and work for or even access food either in their distant gardens or buy it from places where food is ordinarily cheap and affordable for them. Much as the GOU responded briskly and curtailed the rapid spread of COVID-19, and hence should be applauded, the failures of the laws and measures encountered cannot pass without being interrogated to enable future appropriate legislative process in case of similar pandemics.<sup>11</sup> The problem which this study grappled to address is how Uganda will ensure that public health protection and the safeguarding of human rights are effectively balanced in the face of future health crises, avoiding the shortcomings experienced during the COVID-19 pandemic.

## **1.2 Statement of the Problem**

In an ideal legislative environment, the Government of Uganda (GOU) assesses the impact and human rights efficacy of the laws to be made for public health protection beforehand. Even after such laws have been made, they are subjected to internal national mechanisms, including judicial mechanisms, where necessary, to ensure that their implementation does not violate international human rights standards as domesticated in the country's Constitution and other laws. During the COVID-19 pandemic period, however, the laws made by the government for enforcement by its agencies in favour of public health protection were instantaneous because there was no time to balance the need for public health protection and respect for individuals' particular human rights, especially, those categorized as non-derogable. This led to several human rights violations by government enforcement agencies.

The COVID-19 pandemic made the GOU to redirect its focus and prioritization to public health protection against the rapid spread of COVID-19 at the expense of other human rights, including the routine health needs of persons living in Uganda at the time.

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<sup>11</sup> Bukenya Badru, et al., "Understanding The Politics Of Covid-19 In Kampala, Nairobi And Mogadishu: A Political Settlements Approach" (May, 2022 The University of Manchester) African Cities Research Consortium Working Paper 4, available at, [https://www.african-cities.org/wp-content/uploads/2022/05/ACRC\\_Covid-Collective\\_Politics-and-Covid-19-in-Kampala.pdf](https://www.african-cities.org/wp-content/uploads/2022/05/ACRC_Covid-Collective_Politics-and-Covid-19-in-Kampala.pdf) accessed on 20 August 2023.



Disturbingly, other diseases and health needs were given less attention, which highly interfered with a number of human rights aspects of individuals in the country.

Uganda's response to the pandemic included the implementation of lockdowns, curfews, and mobility restrictions to mitigate the spread of the virus. Reports, however, emerged suggesting that the enforcement of these measures was marred by instances of excessive use of force, limitations on freedom of movement, discriminatory practises, and potential suppression of freedom of expression and assembly. These claims shed light on the complicated challenge faced by authorities in addressing health emergencies while upholding the rights and dignity of its citizens.

Much as the GOU responded briskly and curtailed the rapid spread of COVID-19, and hence should be applauded, the failures of the laws and measures encountered cannot pass without being interrogated to enable future appropriate legislative process in case of similar pandemics. The problem which this study grappled to address is how Uganda will ensure that for the future, and in case of pandemics, laws made for public health protection do not lead to a spiral of human rights violations in the country.

### **1.3 Research Questions**

- i. To what extent did the legal mechanisms adopted to ensure public health protection during the COVID-19 pandemic protect individuals' human rights in Uganda?
- ii. How did the non-legal measures adopted by government in favour of the public health protection during COVID-19 protect individuals' human rights in Uganda?
- iii. What appropriate measures ought to be undertaken to enhance protection of individuals' human rights as well as public health for Ugandans during pandemics like COVID-19?

### **1.4 Objective of the Study**

#### **1.4.1 Main objective**

To assess the impact of the government of Uganda's legal and non-legal measures adopted for public health protection during COVID-19 pandemic on individuals' enjoyment of human rights at that time.

#### **1.4.2 Specific Objectives**

1. To discuss how the legal mechanisms adopted to ensure public health protection during the COVID-19 pandemic protected individuals' human rights in Uganda.
2. To examine how the non-legal measures taken by government in favour of the public health protection during COVID-19 protected individuals' human rights in Uganda.
3. To interrogate what measures ought to be undertaken to enhance protection of individuals' human rights as well as public health for Ugandans during pandemics like COVID-19.
4. To make appropriate recommendations to enhance enjoyment of individuals' human rights as well as public health protection for Ugandans during pandemics like COVID-19.

#### **1.5 Significance and Justification of the study**

This study was intended to help the policy and law makers to be decisive in an informed way in cases of pandemics. It is true that sometimes viral diseases like COVID-19 cannot be predicted but history has proven that they can surely be expected any time. This, therefore, justified the fact that protection of human rights and public health had to be analyzed during the COVID-19 period because the government has to be prepared in case another pandemic occurs since human rights are inherent and cannot be granted by anyone.

#### **1.6 Scope of the Study**

##### **1.6.1 Subject Scope**

This study focuses on the impact of COVID-19 on human rights and public health protection in Uganda during COVID-19 period. It seeks to highlight how laws adopted during the COVID-19 period balanced the protection of human rights and public health.

##### **1.6.2 Time Scope**

The study covers the period from December 2019 when COVID-19 was discovered in Wuhan China up to date.

### **1.6.3 Geographical Scope**

The study was carried out in the Central region of Uganda, specifically Kampala, the Capital City of Uganda located in the central part of the country, north of Lake Victoria.

### **1.7 Research Methodology**

The methodology adopted for this study was doctrinal, which is used in researches on the law and legal concepts. Doctrinal methodology looked at the law exclusively using both secondary and primary sources of legal materials that provided adequate information for the study. Some of them were; African Charter on Human and Peoples' Rights of 1986, the United Nations Declaration of Human Rights 1948, the Constitution of the World Health Organization of 1948 the Constitution of the Republic of Uganda 1995 among others.<sup>12</sup> It also examined books, journals, seminars, briefing books and other legal material adopted during COVID-19 period and their impact on International Human Rights.<sup>13</sup> Doctrinal methodology was scantily supplemented by a few interviews made with some people. These included, women, men, refugees, and street dwellers among others, who stayed in Kampala during the COVID-19 period. For the interviews conducted, Kisenyi, a slum in Kampala was used as a sample. The place has temporary shelter structures, largely put up by street dwellers. It is an overly overcrowded place, during business time. For that matter therefore, analyzing Human Rights and Public Health Protection during the pandemic could not be studied in a better manner without a sociological enquiry during a time when COVID-19 was rapidly changing the world.

### **1.8 Literature Review**

The fields of public health and human rights protection are closely related and essential to advancing the wellbeing and dignity of people and communities. Human rights provide a

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<sup>12</sup> Valentine T Mbeli, *Methods of Legal Research* (Centre for Agricultural Law and Policy in Africa, Ggaba Road, Kansanga, Kampala-Uganda, 2018) 47-60.

<sup>13</sup> Ibrahim Salim and others, Legal Research of Doctrinal and Non-Doctrinal (2019) 4/10 International Journal of Trend in Research and Development 493.

framework for ensuring that each person has the right to specific fundamental freedoms, whereas, public health is concerned with enhancing and protecting the health of populations. The study makes reference to particular human rights that were not specifically respected, especially, when law enforcement agencies were implementing COVID-19 regulations in Uganda. The question of what is meant by a ‘right’ is, however, itself contentious and the subject of excruciating jurisprudential argumentation.<sup>14</sup> The study, therefore, adopts the definition given by Marks, who articulates that human rights are a set of norms governing the treatment of individuals and groups by States and non-state actors on the basis of ethical principles regarding what society considers fundamental to a decent life.<sup>15</sup>

The World Health Organization (WHO) defines health as a state of complete mental, physical and socio-wellbeing and not merely the absence of disease or infirmity.<sup>16</sup> Health protection is the prevention of the spread of communicable diseases by establishing minimum standards usually in form of regulations and is usually managed and controlled by the Government and its agencies.<sup>17</sup> Argirova defines public health as an art and science of preventing diseases, promoting health and prolonging life through organized efforts and informed choices of the society, public and private, communities and organisations.<sup>18</sup> This literature review, therefore, examined the numerous aspects, challenges, and developments in this area, and analysed the material of existing research on the relationship between human rights and public health especially during pandemic times.

According to Mann, in his study, ‘Health and Human Rights’, argues that the connection between health and human rights is rooted in the World Health Organization’s definition of health, which defines it as not just the absence of disease but as complete physical,

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<sup>14</sup> See Jerome J. Shestack, ‘The Jurisprudence of Human Rights’ in Theodore Meron (ed), *Human Rights in International Law* (1986) 1 legal and policy issues 69.

<sup>15</sup> Stephen P. Marks, *Human Rights: A Brief Introduction* (Harvard University, 2016) 1.

<sup>16</sup> Preamble of the Constitution of the World Health Organization 1946.

<sup>17</sup> Health Promotion Vs Health Protection, available at, [www.concetra.com/resource-center/articles/health-promotion-vs-health-protection/](http://www.concetra.com/resource-center/articles/health-promotion-vs-health-protection/) last accessed on 28 November 2022.

<sup>18</sup> Mariana Argirova, *Public Health: The Science of Promoting Health* (Springer-Verlag, 30 March 2011).

mental, and social well-being.<sup>19</sup> This definition emphasizes that health is influenced by societal factors like laws, ethics, and cultural norms, in addition to traditional healthcare elements. Mann also highlights that human rights violations, such as war and torture, have direct and indirect impacts on health by causing physical and psychological trauma, leading to harm, injuries, and long-term disabilities that affect productivity. It is important, however, to note that Mann's perspective has limitations, especially in the context of pandemics and emergencies. The allocation of resources during such crises is a crucial concern, and focusing on broader social determinants of health may not be practical when immediate medical needs, such as supplies, personnel, and facilities, take precedence.

Mann further adds that public health and human rights are closely intertwined and serve a common purpose.<sup>20</sup> The field of public health focuses on promoting and safeguarding overall health, encompassing physical, mental, and social well-being, while also aiming to prevent illness, disability, and suffering.<sup>21</sup> Human rights, including the right to health, similarly strive to enhance the health and well-being of individuals and communities. Violations of human rights, such as torture, cruel and inhuman treatment, or the denial of healthcare, can have severe health consequences, even resulting in loss of life. This mutual inter-dependence between public health and human rights underscores the notion that each discipline complements the other, to improve the human welfare. Approaches to public health and human rights may, however, conflict due to differing priorities. The human rights-based approach places emphasis on upholding individual rights and freedoms, including liberty, privacy, and freedom. In contrast, public health measures may employ compulsory and coercive tactics, such as mandatory examinations, quarantines, isolations, and detentions of infected individuals. These actions can significantly impact individual rights and liberties, leading to potential consequences. It is crucial, therefore, to balance individual rights and public health, with temporary restrictions based on scientific evidence and proportionate measures.

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<sup>19</sup> Jonathan M. Mann and Sofia Gruskin, "Health and Human Rights" (New York: Routledge, 1999) 505.

<sup>20</sup> JA Mann et al, Health and human rights: A reader (1999) 11.

<sup>21</sup> Ibid. 46.

Afolabi's study suggests that indeed, human rights issues arise within the context of public health disasters. That these are context-specific but generally come to the fore as a result of what one individual may do or fail to do to other individuals during disaster situations.<sup>22</sup> That some instances cannot be ignored and deserve attention and critical reflection considering the interconnection between health or the right to health and human rights. He adds that denial of health needs during public health disaster situations for whatever potentially justifiable reasons constitutes a denial of rights. While any denial of health needs is of concern, it is essential to consider that these decisions are typically made with the aim of saving lives and mitigating the broader impact of the pandemic. Therefore, a nuanced and ethical discussion is required to strike a balance between the right to health and the practical challenges of disaster response.

In Kass' study, he notes that public health interventions are often within the government's jurisdiction rather than involving private practitioners.<sup>23</sup> A potential criticism arises from the assumption that public health interventions primarily fall under the government's domain. It is essential to acknowledge that public health challenges, especially during pandemics, often require a multi-sectoral approach that includes both government and private practitioners. Exclusively focusing on government jurisdiction can overlook the valuable contributions of private healthcare professionals and organizations, who play a crucial role in the response to health crises. Moreover, fostering collaboration and partnerships between public and private sectors is vital for effective and inclusive solutions, as it leverages the expertise and resources of both domains. Another concern is Kass' notion that the public must trust the government's ability to improve public health interventions.<sup>24</sup> Regarding the issue of public trust in government's ability to improve

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<sup>22</sup> Michael Olusegun Afolabi, 'Public Health Disasters: A Global Ethical Framework' (2018) Volume 12 Advancing Global Bioethics, available at, <http://naturalisms.org/epidemic-ethics/Afolabi%202018%20Public%20Health%20Disasters%20-%20A%20Global%20Ethical%20Framework.pdf> accessed on 5 November 2023

<sup>23</sup> Kass E. Nancy, 'An Ethics Framework for Public Health and Avian Influenza Pandemic Preparedness' (October 2005) Yale J Bio Med vol. 78 issue (5):239-54. [www.ncbi.nlm.nih.gov/pmc/articles/PMC2259154/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2259154/) accessed on 6 July 2023.

<sup>24</sup> Ibid.

public health interventions, this is a legitimate concern, particularly during pandemics. Public trust is a critical component of effective public health measures, and it can be influenced by various factors, including government transparency, accountability, and communication. It is essential to address public concerns and engage in transparent and collaborative efforts to build and maintain trust during health emergencies.

Michael, in his study, “Health and Human Rights in a Changing World”, argues that incorporating human rights in public health policy answers to the demands of the people, policy makers and political leaders for outcomes that meet public aspirations. He adds that, it also creates opportunities for helping decode how all human rights and other determinants of wellbeing and social progress interact. It allows advancement towards these measures to be measured and shape policy guidelines and agendas for action.<sup>25</sup> It does not, however, offer clear guidance on how this should be practically achieved during a pandemic. Human rights principles can sometimes conflict with the immediate and urgent measures required to control the spread of a contagious disease. Public aspirations during a pandemic can be dynamic and may prioritize immediate safety and health security over long-term human rights considerations. Public attitudes and priorities can also change in times of crisis, and policymakers may need to respond accordingly.

Lee argues, that violations of the right to health are primarily attributed to the actions of a government itself. He further adds that these violations may occur when a government acts in defiance of its obligations or fails to comply with its human rights commitments.<sup>26</sup> Lee's assertion that violations of the right to health are primarily attributed to the actions of a government is a somewhat oversimplified perspective. For instance during pandemics, while governments do play a central role in responding to health emergencies, especially in terms of policy and resource allocation, the origins of pandemics often transcend

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<sup>25</sup> Grodin Michael. et al., “Health And Human Rights in a Changing World.” (2013).

<sup>26</sup> Po-Han Lee, The Nexus between the Right to Health and Public Health in the Context of International Human Rights Law (National Taiwan University, 2017), 177. Available at, [https://www.researchgate.net/publication/267982190\\_The\\_Nexus\\_between\\_the\\_Right\\_to\\_Health\\_and\\_Public\\_Health\\_in\\_the\\_Context\\_of\\_International\\_Human\\_Rights\\_Law](https://www.researchgate.net/publication/267982190_The_Nexus_between_the_Right_to_Health_and_Public_Health_in_the_Context_of_International_Human_Rights_Law) accessed on 13 July 2023.

national borders. Infectious diseases can spread rapidly due to globalization and human mobility, making it challenging for any government to completely prevent outbreaks. Moreover, the multifaceted nature of pandemics may involve systemic failures beyond government control, such as inadequately funded healthcare systems, the limited availability of vaccines, or the emergence of novel pathogens. Lee's argument could benefit from acknowledging these complexities and the shared global responsibility for addressing health emergencies rather than solely focusing on government actions and obligations.

Gerardo, warns that infectious disease outbreaks during large gatherings may spread rapidly due to global travel patterns from attendees.<sup>27</sup> Gerardo adds by stating that effective tracking and surveillance are necessary in such cases. In the context of pandemics like COVID-19, Gerardo's study becomes particularly relevant. The pandemic demonstrated the significant role of large gatherings in facilitating the spread of COVID-19. Global travel patterns, with individuals traveling from different regions and potentially carrying the virus, indeed played a crucial role in the rapid transmission of the disease across countries and continents. Effective tracking and surveillance were recognized as vital tools in managing the spread of COVID-19 during large gatherings. Contact tracing, and monitoring systems were implemented in many places to identify and isolate individuals who may have been exposed to the virus. These measures were instrumental in containing outbreaks and preventing further transmission. The review, however, emphasises the necessity for additional particular facts and evidence in Gerardo's work. For instance, it would be valuable to explore how different types of gatherings, such as indoor versus outdoor events, impact the spread of infectious diseases. The study, should have also discussed the challenges and ethical considerations associated with surveillance measures, such as balancing public health interests with privacy concerns. This would have provided a more comprehensive analysis. Balancing public health interests with privacy concerns

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<sup>27</sup> Gerardo Chowell, Hiroshi Nishiura, et. al., 'Modeling Rapidly Disseminating Infectious Disease During Mass Gatherings (Dec 2012) BMC Medicine, Available At, [<www.ncbi.nlm.nih.gov/pmc/articles/PMC3532170/>](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3532170/) Accessed on 6 July 2023.



while ensuring transparency and accountability in data collection and usage; would be essential aspects to consider in designing effective tracking and surveillance systems.

Kismodi, emphasises a historical trend in illness control and elimination that prioritises biomedical measures over human rights and socioeconomic considerations, ignoring their impact on health outcomes.<sup>28</sup> The emergence of the COVID-19 pandemic shed light on a multitude of human rights violations that resulted into far-reaching consequences. Discrimination, in particular, as a prevalent issue, posed significant barrier to affected individuals and communities receiving essential treatment, care, and support during the pandemic. In response, there has been a growing recognition of the need to prioritise human rights, gender equality, and community engagement in pandemic responses. It is now recognized that effectively addressing pandemics involves encompassing biomedical and technical measures alongside tackling the underlying social determinants of health and protecting individuals' rights. Promoting human rights and inclusive decision-making processes, make it possible for a more inclusive and effective response to public health emergencies, such as COVID-19.<sup>29</sup>

According to Bukenya, President Museveni of Uganda perceived the pandemic as both a threat and an opportunity, employing it as a pretext to suppress opposition activities.<sup>30</sup> Bukenya alleges that security forces, acting on the president's purported perception, arrested journalists and opposition leaders. He also claims that security forces disrupted opposition campaign events, ostensibly under the guise of violating COVID-19 guidelines, while allowing ruling party gatherings to proceed without hindrance.<sup>31</sup> This indeed offers insights into the intersection of the COVID-19 pandemic and election dynamics in

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<sup>28</sup> Eszter Kismodi, Karusa Kiragu, et. al., 'Where Public Health Meets Human Rights: Integrating Human Rights into the Validation of the Elimination of Mother-to-Child Transmission of HIV and Syphilis' (Dec 2017) VOL 19 No 2 Health and Human Rights Journal, 237.

<sup>29</sup> United Nations, 'COVID-19 and Human Rights: We are all in this together' (APRIL 2020), available at, [www.un.org/victimsofterrorism/sites/www.un.org.victimsofterrorism/files/un\\_human\\_rights\\_and\\_covid\\_april\\_2020.pdf](https://www.un.org/victimsofterrorism/sites/www.un.org.victimsofterrorism/files/un_human_rights_and_covid_april_2020.pdf) accessed on 15 July 2023.

<sup>30</sup> Badru Bukenya, et al., "Understanding the politics of Covid-19 in Kampala, Nairobi and Mogadishu: A political settlements approach" (May, 2022 The University of Manchester) African Cities Research Consortium Working Paper 4, available at, [https://www.african-cities.org/wp-content/uploads/2022/05/ACRC\\_Covid-Collective\\_Politics-and-Covid-19-in-Kampala.pdf](https://www.african-cities.org/wp-content/uploads/2022/05/ACRC_Covid-Collective_Politics-and-Covid-19-in-Kampala.pdf) accessed on 20 August 2023.

<sup>31</sup> Ibid.

Kampala, Uganda, it raises concerns about the potential bias in the analysis. The criticism lies in the selective presentation of events, as the study emphasizes actions taken by the government to suppress the opposition, possibly neglecting a comprehensive examination of the broader context. The study lacks a balanced exploration of the government's perspective or any acknowledgment of legitimate public health concerns during a global pandemic. A more rigorous and impartial analysis would require a more inclusive consideration of perspectives, a thorough examination of available data, and a critical evaluation of the sources to ensure a well-rounded understanding of the complex interplay between public health and political dynamics in the given context.

In the study carried out by Bijetri, “Impacts of the COVID-19 Lockdown on Healthcare Inaccessibility and Unaffordability in Uganda”, the major finding of this study is that the COVID-19 lockdown in Uganda led to a significant increase in the unaffordability of healthcare services.<sup>32</sup> The study used nationally representative longitudinal household data and a household fixed-effects model to estimate the causal impacts of the lockdown on healthcare inaccessibility and affordability.<sup>33</sup> While Bijetri’s study sheds light on the adverse consequences of COVID-19 lockdowns on healthcare utilization in Uganda, there are notable limitations that warrant scrutiny. The study's focus on unaffordability as the primary reason for not utilizing healthcare services may oversimplify the complex factors at play during lockdowns. The reliance on self-reported data introduces potential biases, as respondents may not accurately recall or disclose information about their healthcare access. Additionally, the study's emphasis on the causal impacts of lockdowns may overlook confounding variables that could influence healthcare accessibility and affordability. The lack of exploration into regional or socioeconomic variations in the effects of the lockdowns limits the study's applicability to diverse populations. While the findings suggest the importance of social support for households during lockdowns, the study lacks

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<sup>32</sup> Bose Bijetri, et.al., ‘Impacts of the COVID-19 Lockdown on Healthcare Inaccessibility and Unaffordability in Uganda’ (2023) *The American Journal of Tropical Medicine and Hygiene*, Vol 109 (3), 527–535. Available at, <https://doi.org/10.4269/ajtmh.23-0144> accessed on 20 August 2023.

<sup>33</sup> Ibid.

a nuanced examination of the broader socio-economic context, potentially hindering the development of targeted and effective policy recommendations to Ugandans.

In his study, Barugahare provides a set of criteria aiming to guide the ethical evaluation of public health policies and responses, particularly during public health emergencies such as the COVID-19 pandemic.<sup>34</sup> The criteria for evaluating public health measures include assessing their effectiveness, ensuring strict necessity of restrictive measures, evaluating proportionality and reasonability, prioritizing minimal measures, and promoting equitable burden distribution.<sup>35</sup> The criteria outline a framework for integrating ethics and human rights into public health interventions, but could benefit from clearer operationalization to avoid misinterpretation. Providing specific guidelines or examples for these criteria would enhance their practical utility. The criteria may also be seen as somewhat broad and idealistic, lacking concrete mechanisms for assessment and application. A more detailed discussion on how these criteria can be practically employed in real-world scenarios would strengthen their relevance. The criteria also seems to acknowledge the potential challenges in balancing competing public health goals and individual human rights, offering insights into how these conflicts can be ethically navigated.

Bukuluki's study addresses the critical issue of the socio-cultural, economic, and psychosocial impact of the COVID-19 pandemic on urban refugees in Uganda.<sup>36</sup> The examination of the living conditions sheds light on the challenges refugees face in adhering to public health measures. The mention of the lockdown's adverse effects on refugee livelihoods, income security, and the rise in sexual and gender-based violence provides a comprehensive understanding of the multifaceted challenges they encounter. The study, however, could benefit more from providing more concrete evidence or case studies to substantiate these claims and offer a deeper understanding of the situation. While arguing

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<sup>34</sup>John Barugahare, et al. "Ethical and Human Rights Considerations in Public Health in Low and Middle-Income Countries: An Assessment Using the Case of Uganda's Responses to COVID-19 Pandemic" (2020) Vol 21, 91 BMC Med Ethics, available at, <https://doi.org/10.1186/s12910-020-00523-0> accessed on 20 August 2023.

<sup>35</sup> Ibid.

<sup>36</sup> Paul Bukuluki, et al., "The Socio-Economic and Psychosocial Impact of Covid-19 Pandemic on Urban Refugees in Uganda." (2020) Vol. 2, 1 Social Sciences & Humanities, available at, <https://doi.org/10.1016%2Fj.ssaho.2020.100045> accessed on 20 August 2023.

for the involvement of refugees in contingency planning and the capacity-building of frontline workers, the paper lacks detailed examples of successful models that could guide such initiatives. A more in-depth exploration of practical solutions and a more robust connection between identified challenges and proposed actions would shade light in protecting refugees' human rights during pandemics.

### **1.9 Organizational layout**

This study is arranged in five chapters. The first chapter provides the general introduction. This comprises the Background to the study, Statement of the problem, Research questions, Objectives of the study, Significance and Justification of the study, Scope of the study, Research methodology and Literature review.

The second discusses the legal framework relevant to public health and human rights protection during pandemics in Uganda.

The third chapter examines the non-legal measures adopted by government in favour of the public health protection during COVID-19 in Uganda.

The fourth chapter examines the measures that were undertaken by the government to enhance public health and human rights protection during COVID-19 period in Uganda.

The fifth chapter presents the conclusion.

## **CHAPTER TWO**

### **LEGAL FRAMEWORK RELEVANT TO PUBLIC HEALTH AND HUMAN RIGHTS PROTECTION IN UGANDA**

#### **2.0 Introduction**

Uganda's legal framework has undergone historical influences, initially shaped by European legal systems during colonialism.<sup>37</sup> Following independence, Uganda opted to maintain and modify the European legal system, resulting in a diverse set of legal sources, including applied law, statutory law, subsidiary legislation, common law, equity doctrines, customary law, case law, and international law.<sup>38</sup> The hierarchy of applicable law is outlined in the Judicature Act Cap 13, with the Constitution holding supreme authority. Under the Constitution, a Minister is empowered to craft subsidiary laws possessing binding force equivalent to legislative enactments, as stipulated by the Interpretation Act Cap 3. Uganda's legal framework is also substituted by International Law, however, the integration of international treaties into Ugandan law involves a two-step process: ratification in accordance with the Ratification of Treaties Act (Cap 204) and subsequent domestication through an Act of the Ugandan Parliament. Uganda has ratified key international treaties, such as the International Convention on Civil and Political Rights, 1966, contributing to the safeguarding of human rights and public health. This comprehensive legal framework plays a pivotal role in addressing public health and human rights concerns, particularly during pandemic periods in Uganda.

#### **2.1 National Legal Framework**

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

The 1995 Constitution is significant in a number of ways to the protection of human rights and the general welfare of the populace while the country is under pandemics. In addition to providing a legislative framework for safeguarding individuals' wellbeing, the

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<sup>37</sup> Oloka-Onyango Joe, 'An Overview of the Legal System in Uganda' (June 2, 2020). Available at, <https://ssrn.com/abstract=3617283> accessed on 6 June 2023.

<sup>38</sup> Ibid.

Constitution acknowledges the significance of public health. The Ugandan Constitution does not explicitly state the right to public health protection for citizens, but it can be derived from specific provisions and some health-related human rights provisions. For instance, within the social and economic objectives of the country speculated in Constitution, objective XIV (b) provides for the right to health services. The objective further provides for clean and safe water, work, decent shelter, adequate clothing, food security, pension and retirement benefits. These are all very pertinent to the right to health during health emergencies in the country. Objective XX provides for medical services. It stipulates that the State shall take all practical measures to ensure the provision of basic medical services to the population. In conjunction with Article 8A of the Constitution, which provides that Uganda's governance will be based on the common good and national interest, as expressed in the national objectives and guiding principles of state policy; it is clear that the Constitution of Uganda 1995 considers the matter of public health in high regard, which is relevant during pandemic times.<sup>39</sup> Article 189 of the Constitution which states that the government shall be responsible for health policies, control and management of epidemics and natural disasters.<sup>40</sup> This means that any public health issues arising in the country shall be under the domain of the government. Article 39 of the Constitution, also, guarantees every Ugandan the best possible standard of health, including access to medical care. In times of a pandemics, the government may take action to protect the public's health, such as placing limits on movement and gatherings to stop the spread of diseases.

The Constitution, although protects a variety of freedoms and rights, it also permits restrictions on these rights in specific situations. Individual rights may be restricted in accordance with Article 43 of the Constitution. In accordance with Article 43 of the Constitution, personal liberties may be curtailed in order to safeguard the public's health, morals, or other rights and freedoms. This clause gives the government the power to impose limitations during a pandemics in order to prevent the spread of diseases and protect public

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<sup>39</sup> *Center for Health, Human Rights and Development and others v Attorney General*, Constitutional Petition No. 16 of 2011.

<sup>40</sup> Constitution of Uganda 1995, Article 189, Sixth Schedule.

health.<sup>41</sup> *Charles Onyango Obbo and Anor v Attorney General*, it was decided that the Constitution's main goal is to defend guaranteed rights. That limiting their enjoyment is an exception to protecting them and is a secondary goal. The judgment added that, although the constitution allows for both, it is evident that the primary goal must take precedence. Only extraordinary situations that result in that secondary purpose may allow the right to be overridden. In that case, only minor restrictions on the right's enjoyment that are properly justified by exceptional circumstances are allowed.<sup>42</sup> The government must, however, balance safeguarding the general public's health with upholding human rights during a pandemics. Restrictions on certain rights for public health should, however, be reasonable, proportionate, and in accordance with the Constitution, while maintaining public health considerations.<sup>43</sup> The government should make sure that any limitations put in place during a pandemics are required, brief, and do not unfairly violate fundamental rights. The right to life and the right to dignity are recognised as essential human rights under Articles 22 and 24 of the Constitution respectively. These rights are important during pandemics because they require government to take necessary precautions to safeguard lives and guarantee the welfare of people. This includes offering healthcare services and implementing sensible steps to lessen the pandemic's effects.

The Constitution also prohibits discrimination on the basis of any factor under Article 21. Discrimination on the basis of race, sex, disability, religion, or health-related factors is strictly prohibited. People must be protected from stigmatisation or discrimination during a pandemics due to their health state or other relevant considerations under this clause. It can be deduced, therefore, that the right to health should also be exercised without any forms of discrimination. Uganda's Parliament must enact laws to address imbalances under

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<sup>41</sup> See, UN Human Rights Committee Statement on Derogations from the Covenant In Connection With the COVID-19 pandemic, CCPR/C/128/2, 30 April 2020, Par 1. Available at, [www.ohchr.org/Documents/HRBodies/CCPR/COVIDstatementEN.pdf](https://www.ohchr.org/Documents/HRBodies/CCPR/COVIDstatementEN.pdf) accessed on 6 June 2023.

<sup>42</sup> *Charles Onyango Obbo and Anor v Attorney General* (Constitutional Appeal No. 2 of 2002) [2004] UGSC 81 (10 February 2004).

<sup>43</sup> Article 15 of the Siracusa Principles stipulates that no restriction on the exercise of human rights may be made unless it is authorised by general national law that is both compliant with the ICCPR and in effect at the time the restriction is implemented.

Article 21(4), as these factors impact public health protection during pandemics. Such efforts may include legislative, administrative, judicial and financial advancement of to realize this objective.<sup>44</sup> The Constitution can also guide how the Judiciary and Parliament will monitor the government's response to the pandemic during pandemics. For instance, the Judiciary may be required to interpret and uphold the Articles of the Constitution during pandemics. For instance, due to the partial lock down of the courts of law, Court held in *Human Rights Awareness and Promotion Forum Vs Attorney General and Commissioner General of Prisons*, that, despite the fact that it was the COVID-19 time, keeping the convicts in detention and denying them access to legal representation for over a month and a half without providing them with a remedy violated their non-derogable right under Article 44(c).<sup>45</sup> Parliament may also review the government's measures, actions and policies of instituting pandemics. The Constitution, therefore, remains relevant in all situations relevant to public health and human rights protection even during pandemics periods in Uganda, its provisions can be deduced to be very relevant during such critical times.

### **2.1.2 The Uganda Public Health Act, Cap. 281**

The Public Health Act (PHA) contains provisions that could be relevant during a pandemics period in Uganda, particularly in addressing public health emergencies like pandemics.<sup>46</sup> This Act particularly provides for Non-Pharmaceutical Interventions (NPIs) that are most widely applied during pandemics<sup>47</sup>.

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<sup>44</sup>Centre for Human Rights and Development (CEHURD), 'Review of Constitutional Provisions on the Right to Health in Uganda: A Case Study Report' (EQUINET Case study, September 2018), in *Regional Network for Equity in Health in East and Southern Africa* (EQUINET) Social Justice in Health 1.

<sup>45</sup> *Human Rights Awareness and Promotion Forum V Attorney General and Commissioner General of Prisons* Miscellaneous Cause, No. 81 of 2020.

<sup>46</sup> This Act commenced on 15 October 1935. It provides for communicable and infectious diseases among others. NPIs during COVID-19 period were everyday preventive actions, other than pharmaceutical interventions such as getting vaccinated and taking medicine that could help keep oneself and others from getting and spreading the virus. They included staying at home when one was sick or suspected to have contracted the virus. More information available at, [www.cdc.gov/nonpharmaceutical-interventions/index.html](https://www.cdc.gov/nonpharmaceutical-interventions/index.html) accessed on 20 March 2023.

<sup>47</sup> Martha I. Achan, Immaculate Nabukenya, et al., "COVID-19 and the law in Uganda: A Case Study on Development and Application of the Public Health Act from 2020 to 2021" (2023) 23 BMC Public Health, 761 <https://doi.org/10.1186/s12889-023-15555-5> accessed on 20 July 2023.



Section 5 of the PHA mandates local authorities to implement lawful measures to prevent outbreaks and protect public health.<sup>48</sup> Sections 10, 11, 27, and 36 of the PHA, also require the Minister of Health to execute health measures by enacting subsidiary legislation or Rules. These Provisions may apply during pandemics in Uganda, where restricting public gatherings, and closing certain places in the event of pandemics is needed.

For instance, during the COVID-19 pandemic in Uganda, several legislation relating to public health were enacted. Some of them included: the Public Health (Notification of COVID-19) Order, No. 45 of 2020, where the MOH executed her powers under this Order to declare COVID-19 a notifiable disease in the country. A notifiable disease is any disease that is required by law to be reported to government authorities.<sup>49</sup> The MOH also enacted the Public Health (Prevention of COVID-19) (Requirements and Conditions of Entry into Uganda) Order, 2020. This restricted entry of persons, vehicles and vessels into Uganda. It also provided for the examination, isolation or quarantining of persons entering Uganda until they or their vehicles were cleared of the virus.<sup>50</sup> The Public Health (Prohibition of Entry into Uganda) Order of 2020. This Order prohibited the entry of any persons or anything in Uganda unless they were for the UN and any humanitarian organization or Cargo planes.<sup>51</sup> The Public Health (Control of COVID -19) Rules, 2020.<sup>52</sup> These rules created a duty for all persons who were aware or suspected any person residing in their area to be suffering from COVID-19 to report such a person to the relevant authorities. The medical practitioners also had powers to disinfect the suspected premises.<sup>53</sup> The Rules also

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<sup>48</sup> Article 189 of the Constitution of the Republic of Uganda, (Sixth Schedule) summarises the government's responsibility for health policy, control, and management of epidemics and disasters. Also, section 179 of the Local Government Act Cap. 243 (second schedule) authorizes the local governments to prevent and control disease outbreaks. Consequently, the PCA, Part V, designates the role of prevention and control of epidemics and pandemics to the central government.

<sup>49</sup> See more about Notifiable diseases on [www.cdc.gov/nchs/hus/sources-definitions/notifiable-disease.htm](https://www.cdc.gov/nchs/hus/sources-definitions/notifiable-disease.htm) accessed on 4 March 2023.

<sup>50</sup> Public Health (Prevention of COVID-19) (Requirements and Conditions of Entry into Uganda) 2020, Rules 5 and 4.

<sup>51</sup> Public Health (Prohibition of Entry into Uganda) Order 2020, Rule 3. This Order took effect from 23 March 2020 immediately after confirmation of the first COVID-19 case.

<sup>52</sup> The Public Health (Control of COVID -19) Rules, 2020 were enacted under statutory instrument supplement No.22, SI 38, gazetted under Uganda gazette No. 54 Vol. CXIV. They came into force on 18 July 2020.

<sup>53</sup> Ibid, Rule 7.

introduced curfews that ran from 2100 hours of each day and ended at 0530 hours of the following day.<sup>54</sup> Public places that attracted public attention were closed and every person who was outside their place of residence was expected to wear a face mask to avoid spreading the virus.<sup>55</sup> The Order went ahead to establish new guidelines for the use of motor vehicles.<sup>56</sup> Hawking and selling of non-food items was also prohibited.<sup>57</sup> The Public Health (Control of COVID-19) (No.2), Rules, No. 55 of 2020.<sup>58</sup> These prohibited the sale of nonfood items in markets and stores.<sup>59</sup> There was also total prohibition of movement of any motor vehicles or engineering plants on any road in Uganda unless it was for the exception in the rules.<sup>60</sup>

In collaboration with MOH, the Ministry of Transport and Works also issued Standard Operating Procedures (SOPs) for movement of vehicles during the Covid-19 pandemics period. The Ministry of Works and Transport was responsible for issuing the SOPs in regards to transportation of persons and goods during pandemics. Any other person who had a travel necessity had to apply online to the Ministry for a travel authorization (Sticker).<sup>61</sup> The Guidelines also provided for the essential workers in the private sector and NGOs, for instance, medical workers, utility providers, and telecom companies among others.<sup>62</sup>

The MOH also came up with Guidelines on COVID-19 Prevention during Burials, 2020.<sup>63</sup> The MOH advised families who had lost their families to limit the number of people that attended the burial to a maximum of 30 people.<sup>64</sup> The mourners were not to be given any

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<sup>54</sup> Ibid, Rule 12.

<sup>55</sup> Ibid, Rules 13 & 14. Some of the public places that were closed were bars, cinemas, schools, and public meetings, Political rallies, indoor and outdoor concerts, and marriage ceremonies among others.

<sup>56</sup> Ibid, Rule 15.

<sup>57</sup> Ibid, Rule 16.

<sup>58</sup> The Public Health (Control of COVID-19) (No. 2) Rules, 2020 SI 52 of 2020 were later amended by the Public Health (Control of COVID-19) (Amendment No. 2) Rules, 2021, SI 59 of 2021.

<sup>59</sup> Ibid, Rule 4.

<sup>60</sup> Ibid, Rules 7 and 8.

<sup>61</sup> SOPS for Movement of Vehicles during the Covid-19 2021, Par 2.3.

<sup>62</sup> Ibid, Par 2.2 (a).

<sup>63</sup> The Guidelines on COVID-19 Prevention during Burials were issued in March, 2020 by the Ministry of Health in partnership with WHO and UNICEF.

<sup>64</sup> Guidelines on COVID-19 Prevention during Burials 2020, par 1.

food since according to the MOH, food attracts huge masses of people.<sup>65</sup> The COVID-19 enforcement officers also had guidelines that they followed. These were the COVID-19 Guidelines on Uniformed Personnel (Police, Army and Prisons) on Prevention and Control of Covid-19, 2020.<sup>66</sup> Uniform personnel underwent daily temperature screening and were prohibited from peeping into travelers' vehicles. They were advised to devise alternative inspection methods.<sup>67</sup> The COVID-19 Guidelines for Prevention of Covid-19 in Market Places, 2020.<sup>68</sup> These provided for people accessing markets to undergo temperature screening and had to sanitize or wash their hands with soap regularly.<sup>69</sup> The National Guidelines for Quarantine in Context of COVID-19, April 2020. The government separated the healthy from the infected members of the population, with the objective of monitoring their symptoms and propose a way forward. This was through the promulgation of the National Guidelines for Quarantine in Context of COVID-19.<sup>70</sup> The National Guidelines for Management of Covid-19. These guidelines provided for hospital admission of COVID-19 patients, patient transportation, quarantine, and provision of other health services, among others.<sup>71</sup> The Guidelines for Mask Use, 2020 provided for wearing of masks since it became a norm. Masks limited the spread of COVID-19. All adults and children above 6 (six) years of age had to wear masks. People with breathing difficulties had to seek a medical personnel.<sup>72</sup> During the COVID-19 pandemics, guidelines were adopted, demonstrating the MOH's ability to adopt necessary legislation under the PHA for future pandemics to protect public health.

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<sup>65</sup> Guidelines on COVID-19 Prevention during Burials 2020, par 3.

<sup>66</sup> COVID-19 Guidelines on Uniformed Personnel (Police, Army and Prisons) on Prevention and Control of Covid-19 were issued in May, 2020. The Uniformed personnel were under a Joint Task Force (JTF) that included the Army, the police and prisons was formed. This task force was to be at the frontline of enforcing all the COVID-19 guidelines and prevent the spread of the virus. For more information, see, The Police and COVID 19 Joint Task Force, available at [www.upf.go.ug/the-joint-task-force-warns-the-public-on-tougher-crackdown-on-covid-19-breaches/](http://www.upf.go.ug/the-joint-task-force-warns-the-public-on-tougher-crackdown-on-covid-19-breaches/); accessed on 4 March 2023.

<sup>67</sup> Ibid, Par 1 & 3.

<sup>68</sup> The Guidelines for Prevention of COVID-19 in Markets were issued by Ministry of Health on March 1, 2020.

<sup>69</sup> The Guidelines for Prevention of COVID-19 in Markets 2020, Par 1 & 2.

<sup>70</sup> National Guidelines for Quarantine in Context of COVID-19, were issued on April 2020 by the Ministry of Health.

<sup>71</sup> National Guidelines for Management of Covid-19 were issued by MOH in April 2020.

<sup>72</sup> Ibid, Par 5.

The challenge is that sometimes pandemics keep changing which creates need to frequently amend the public health legislation to fit the evolving pandemic.<sup>73</sup> It can be seen therefore that some public health measures during pandemics directly strain the enjoyment and protection of some human rights, such as, education, freedom of movement, among others. The MOH, therefore, should make sure that the Legislation adopted to protect public health respects the enjoyment of human rights and there should be a balance between the two. The MOH should also make sure that the legislation adopted is necessary, supported by scientific data.

The Uganda Public Health Act 281, therefore, establishes a legal framework for disease prevention, control, surveillance, and emergency health response during pandemics. It enables the government to enact policies, implement regulations, monitor surveillance, distribute information, and coordinate actions to protect public health and reduce pandemics impact.

### **2.1.3 The Police Act, Cap. 303 as amended in 2006**

The Ugandan Police Force (UPF) is governed by the Police Act Cap. 303, which also defines its duties.<sup>74</sup> The Act largely focuses with law enforcement issues, however, it can be important for protecting public health and human rights in Uganda during times of pandemics. The Police Act gives the police the authority to uphold public safety and order under section 4(1) d of the Act. In order to stop the spread of diseases during a pandemics, the Police may be charged with imposing restrictions like movement limits or curfews. Section 4 (f) of the Police (Amendment) Act of 2006, adds that the Police have the duty to cooperate with civilian authorities, other Organs and populace at large where need arises.

Their responsibility is to guarantee public safety and security while ensuring conformity with the policies put in place by the government. The Police can also be aided by the Uganda Peoples' Defence Force (UPDF) during pandemics period in Uganda. The UPDF gets this mandate from section 7(b) of the UPDF Act, 2005. It provides that the Defence

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<sup>73</sup> See, page X of this Dissertation. It shows the several amendments in the Rules and Orders passed by MOH.

<sup>74</sup> Long title of the Police Act, Cap. 303.

Forces can cooperate with the civilian authorities in emergency situations such as natural disasters. It should also be noted that human rights are protected during law enforcement operations according to the Police Act. Law enforcement must balance individual rights and public health during pandemics, ensuring reasonable, non-discriminatory, and dignity-conscious measures are implemented. Public health agencies are primarily in charge of enforcing public health laws, however the police may assist in these efforts. Police personnel may be able to work with health officials to enforce public health requirements, such as those pertaining to quarantine, isolation, or gathering restrictions, on the basis of the Police Act. They might be tasked with enforcing compliance, upholding security at medical institutions, or supporting contact tracing operations.

When a pandemic is in effect, the Police Act permits an efficient response to emergencies. Police may participate in emergency response activities, coordinate with other pertinent organisations to handle circumstances that develop during pandemics or public health emergencies. This may entail offering security, controlling crowds, or assisting with the evacuation or transportation of people in an emergency.

The Police Act, 303, as amended, therefore, is relevant during pandemic situations in Uganda since it provides a legal foundation for the operations and functions of the police force. The Act directs the police in implementing pandemic measures, keeping public order, defending fundamental rights, and ensuring public safety during emergencies. It demonstrates the procedures, authorities, and boundaries that police officers must follow when doing their jobs. The Act generally, stipulates the importance of balancing public safety with the protection of individual rights and liberties.

#### **2.1.4 The Local Government Act, Cap. 243**

The Uganda Local Governments Act, Cap. 243, provides a legal framework for the governance and administration of local governments in the country. During a pandemic, local governments play a crucial role in implementing and enforcing government directives

at the local level.<sup>75</sup> The Local Governments Act provides guidance and powers to local governments to address various issues, which may include public health emergencies. Local government can enforce pandemics measures within their jurisdictions.<sup>76</sup> This can include restrictions on movement, public gatherings, business operations, and other activities. Local governments can also help in coordination and communication since they serve as important intermediaries between the central government and the local communities.<sup>77</sup> During a pandemics, they can play a role in disseminating information, providing guidance, and coordinating efforts to ensure compliance with pandemics measures.<sup>78</sup>

Local governments are also responsible for public services and welfare.<sup>79</sup> They are responsible for delivering essential services to their communities. During a pandemics, ensuring the continuity of critical services such as healthcare, sanitation, water supply, and social welfare becomes crucial. The Act, also provides for emergency management through effectively stopping the spread of diseases.<sup>80</sup>

During a pandemics, local governments may need to establish emergency response mechanisms, coordinate relief efforts, and manage resources. In Uganda, the Local Governments Act, Cap. 243, therefore, is relevant during pandemics because it provides a legal framework for the governance and administration of local governments. Local governments are guided by the Act in enforcing and implementing pandemics measures, coordinating activities, providing critical services, and handling emergencies at the local level.

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<sup>75</sup> Local Government Act, sec 30(1).

<sup>76</sup> Local Government Act, sec 30(1).

<sup>77</sup> Local Government Act, sec 26(h).

<sup>78</sup> Constitution of Uganda, 1995, Article 176.

<sup>79</sup> Local Government Act, Second Schedule, Part 2, par 22.

<sup>80</sup> Ibid, Second Schedule, Part 2, par 2.

## **2.2 National Institutional Framework**

### **2.2.1 The National Policy for Disaster Preparedness and Management, 2010**

Uganda's National Policy for Disaster Preparedness and Management, 2010, is an institutional framework designed to direct the nation's efforts in disaster preparedness and management.<sup>81</sup> The Act can be used to prepare for and handle a variety of disasters, including pandemics like COVID-19, despite its primary focus on general disaster planning and management. In managing and responding to disasters, it explains the duties and responsibilities of different groups, including governmental entities, local governments, and non-governmental organisations.

The Act covers a number of disaster management-related topics, such as risk assessment, mitigation, readiness, response, and recovery. It is intended to improve Uganda's Capacity to respond to a range of emergencies, including natural catastrophes and public health crises like pandemics. The National Policy for Disaster Preparedness and Management, therefore, gave the government and other authorities a legal framework within which to coordinate their responses to the COVID-19 pandemic. The Office of the Prime Minister's national policy for disaster preparedness and management from 2010 was also put into action. The Policy outlines how the government should work together in the event of a pandemic that spreads quickly owing to an increase in international travel.

The policy also lists the institutions that team up to control the pandemic as the Ministry of Health, the Office of the Prime Minister (Disaster Management), the Ministry of Internal Affairs (Immigration and Policy), the Ministry of Defence (UPDF), the Ministry of Information and National Guidance, the Ministry of Local Government and District Local Governments. The Policy also requires the creation of national and district-level disaster preparedness and management plans. These include strategies for dealing with various disasters, including pandemics. These plans are instrumental in guiding the country's response at different levels. For instance, during the COVID-19 pandemic, these plans were crucial in directing the nation's response as various task forces were formed at various

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<sup>81</sup> Republic of Uganda, The National Policy for Disaster Preparedness and Management, 2010.

national levels, including the national task force, the district task forces, and the village task forces, among others. The National Policy for Disaster Preparedness and Management, 2010, therefore, while not explicitly addressing pandemics; it offers a comprehensive institutional framework Capable of addressing various types of disasters, including public health emergencies. This framework plays a crucial role in facilitating Uganda's response to pandemics by enabling effective coordination, resource mobilization, and community engagement efforts.

### **2.2.2 Uganda's Vision 2040**

The goal of Uganda's Vision 2040 is to make the Country a wealthy, industrialised Country by the year 2040.<sup>82</sup> The Vision does not deal specifically with protecting human rights and promoting public health during times of pandemics in Uganda. It, however, offers a larger framework for growth that may nevertheless indirectly help these issues. For instance, in order to achieve sustainable development, Uganda's Vision 2040 acknowledges the significance of a healthy population in Paragraph 251.<sup>83</sup>

The Vision places a strong emphasis on the necessity of enhancing the general wellbeing of Ugandan individuals as well as healthcare services and health systems. A functioning healthcare system is essential for disease identification, treatment, and prevention, especially during pandemics, ensuring effective public health management. Achieving inclusive and equitable socioeconomic growth is a goal of Uganda's Vision 2040 in Paragraph 27 of the Vision.<sup>84</sup> This includes objectives for social security, education, employment, and the reduction of poverty. These development goals are important during pandemics since vulnerable groups may have a harder time getting access to healthcare, commodities, and possibilities for employment. The development of infrastructure especially that related to transportation, electricity, water, and ICT is prioritised heavily in

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<sup>82</sup> See, Museveni Launches Vision 2040 Plan, available at, [www.npa.go.ug/uganda-vision-2040/#:~:text=The%20National%20Planning%20Authority%20in,launched%20on%2018th%20April%202013](http://www.npa.go.ug/uganda-vision-2040/#:~:text=The%20National%20Planning%20Authority%20in,launched%20on%2018th%20April%202013) accessed on 6 March 2023.

<sup>83</sup> Vision 2040, 88 and 89.

<sup>84</sup> Vision 2040, 12.



Paragraph 36 of Vision 2040.<sup>85</sup> For effective healthcare delivery, especially in times of emergencies like pandemics, adequate infrastructure is essential. Healthcare services rely on accessible transportation networks, reliable energy, clean water, and effective communication systems for essential services.

Uganda's Vision 2040 does not specifically address the protection of human rights during times of pandemics, however, it emphasises the significance of democratic governance, respect of human rights, and good governance in several paragraphs for instance, in 322.<sup>86</sup> These guidelines can serve as a framework for making sure that measures taken during pandemics are carried out in a way that is open, accountable, and respectful of rights. Good governance practises can aid in monitoring and analysing the effects of pandemics measures on public health and human rights. This is because they make sure that any restrictions on rights are necessary, reasonable, and temporary.

Uganda Vision 2040 was not particularly developed to handle pandemics, its core values and aims, however, can provide a long-term framework for directing Uganda's growth through such difficult times. The country can enhance resilience and adapt to pandemics scenarios by focusing on economic diversification, infrastructure development, human Capital, social welfare, and regional integration.

### **2.2.3 The Health Sector Development Plan (HSDP) 2015/16 - 2019/2020**

The growth of Uganda's health sector is the main objective of the Health Sector Development Plan (HSDP) 2015/16 - 2019/2020. It offers a plan for enhancing the infrastructure, resources, and overall health system in the healthcare industry. The HSDP does not specifically provide for human rights and public health protection during pandemics periods in Uganda. Its relevance during pandemics periods can however be deduced from its provisions. The goal of the HSDP is to increase the accessibility, quality, and scope of healthcare services in Uganda.<sup>87</sup> Improved maternal and child health, disease

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<sup>85</sup> Vision 2040, 17.

<sup>86</sup> Vision 2040, 108.

<sup>87</sup> HSDP, 70.

prevention, and the control of infectious diseases are all part of this. HSDP aids government and healthcare providers in maintaining vital services, providing emergency care, and ensuring vulnerable populations are not overlooked during pandemics situations.

The HSDP is aware of how crucial disaster planning and response are to the healthcare industry.<sup>88</sup> It focuses on the significance of efficient surveillance, early detection, and response to disease outbreaks and other public health emergencies. In *Centre for Health, Human Rights and Development & Ors the Attorney General*, it was held that even though financial resources are crucial for providing health facilities, it is nevertheless the constitutional obligation of the State to provide adequate medical services to the people. That the government must do whatever action is required to achieve this goal.<sup>89</sup> This factor becomes essential during pandemics when the need of health facilities is most needed. Government can implement HSDP-based procedures like contact tracing, testing, isolation, and treatment to prevent disease spread and protect public health.

The HSDP places a strong emphasis on creating health infrastructure, including hospitals, clinics, labs, and medical gear in Paragraph 3.6.6.<sup>90</sup> During pandemics periods, adequate infrastructure is needed for healthcare services delivery, including testing, treatment, and care for health disorders. HSDP aids government in identifying infrastructure requirements, and ensuring medical facilities are adequately equipped for public health emergencies. The HSDP is aware of the significance of a qualified and enough health staff. Through training, recruitment, deployment, and retention techniques, it seeks to develop human resources for health. HSDP assists government in staffing, training, and supporting healthcare professionals' safety during pandemics, ensuring their proper training and well-being. Both the rights of healthcare practitioners and the general public are crucial to safeguard. To enhance illness prevention and community involvement in healthcare

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<sup>88</sup> HSDP, 34.

<sup>89</sup> *Centre for Health, Human Rights and Development & Ors the Attorney General*, Constitutional Petition No.16 of 2011.

<sup>90</sup> HSDP, 75.

decision-making, the HSDP places a strong emphasis on community engagement and health promotion campaigns.<sup>91</sup>

HSDP can assist the government in implementing communication strategies, community mobilization, and health education campaigns to increase public awareness to pandemics measures during pandemics periods. The Health Sector Development Plan (HSDP) 2015/16 - 2019/2020 is relevant during pandemics scenarios in Uganda since it provides a strategy framework for resolving health-related concerns. During a pandemics, the HSDP can direct policies, programmes, and initiatives in areas such as emergency response and preparedness, healthcare infrastructure and services, public health surveillance and disease control, and health workforce Capacity building.

#### **2.2.4 Third National Development Plan (NDPIII) 2020/21 – 2024/25**

The NDP III is a framework designed by the Ugandan government to lead the country's socioeconomic development over a set period of time. It came into effect at the time the country and the world at large were battling the COVID-19 pandemic, which posed social and economic impacts.<sup>92</sup> Its goals and purposes, therefore, can have relevance and ramifications during pandemics times in Uganda. For instance, paragraph 4.6.12 prioritizes the improvement of access and quality of social services.<sup>93</sup> It emphasizes enhancing Uganda's healthcare services, infrastructure, and human resource Capacity building systems. This focus on healthcare infrastructure development and illness prevention is consistent with the need to address public health concerns, especially during pandemics when public health emergencies may occur. A strong health sector becomes critical during pandemics situations.

In Chapter 2, the plan acknowledges that emerging diseases, such as Ebola and COVID-19, can slow down economic growth. The NDP III stipulates that the country needs to invest in building national Capacity, including biosecurity and disease surveillance systems

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<sup>91</sup> HSDP, 35.

<sup>92</sup> NDP III, XIX.

<sup>93</sup> NDP III, 47.

for early detection and mitigation of bio-threats from emerging diseases.<sup>94</sup> This recognition of the impact of diseases on the economy aligns with the plan's emphasis on economic resilience and recovery.<sup>95</sup> Chapter 3 of the NDP III includes provisions for economic resilience and recovery. Pandemics often have severe socioeconomic consequences, including disruptions to businesses, jobs, and income. The plan seeks to foster inclusive and sustainable economic growth, job creation, and poverty reduction.<sup>96</sup> Implementing the approaches outlined in the plan, such as assisting vital industries, increasing productivity, and encouraging entrepreneurship, can help reduce the negative effects of pandemics and contribute to economic recovery.

The NDP III also recognizes the relevance of digital technology in promoting growth. It aims to expand broadband coverage, facilitate ICT infrastructure across the country in collaboration with the private sector.<sup>97</sup> During pandemics, when movement restrictions limit physical contact, digital platforms become critical for various objectives, including education, remote work, e-commerce, and information access. The plan's focus on promoting ICT infrastructure, digital literacy, and e-governance can help Uganda adapt to pandemics situations by increasing digital connectivity and service provision. Pandemics can, also, disproportionately affect vulnerable populations, such as low-income earners, informal workers, and marginalized communities.

The NDP III emphasizes social protection measures and programs aimed at improving the welfare of vulnerable groups.<sup>98</sup> During pandemics, the plan's provisions for social safety nets, accessibility to basic services, and specific programs can help address the needs of those most impacted by the restrictions. Chapter 24 of the NDP III, furthermore, provides for risk management. The approach seeks to integrate risk management into National Development Planning and recognizes the continuous interaction across local, regional, and global risks like terrorism and epidemics such as the recent COVID-19 global

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<sup>94</sup> NDP III, 21.

<sup>95</sup> NDP III, 25.

<sup>96</sup> NDP III, 27.

<sup>97</sup> NDP III, 155.

<sup>98</sup> NDP III, 176.

pandemic.<sup>99</sup> The NDP III framework, therefore, acknowledges the challenges posed by the COVID-19 pandemic and pandemics situations. It emphasizes the importance of addressing public health concerns, promoting economic resilience, leveraging digital technology, protecting vulnerable populations, and managing risks. By implementing the strategies outlined in the plan, Uganda can navigate pandemics more effectively and work towards socioeconomic development and recovery.

## **2.3 Major International Human Rights Treaties applicable to Public Health Protection during pandemics in Uganda**

### **2.3.1 Charter of the United Nations, 1945**

The United Nations (UN) was founded in 1945 and is governed by the United Nations Charter.<sup>100</sup> The Charter, although omits a specific reference to public health, its provisions and guiding principles are applicable to safeguarding public's health in times of a public health emergencies.<sup>101</sup> The UN Charter emphasizes the importance of international cooperation to address global challenges under Art 1(3).<sup>102</sup> A coordinated effort is necessary to effectively address and reduce the effects of public health challenges, which frequently cut across national boundaries. A pandemic, like COVID-19 for example, quickly crossed international boundaries and spread throughout a number of nations and regions at once.<sup>103</sup> During the COVID-19 pandemic, countries worked together to share information, resources, and expertise to respond to the crisis.<sup>104</sup> For instance, Uganda received aid grant from Japan and other UN member States.<sup>105</sup> To address common issues,

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<sup>99</sup> NDP III, 229.

<sup>100</sup> History of the United Nations, visit [www.un.org/en/about-us/history-of-the-un/preparatory-years](http://www.un.org/en/about-us/history-of-the-un/preparatory-years) accessed on 23 February 2023.

<sup>101</sup> Principles Guiding the United Nations, UN Charter 1945, Art 2.

<sup>102</sup> Also, see an example of international cooperation during a pandemic, available at, International Cooperation during COVID-19 Pandemic, available at <https://academic.oup.com/oxrep/article-pdf/doi/10.1093/oxrep/graa025/33433719/graa025.pdf> accessed on 3 March 2023.

<sup>103</sup> John Hiscott, Magdalini Alexandridi, et al., 'The Global Impact of the Coronavirus Pandemic(2020) Cytokine Growth Factor, 53:1-9, accessed at, <https://pubmed.ncbi.nlm.nih.gov/32487439/> accessed on 10 April 2023.

<sup>104</sup> International Cooperation During COVID-19 Pandemic, available at <https://academic.oup.com/oxrep/article-pdf/doi/10.1093/oxrep/graa025/33433719/graa025.pdf> accessed on 3 March 2023.

<sup>105</sup> Japan Government Extends Over US\$1.6 Million to Uganda to Boost Its COVID-19 Response, available at, [www.unicef.org/uganda/press-releases/japan-government-extends-over-us16-million-uganda-boost-its-covid-19-response](http://www.unicef.org/uganda/press-releases/japan-government-extends-over-us16-million-uganda-boost-its-covid-19-response) accessed on 10 April 2023.

plan responses, and make sure resources are allocated effectively in such circumstances, cooperation becomes crucial. The Charter's principles, thus, encourage member governments to work together, share information, and coordinate efforts to safeguard public health during pandemics, which are global health disasters.

The UN Charter also emphasises the goal of upholding global peace and security in Art 1(1). Pandemics are one type of public health emergencies that can upend peace and stability. Peace and security fosters cooperation, coordination, humanitarian assistance, and research collaboration allowing nations to jointly address public health challenges. The UN Security Council is empowered by the provisions of the Charter to confront threats to peace and security, including those resulting from public health emergencies. The SG identified that the deterioration of public health globally was a threat to comprehensive collective security and called for the rebuilding of global public health.<sup>106</sup>

Art 1(3) of the UN Charter emphasises and upholds human rights and dignity. According to Article 1(3) of the UN Charter, the preservation of public health is closely linked to respect for human rights and dignity. Respecting these ideals ensures equality, non-discrimination, access to healthcare, and participation in decision-making. Member States are, therefore, urged to execute public health policies while complying with human rights norms and watching out for vulnerable groups to avoid unfair treatment. The UN Charter lays the groundwork for the development of specialised organisations with public health-related responsibilities, such as the World Health Organisation (WHO). The WHO does not, however, define a formal framework for global health governance.<sup>107</sup> Within the framework of the UN, the WHO acts as the principal global health authority, advising member governments on public health policies, coordinating pandemic responses, and offering technical assistance to underdeveloped nations.

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<sup>106</sup> See, High-level Panel report of 2004, available at, [≤www.un.org/ruleoflaw/blog/document/the-secretary-generals-high-level-panel-report-on-threats-challenges-and-changes-and-change-a-more-secure-world-our-shared-responsibility/](https://www.un.org/ruleoflaw/blog/document/the-secretary-generals-high-level-panel-report-on-threats-challenges-and-changes-and-change-a-more-secure-world-our-shared-responsibility/) accessed on 20 February 2023.

<sup>107</sup> History of WHO, available at [≤www.who.int/about/history](https://www.who.int/about/history) accessed on 10 February 2023.

The Charter also places a strong emphasis on advancing social and economic growth including the welfare of all people in Articles 55 and 56. Pandemics can have big effects on the social and economic elements of societies, and public health is a key element of sustainable development. Countries can effectively protect public health, enhance well-being, and build healthier and more prosperous societies by addressing the social and economic determinants of health. Countries can also advance equity and social justice, incorporate health into sustainable development initiatives, and encouraging international cooperation.

The Charter further provides for international tribunals, such as the International Court of Justice (ICJ) in Article 92. This supervises the rule of law at the international level and also gives advisory opinions under certain circumstances.<sup>108</sup> The International Criminal Court (ICC) is another tribunal that has jurisdiction to investigate, prosecute and punish individuals suspected of having committed crimes against the international community.<sup>109</sup> These crimes are largely violations of human rights which include the right to health. For instance, In the case, of The Prosecutor v. William Samoei Ruto and Joshua Arap Sang," the court examined Article 7 of the Rome Statute, which states that sexual and gender-based crimes may be categorized as crimes against humanity. The ICC even though terminated the case due to evidence inadequacy, it provided clarity on the prosecutorial guidelines for addressing such human rights crimes.<sup>110</sup> The Charter makes no mention of pandemics, however, its principles and goals provide a framework for dealing with public health emergencies and preserving human rights in such instances. Over the years, the United Nations and its specialised agencies have created a number of international legal instruments, frameworks, and initiatives that have increased the Charter's relevance in the context of public health and human rights during pandemics.

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<sup>108</sup> UN Charter, Chapter XIV, Article 92.

<sup>109</sup> A UN Diplomatic Conference adopted the Rome Statute of the International Criminal Court (ICC) on 17 July 1998 establishing a permanent international criminal court with its seat in The Hague, The Netherlands. For more information, visit, [www.aba-icc.org/about-the-icc/evolution-of-international-criminal-justice/](http://www.aba-icc.org/about-the-icc/evolution-of-international-criminal-justice/) accessed on 23 February 2023.

<sup>110</sup> ICC-01/09-01/11.

The Charter, therefore, remains relevant during pandemics providing a framework for promoting and protecting public health and well-being of people worldwide, and for coordinating international efforts to respond to public health crises.

### **2.3.2 The Universal Declaration of Human Rights (UDHR), 1948**

The Universal Declaration of Human Rights (UDHR), was ratified by the UN General Assembly in 1948. It is a fundamental Document that outlines the essential freedoms and rights to which every person is entitled. The UDHR, however, does not specifically mention public health or pandemics, it is nevertheless relevant to public health protection in a number of ways during pandemics. For instance, according to Article 3 of the UDHR, everyone has the right to life, liberty, and personal security. This Article affirms the right to life and security of person. It places emphasis on preventing harm and suffering, advances equality in the enjoyment of the right to health, and directs a human rights-based approach to public health. For example, the Chairpersons of the 10 UN Treaty Bodies during the COVID-19 pandemic urged Nations including Uganda, to establish laws that protect people's rights to life and health.<sup>111</sup> They added that everyone receives medical care without discrimination.<sup>112</sup> By upholding these principles, public health efforts can safeguard individual well-being better, prevent and mitigate risks related to health.

Article 2 of the UDHR also forbids discrimination on a number of grounds, including race, sex, language, religion, and socioeconomic class. This Article places a strong emphasis on non-discrimination, equitable enjoyment to human rights, and protecting vulnerable populations. Vulnerable populations especially women in Uganda, for instance, faced untold violence that raged from physical to sexual violence during the COVID-19 pandemic.<sup>113</sup> By adhering to these principles, Public health initiatives can ensure equal access to healthcare, address health inequities, and advance the rights of everyone. It is

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<sup>111</sup> UN Human Rights Treaty Bodies call for human rights approach in fighting COVID-19, accessed at, [www.ohchr.org/en/press-releases/2020/03/un-human-rights-treaty-bodies-call-human-rights-approach-fighting-covid-19](https://www.ohchr.org/en/press-releases/2020/03/un-human-rights-treaty-bodies-call-human-rights-approach-fighting-covid-19) accessed on 10 April 2023.

<sup>112</sup> Ibid.

<sup>113</sup> Elizabeth Katana, Bob Omoda Amodan, et al., Violence and Discrimination among Ugandan Residents during the COVID-19 Lockdown (2021) BMC Public Health 21, 467.



essential to make sure that public health measures and resources are delivered equally and without bias during pandemics.<sup>114</sup> Protection of public health is also directly related to Article 19 of the UDHR. It recognises the right to freedom of expression. It makes sure that people have access to valid health information, encourages public health awareness and lets people take part in decision-making. It also makes accountability and transparency easier, and helps fight false information.

According to Article 25 of the UDHR, everyone has the right to a quality of life that is suitable for their health and well-being, including access to healthcare. This clause supports the idea that having access to health care is a fundamental human right. It means that in order to ensure that everyone has the best possible standard of health, States have a duty to safeguard, promote, and offer access to healthcare and public health services. For the protection of the public's health, there must be enough social protection, which includes access to social and medical services. The right to social security, which includes access to medical treatment, health insurance, and other types of social support, is recognised in Article 22 of the UDHR. This promotes public health and well-being of people. The UDHR does not explicitly address public health during pandemics, its principles of the right to life, and health, among others are directly relevant to ensuring public health protection. Public health measures must be carried out in a manner that complies with human rights standards. Governments should maintain these guidelines when creating and executing public health policies.

### **2.3.3 The Constitution of the World Health Organization (WHO), 1946**

The WHO Bulletin defines a pandemic as an epidemic occurring worldwide, or over a very wide area, crossing international boundaries, and typically affecting a large number of people.<sup>115</sup> Internationally, the right to health was first articulated in the 1946 WHO

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<sup>114</sup> see, Joint Statement: Persons with Disabilities and COVID-19 by the Chair of the United Nations Committee on the Rights of Persons with Disabilities, on behalf of the Committee on the Rights of Persons with Disabilities and the Special Envoy of the United Nations Secretary-General on Disability and Accessibility (1 April 2020).

<sup>115</sup> Bulletin of the WHO, available at, [www.scielosp.org/pdf/bwho/2011.v89n7/540-541/en](https://www.scielosp.org/pdf/bwho/2011.v89n7/540-541/en) accessed on 3 March 2023.

Constitution, whose preamble defines health as, “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.” It integrates mental and social wellbeing of an individual. It further States that, “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.” This generally means governments have a responsibility to provide its citizens with adequate health and social measures without discrimination of any kind. It also States that health is fundamental to peace and security as per the preamble. This assertion highlights the close relationship between peace and good health. Healthier people and communities are better able to contribute to stable and peaceful societies. On the contrary, if health is affected, it may result in social unrest and economic instability, which may endanger peace and security.

Article 2 of the WHO Constitution also specifies that the WHO’s functions include the promotion of health, the prevention and control of diseases, and the provision of technical assistance and training to member States. Article 3 outlines the WHO’s structure, with a World Health Assembly as its governing body and an Executive Board responsible for carrying out the Assembly’s decisions. All these provisions have been critical in shaping the WHO’s response to pandemics over the years. The WHO’s International Health Regulations, adopted in 2005, also provide a legal framework for member States to report and respond to public health emergencies, including pandemics. During the COVID-19 pandemic for instance, the WHO played a central role in coordinating the global response. It provided guidance on testing, treatment, and prevention measures, and advocated for equitable access to vaccines and other medical supplies.<sup>116</sup> In Gulu-Uganda, WHO built a Regional Partners’ Consultative Forum to improve partner coordination, resource mobilisation, and synergies for successful COVID-19 response.

The WHO Constitution, therefore, establishes a legal and ethical foundation for dealing with public health concerns such as pandemics. It recognises health as a fundamental right,

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<sup>116</sup> WHO during COVID-19, available at, [www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public) accessed on 3 March 2023.

emphasises global collaboration, supports health standards, and prioritises the protection of vulnerable populations. These principles and functions are critical in guiding the WHO's actions and the responses of member States during pandemics, promoting both public health and human rights protection.

### **2.3.4 The International Covenant on Civil and Political Rights (ICCPR) 1966, and its two Protocols, 1966 and 1989**

The International Covenant on Civil and Political Rights (ICCPR) is a human rights Treaty adopted by the United Nations General Assembly in 1966.<sup>117</sup> While the ICCPR primarily focuses on civil and political rights, its principles and provisions have relevance to public health protection during pandemics. Article 6 of the ICCPR recognises the inherent right to life of every individual. This clause can be used to support public health initiatives during pandemics that seek to prevent the spread of infectious diseases and save lives. This might entail passing rules and regulations to control the spread of diseases, provide access to healthcare, and promote healthy living conditions. It is the duty of the State to establish policies that will protect the lives of its citizens, including ensuring access to healthcare and implementing public health initiatives. For instance in Uganda, the MOH passed several legislation in accordance with the Uganda Public Health Act, Cap. 281, to combat COVID-19 pandemic.

Article 2(1) of the ICCPR stipulates that States are required to uphold and protect the rights of every person living on their territories, regardless of their race, gender, sexual orientation, language, religion, or any other status. This includes the right to public health protection. It therefore implies that States must make sure that all people residing in their jurisdictions have equal access to healthcare services, preventative measures, and health-related information. Implementing health policies and interventions should address the unique needs and vulnerabilities of diverse populations. They should also take into account

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<sup>117</sup> Background of the ICCPR and its 2 Optional Protocols, available at, [www.ohchr.org/en/treaty-bodies/ccpr/background-international-covenant-civil-and-political-rights-and-optional-protocols](https://www.ohchr.org/en/treaty-bodies/ccpr/background-international-covenant-civil-and-political-rights-and-optional-protocols) accessed on 24 February 2023.

elements like gender, age, ethnicity, disability, and other pertinent factors. The right to freedom of movement is guaranteed by Article 12 of the ICCPR. Pursuant to Art 4 (1) of the ICCPR, State Parties may deviate from their duties under the Covenant to the amount strictly necessary to address public emergencies that pose a threat to a Country's survival. Any limitations on the rights in the Convention must however be justified, temporary, proportionate, and should not favor any one group over another.<sup>118</sup> During the COVID-19 pandemic, the UN Human Rights Committee stated that derogating measures must be limited to the extent necessary to protect public health. It added that States must also inform other State parties of the derogation.<sup>119</sup> This should, also, be in conformity with the principles of necessity, proportionality, and non-discrimination during public health emergencies. The specific public health issue at hand must be addressed, and any restrictions on rights must be justifiable, brief, and appropriate. The measures put in place must be focused at protecting everyone's health and well-being, without unfairly favouring any one group of persons over another. States must also evaluate the emergency situation objectively to determine if it poses a threat to their country's survival and if its measures are justified.<sup>120</sup> States should also make sure that people who are impacted by these restrictions still receive basic services like food, medicine, and healthcare.

The ICCPR Article 4(2) contains certain rights that are non-derogable, which means that no derogation or exception can ever be made, even in the most difficult or exceptional circumstances. These non-derogable rights serve as fundamental safeguards for people and uphold the fundamental principles of human dignity and equality. Some of them are right to life, freedom from slavery or servitude, freedom from torture and inhuman treatment, among others. Derogation from these rights cannot be justified even during public health emergencies. For instance, in *Sharma and Ors v Nepal*, the Committee found that the

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<sup>118</sup> Siracusa Principles 1984, Article 16; also see, UN Human Rights Committee Statement on derogations from the Covenant in connection with the COVID-19 pandemic, CCPR/C/128/2, 30 April 2020. Available at, [www.ohchr.org/Documents/HRBodies/CCPR/COVIDstatementEN.pdf](http://www.ohchr.org/Documents/HRBodies/CCPR/COVIDstatementEN.pdf) accessed on 6 June 2023.

<sup>119</sup> See, CCPR - Human Rights Committee - Statement on Derogations from the Covenant in Connection With the COVID-19 Pandemic, CCPR/C/128/2 (24 April 2020), available at, <https://digitallibrary.un.org/record/3863948> accessed on 6 June 2023.

<sup>120</sup> Siracusa Principles 1984, Article 52.

enforced disappearance and incommunicado detention of Ms. Sharma, and the acts of torture and conditions to which she was exposed constituted violations of Article 7 a non-derogable right of the Covenant.<sup>121</sup> ICCPR's relevance during pandemics is demonstrated by its framework for evaluating required, reasonable, and human rights-adhering measures.

The ICCPR and its protocols make no mention of pandemics or public health emergencies, however, their provisions provide a foundation for preserving human rights during such crises. It is critical for governments to uphold their duties under these international instruments in order to ensure that public health policies respect and protect human rights. The Optional Protocols also provide avenues for individuals and groups to seek redress for violations of their rights during pandemics.<sup>122</sup>

### **2.3.5 The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966**

The United Nations General Assembly adopted the International Covenant on Economic, Social, and Cultural Rights (ICESCR) in 1966, and came into force in 1976.<sup>123</sup> It is a very relevant Treaty for protecting public health during pandemics. Article 12(1) of the ICESCR provides that everyone has a right to the best possible level of physical and mental health.<sup>124</sup> This right gains greater significance during public health emergencies because States are required to take action to stop, treat, and control diseases. To achieve the best attainable level of health for every person, governments must prioritise public health measures, such as, access to healthcare services, prevention measures, testing, treatment, and immunisation.

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<sup>121</sup> CCPR/C/122/D/2364/2014.

<sup>122</sup> First Optional Protocol to the ICCPR, Article 1.

<sup>123</sup> ICESCR was adopted by the United Nations General Assembly in 1966, and entered into force on 3 January 1976. On 8 February 2002 there were 145 States parties to the Covenant. For more information about ICESCR, see, [www.ohchr.org/en/treaty-bodies/cescr/background-convenat](http://www.ohchr.org/en/treaty-bodies/cescr/background-convenat) accessed on 23 February 2023.

<sup>124</sup> See also, Committee on Economic, Social and Cultural Rights, general comment No 14 (2000) on the right to the highest attainable standard of health, available at, <https://digitallibrary.un.org/record/425041?ln=fr> accessed on 23 February 2023.

Article 12(2) provides for the steps to be taken by the States Parties to achieve the full realisation of the right to health enunciated in Article 12. This includes, taking steps necessary for the improvement of all aspects of environmental and industrial hygiene. It further includes steps for the prevention, treatment and control of epidemic, endemic, occupational and other diseases among others.<sup>125</sup> The ICESCR obligations are however limited under Article 2(1). It States that, “each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.” ICESCR obligations therefore vary according to a State’s available resources. More is generally expected of richer States than poorer States.

Articles 9 and 10 also guarantee the right to social security, including social insurance and support for individuals in situations of vulnerability. Pandemics can lead to economic disruptions, job losses, and increased poverty rates. States should implement social security measures, such as income support, unemployment benefits, and social assistance. This can protect individuals and families from the adverse socio-economic impacts of pandemics and ensure their well-being. The ICESCR Article 7 also recognises the right to work, which includes the right to just compensation, safe working environments, and favourable working conditions. Measures like lockdowns and physical separation rules may affect employment and workers’ rights during pandemics. During public health emergencies, governments should take action to protect workers’ rights, maintain workplace safety and give economic support to impacted workers.

Article 11 of the ICESCR provides the right to a reasonable standard of living, which includes having access to food. States must make sure that people have access to enough,

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<sup>125</sup> See, Committee on Economic, Social and Cultural Rights, general comment No 14 (2000) on the right to the highest attainable standard of health, available at, <https://digitallibrary.un.org/record/425041?ln=fr> accessed on 23 February 2023.

safe, and nourishing food during public health emergencies since pandemics can make food insecurity worse. Governments should implement policies to safeguard and advance food security, including funding for food production, distribution, and aid programmes for disadvantaged groups. The right to education is also recognised in ICESCR Article 13. School disruptions and closures during pandemics can greatly affect school goer's access to education. States should implement policies to guarantee the continuity of education, including choices for remote learning and assistance for underprivileged students. The government should also create suitable health and safety procedures in educational environments.

Article 2(2) of the ICESCR emphasizes the principles of non-discrimination and equality in the enjoyment of economic, social, and cultural rights. Governments must ensure public health measures do not discriminate against specific populations during pandemics based on race, gender, socioeconomic status, or disability.<sup>126</sup> It is important to address and lessen the disproportionate effects of pandemics on vulnerable and disadvantaged people. During the COVID-19 pandemic, the Committee on Economic, Social and Cultural Rights asserted that COVID-19 vividly illustrated the importance of the indivisibility and interdependence of all human rights.<sup>127</sup> It added that the disadvantaged and marginalized groups of people were severely affected by the crisis. In Uganda, social protection methods during COVID-19 pandemic included grants for people with disabilities and households with children, and cash transfers to vulnerable groups.<sup>128</sup>

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<sup>126</sup> Committee on Economic, Social and Cultural Rights 'General Comment 20' in 'Nondiscrimination in Economic, Social and Cultural Rights' (2 July 2009) UN doc E/C.12/GC/20, para 7; also see, UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 6: The Economic, Social and Cultural Rights of Older Persons, 8 December 1995, E/1996/22, available at: [www.refworld.org/docid/4538838f11.html](http://www.refworld.org/docid/4538838f11.html) accessed on 23 February 2023.

<sup>127</sup> CESCR - Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights by the Committee on Economic, Social and Cultural Rights, E/C.12/2020/1 (6 April 2020), available at, <https://digitallibrary.un.org/record/3856957> accessed on 10 April 2023.

<sup>128</sup> International Centre for Research on Women, Expanding Social Protection to Informal Women Workers for Better COVID-19 Recovery in Uganda (Rebuild Policy Brief). Available at, [www.icrw.org/wp-content/uploads/2022/03/Uganda-REBUILD-Policy-Brief1.pdf](http://www.icrw.org/wp-content/uploads/2022/03/Uganda-REBUILD-Policy-Brief1.pdf) accessed on 10 April 2023.



The ICESCR's significance in human rights and public health protection during pandemics, therefore, develops from its recognition of the rights to health, social security, work, education, adequate housing, and food. These provide a framework for governments and policymakers to enact measures that protect individuals' well-being, ensure access to essential services, and address socioeconomic obstacles that arise during pandemics. Governments can, therefore, prioritize economic, social, and cultural rights protection by incorporating ICESCR principles into public health policies and responses. This will guide them to make sure that any pandemic-related public health measures are fair, inclusive, and considerate of people's fundamental values.

### **2.3.6 The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1984**

The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) is a human rights Treaty adopted by the United Nations General Assembly in 1984.<sup>129</sup> The CAT is crucial for public health protection during pandemics, even though it focuses on preventing torture and other cruel, inhuman, or degrading treatment or punishment.<sup>130</sup> Article 2 of the CAT mandates State Parties to prevent torture, including safeguarding individuals from cruel, inhuman, or degrading treatment. In *Centre for Health, Human Rights & Development & Anor. v. Attorney General*; re affirmed that, "cruel, inhuman or degrading punishment and treatment" is to be interpreted so as to extend to the widest possible protection against abuses, whether physical or mental.<sup>131</sup> Protecting the public's health entails ensuring that people are free from situations or practises that are harmful to their bodily or mental health or dignity. The CAT also generally provides the

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<sup>129</sup> The convention was adopted by the United Nations General Assembly on 10 December 1984. It entered into force on 26 June 1987, and, as of 8 April 2002, there were 128 States parties to the Convention. For more information about the convention, see [www.ohchr.or/en/treaty-bodies/cat/background-convention](http://www.ohchr.or/en/treaty-bodies/cat/background-convention) accessed on 23 February 2023.

<sup>130</sup> Article 1 of the Convention defines torture as, "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official Capacity".

<sup>131</sup> *Centre for Health, Human Rights & Development & Anor. v Attorney General* (Constitutional Petition No. 64 of 2011) [2015] UGCC 14 (30 October 2015).



significance of shielding vulnerable people from abuse and torture. Certain populations, including detainees, migrants, refugees and others, may be more exposed to human rights abuses during public health emergencies. For instance, UN experts on 26 June 2020, warned that COVID-19 epidemic was causing an increase in torture and other forms of mistreatment.<sup>132</sup> It added that torture survivors were particularly vulnerable to the virus due to their vulnerable situation. States must ensure equal healthcare access and protection for vulnerable individuals in detention centers, preventing their abuse and neglect.

Article 4 promotes public health by making it illegal to engage in acts of cruel, inhuman, or humiliating treatment, such as medical malpractice. To promote human rights responsibility in healthcare systems, States must establish legislative frameworks and rules that hold individuals accountable for their actions. States are required under Article 5 to take concrete steps to stop and look into instances of torture and other forms of ill-treatment. This clause is crucial to public health because it ensures accountability for any abuse or mistreatment that may take place in medical facilities. It requires competent authorities must investigate torture and other cruel, inhuman, or humiliating treatment during public health service delivery. For instance, in Uganda, the Human Rights Commission stated to have registered several complaints about torture and inhuman treatment during the COVID-19 pandemic.<sup>133</sup>

The CAT focuses on torture and harsh treatment, but, its provisions can promote people's rights and dignity during public health emergencies, including pandemics. The CAT does not address pandemics expressly, however, its concepts and provisions are relevant to human rights and public health protection during such crises. The CAT provides a

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<sup>132</sup> COVID-19 Exacerbates The Risk of Ill-Treatment and Torture Worldwide – UN Experts (26 June 2020), [www.ohchr.org/en/stories/2020/06/covid-19-exacerbates-risk-ill-treatment-and-torture-worldwide-un-experts#:~:text=and%20inhuman%20treatment-.COVID%2D19%20exacerbates%20the%20risk%20of%20ill%2Dtreatment,and%20torture%20worldwide%20%E2%80%93%20UN%20experts&text=The%20UN%20Anti%2DTorture%20mechanisms,infected%20by%20the%20lethal%20virus](https://www.ohchr.org/en/stories/2020/06/covid-19-exacerbates-risk-ill-treatment-and-torture-worldwide-un-experts#:~:text=and%20inhuman%20treatment-.COVID%2D19%20exacerbates%20the%20risk%20of%20ill%2Dtreatment,and%20torture%20worldwide%20%E2%80%93%20UN%20experts&text=The%20UN%20Anti%2DTorture%20mechanisms,infected%20by%20the%20lethal%20virus) accessed on 23 April 2023.

<sup>133</sup> Uganda Human Rights Commission, Statement on the State of Human Rights and the Fight Against COVID- 19 in Uganda Friday, 24th April 2020, available at, [https://covid19.gou.go.ug/uploads/document\\_repository/authors/uhrcc/document/Uganda\\_Human\\_Rights\\_Commission\\_Statement\\_on\\_state\\_of\\_human\\_rights\\_and\\_the\\_fight\\_against\\_covid19\\_in\\_Uganda\\_24042020.pdf](https://covid19.gou.go.ug/uploads/document_repository/authors/uhrcc/document/Uganda_Human_Rights_Commission_Statement_on_state_of_human_rights_and_the_fight_against_covid19_in_Uganda_24042020.pdf) accessed on 3 March 2023.

framework for ensuring that public health measures are implemented in a way that respects human rights and protects individuals' well-being. This is through prohibiting torture and mistreatment, protecting the right to health, protecting vulnerable groups, promoting prevention and accountability, upholding the non-refoulement principle, and encouraging international cooperation. Governments must, therefore, ensure public health measures respect the provisions of the CAT for human rights and public health protection.

### **2.3.7 Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), 1979**

The United Nations General Assembly enacted the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) in 1979.<sup>134</sup> This international Treaty advocates gender equality and the abolition of discrimination against women. According to Article 2(a), States are required to include the principle of gender equality in their national constitutions or other relevant laws. For instance, in the case of *Ephrahim v. Holaria Pastory and Others*.<sup>135</sup> In this case, a woman in Tanzania received clan land from her father but later sold it when she became frail. Bernardo Ephrahim, a clan member, was quite displeased by her choice because, according the Haya Customary Law (Declaration) (No. 4) Order of 1963, women were only permitted to use the clan land, but were not allowed to sell it. Ephrahim decided to petition Court in Muleba which ruled that the sale was indeed illegal. Holaria, the woman, later also filed an appeal with the Muleba District Court. Here, the Constitution's Bill of Rights, which guaranteed equality for both men and women, was used to overturn the Primary Court's judgment. Bernardo Ephrahim was aggrieved once again. He then filed a second appeal with the High Court, which upheld the decision of the first appellate Court. The grounds were that the pertinent Haya Customary Law discriminated against women and was in conflict with the provisions of their Constitution, yet, they had ratified and incorporated the CEDAW in their Constitution.<sup>136</sup>

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<sup>134</sup> The CEDAW is a multilateral Treaty adopted by the United Nations General Assembly in 1979 which entered into force in 1981. More information available at, [www.un.org/womenwatch/daw/cedaw/](http://www.un.org/womenwatch/daw/cedaw/) accessed on 3 March 2023.

<sup>135</sup> *Ephrahim v. Holaria Pastory and Another, High Court of Tanzania at Mwanza (PC) Civil Appeal No. 70 of 1989.*

<sup>136</sup> Ibid.

In accordance with Article 2 of the CEDAW, therefore, all kinds of discrimination against women are prohibited. In the context of public health, this means that it is necessary to ensure gender equality in regard to access to healthcare services, health information, and resources.

Public health protection should be based on the non-discrimination principle to ensure equal access to healthcare.<sup>137</sup> States Parties should also take steps to eliminate prejudices and customary practises based on the inferiority or superiority of either men or women as per Article 5. This can be in social, economic or any other aspects of life. Article 12 of CEDAW, recognizes the right of women to access healthcare services, including sexual and reproductive health services, on an equal basis with men.<sup>138</sup> In *Alyne de Silva Pimental v Brazil*, the Committee held that it is crucial to recognise women's rights to safe childbirth and non-discriminatory healthcare services.<sup>139</sup> The CEDAW Committee's decision relates on the situation of millions of women in Brazil and throughout the world who currently lack access to equal quality and timely maternal health care.<sup>140</sup> It is crucial, therefore, to make sure that women have equitable access to testing, care, vaccinations, and reproductive health services during pandemics.

CEDAW also advocates for gender equality at all levels of decision-making.<sup>141</sup> Women's perspectives and experiences must be taken into consideration when making decisions about public health policy, interventions, and resource allocation during pandemics. To guarantee that their particular needs and concerns are addressed, women should be included in leadership positions and advisory groups as required by Article 7. During the COVID-19 pandemic, the UN Committee on the Elimination of Discrimination against Women issued guidelines for protecting women's rights.<sup>142</sup> It also, stipulated that States should

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<sup>137</sup> See, General Recommendation No. 19: Violence Against Women [CEDAW GR No. 19].

<sup>138</sup> Article 12 of the Convention (Women and Health), 1999, A/54/38/Rev.1, Chap. I, available at: [www.refworld.org/docid/453882a73.html](http://www.refworld.org/docid/453882a73.html) accessed on 3 March 2023.

<sup>139</sup> CEDAW/C/49/D/17/2008.

<sup>140</sup> Ibid.

<sup>141</sup> See, Committee on the Elimination of Discrimination Against Women (CEDAW), CEDAW General Recommendation No. 24.

<sup>142</sup> Guidance Note on CEDAW and COVID-19, available at, [www.ohchr.org/Documents/HRBodies/TB/COVID19/Guidance\\_Note.docx](http://www.ohchr.org/Documents/HRBodies/TB/COVID19/Guidance_Note.docx) accessed on 10 April 2023.

guarantee women's equitable representation while coming up with COVID-19 responses and crisis recovery plans. Women's participation in decision-making can shape policies addressing their unique health requirements and obstacles, leveraging their opinions and experiences. This might lead to more inclusive and effective public health initiatives. Women's economic and social rights, such as the right to employment, equal pay, and social security, are also recognised by CEDAW.<sup>143</sup> Women may experience disproportionately negative economic and social effects during public health emergencies, including job loss, and lowered access to social protection. States must promote the economic and social rights of women to address social determinants of health, reduce inequities, and enhance women's well-being. During COVID-19 pandemic in Uganda for instance, CEDAW highlighted the failure of the government of Uganda to protect women's rights in the 'private' domain like their homes. It added that domestic abuse escalated during COVID-19 lockdowns, with nearly 90,000 girls under 18 being pregnant.<sup>144</sup> The right of women to education and information access is also emphasised by Article 10 of the CEDAW. It is essential for women to have quick accurate information on public health initiatives, prevention tactics, and available support services during pandemics.

In Uganda, a CEDAW Committee Expert highlighted a teacher shortage in refugee hosting areas and stated that the COVID shutdown had a negative influence on refugee children's education. She then inquired as to how these concerns, as well as others affecting refugee women and girls, like poverty, were being addressed by the government.<sup>145</sup> Women's right to education can help break the cycle of poverty and inequality, empowering them to make informed decisions about their health. CEDAW encourages global collaboration to advance gender equality and end discrimination against women.<sup>146</sup> Global cooperation enables nations to exchange knowledge, share resources, and enhance the health and

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<sup>143</sup> The CEDAW 1979, Articles, 7, 8 and 11.

<sup>144</sup> See, It is not yet Uhuru for the Women of Uganda, available at, [www.brookings.edu/blog/africa-in-focus/2022/02/24/it-is-not-yet-uhuru-for-the-women-of-uganda/](https://www.brookings.edu/blog/africa-in-focus/2022/02/24/it-is-not-yet-uhuru-for-the-women-of-uganda/) accessed on 10 April 2023.

<sup>145</sup> See, Experts of the Committee on the Elimination of Discrimination against Women commend Uganda on phenomenal progress made in the education sector, available at, [www.ohchr.org/en/press-releases/2022/02/experts-committee-elimination-discrimination-against-women-commend-uganda](https://www.ohchr.org/en/press-releases/2022/02/experts-committee-elimination-discrimination-against-women-commend-uganda) accessed on 10 April 2023.

<sup>146</sup> Preamble of the CEDAW, 1979.

welfare of women globally. The principles and provisions of CEDAW, therefore, are directly applicable to human rights and public health protection during pandemics. CEDAW provides a framework for safeguarding women's rights and ensuring their well-being during health crises by promoting gender equality and women's health rights. It also addresses violence against women, addressing socioeconomic impacts, recognising intersectionality, and establishing reporting and monitoring mechanisms. Governments must, therefore, ensure pandemic responses and public health initiatives align with CEDAW's principles for women's rights and wellbeing.

### **2.3.8 Convention on the Rights of the Child (CRC), 1989**

Children's rights and protections are outlined in the Convention on the Rights of the Child (CRC), which was ratified by the UN General Assembly in 1989. The CRC is pertinent to public health protection in a number of ways, despite not specifically mentioning public health or pandemics. For instance, The Committee on the Rights of the Child urged States to consider the health, social, educational, and economic impacts of COVID-19 on child rights.<sup>147</sup> Article 24(1) of the Convention provides that every child has an inherent right to attain the highest possible level of health.<sup>148</sup> It emphasises the necessity of a child-centered, preventative approach to public health protection and asks for health fairness, collaboration, and monitoring of children's health.<sup>149</sup> In times of a public health emergency therefore, Governments should safeguard children's health rights during public health emergencies by providing necessary medical care.

Discrimination against minors in the exercise of their rights is prohibited by Article 2 of the CRC. Article 2 of the UNCRC does not expressly address public health protection, but it does establish the non-discrimination principle emphasise the importance of health

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<sup>147</sup> See, The Committee on the Rights of the Child warns of the grave physical, emotional and psychological effect of the COVID-19 pandemic on children and calls on States to protect the rights of children (8 April 2020), available at, [www.unicef.nl/files/INT\\_CRC\\_STA\\_9095\\_E.pdf](https://www.unicef.nl/files/INT_CRC_STA_9095_E.pdf) accessed on 10 April 2023.

<sup>148</sup> CRC, General Comment No. 4: Adolescent Health and Development in the Context of the Convention on the Rights of the Child [CRC GC No. 4], 1 July 2003, CRC/GC/2003/4.

<sup>149</sup> Also see, UN Committee on the Rights of the Child (CRC), General comment No. 3 (2003): HIV/AIDS and the Rights of the Child, 17 March 2003, CRC/GC/2003/3, available at: [www.refworld.org/docid/4538834e15.html](https://www.refworld.org/docid/4538834e15.html) accessed 30 May 2023.

equality. Public health activities should be consistent with these principles by ensuring non-discriminatory access to healthcare services and addressing health inequities. Every child has the right to education, according to Article 28 of the CRC. The closing of schools and disruptions during public health emergencies can have a negative impact on children's education. Governments must ensure safeguards and offer alternative learning opportunities to protect children's access to high-quality education. Through comprehensive school health programs, children can learn about healthy behaviors and essential medical care. By providing a supportive and nurturing environment, schools can contribute to the prevention of diseases and the promotion of positive health behaviors among children.

Children have a right to protection from all types of violence, abuse, neglect, and exploitation, according to the CRC.<sup>150</sup> Pandemics can lead to increased risk of violence, abuse, and neglect due to increased stress, isolation, and reduced social activities. During public health emergencies, there can also be disruptions in essential services, including child protection services, mental health support, and helplines. Limited access to these services can hinder the reporting and response to instances of violence, abuse, or neglect. For instance, during the COVID-19 pandemic in Uganda, various children were exploited, abused and discriminated against physically, sexually among other ways.<sup>151</sup> Governments and authorities therefore have a duty to do all that is possible to protect children's safety and wellbeing during such critical times.

Article 13 stipulates that a child has the right to freedom of expression. This includes the Capacity to acquire, share, and receive ideas and knowledge through any medium the child chooses. Children should be informed about public health emergencies in a way that suits their ages and be involved in decision-making that affects their life during pandemics. Governments must to make sure children have access to accurate data so they can

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<sup>150</sup> The CRC 1989, Articles, 32, 34 and 37.

<sup>151</sup> Quraish Sserwanja, 'Joseph Kawuki and Jean H Kim, Increased Child Abuse in Uganda Amidst COVID-19' Pandemic (The Royal Australasian College of Physicians, 2020) Journal of Pediatrics and Child Health, available at, <https://bettercarenetwork.org/sites/default/files/2020-12/jpc.15289.pdf> accessed on 10 April 2023.

comprehend the situation, take the proper precautions, and take part in public health initiatives. Public health programmes can be more inclusive and effective by respecting the right of children to express themselves.

The significance of the CRC in human rights and public health protection during pandemics, therefore, stems from its acknowledgment of the right to health, non-discrimination, access to information, the best interests of the child, protection from violence, and the right to education. During times of crises, these principles lead policy makers, governments, and organisations in enacting actions that prioritise the well-being and rights of children. In order to safeguard children's health during public health emergencies, governments must follow CRC's principles to protect children's health during emergencies, upholding their rights.

### **2.3.9 International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), 1966**

The United Nations General Assembly passed the International Convention on the Elimination of all forms of Racial Discrimination (ICERD) in 1966.<sup>152</sup> This was with the intention of eradicating racial discrimination and advance equal treatment for all people, regardless of their race, colour, descent, or national or ethnic origin.<sup>153</sup> The ICERD is pertinent in the context of public health protection during pandemics even though it does not directly address public health or pandemics. For instance, during COVID-19, the Committee on the elimination of racial discrimination had evidence showing that the pandemic had disproportionately affected marginalized groups.<sup>154</sup> These included

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<sup>152</sup> The International Convention on the Elimination of All Forms of Racial Discrimination (CERD), available at, <https://humanrights.gov.au/our-work/race-discrimination/international-convention-elimination-all-forms-racial-discrimination> accessed on 20 February 2023.

<sup>153</sup> UN Committee on the Elimination of Racial Discrimination (CERD), CERD General Recommendation No.30 on Discrimination against Non-Citizens, 5 August 2004, available at: [www.refworld.org/docid/45139e084.html](http://www.refworld.org/docid/45139e084.html) accessed 30 May 2023.

<sup>154</sup> See, Statement on the coronavirus (COVID-19) pandemic and its implications under the International Convention on the Elimination of All Forms of Racial Discrimination (7 August 2020), available at, [www.ohchr.org/Documents/HRBodies/TB/COVID19/Statement-CERD-COVID-19.docx#:~:text=The%20COVID%2D19%20pandemic%20is,all%20Forms%20of%20Racial%20Discrimination>.>](http://www.ohchr.org/Documents/HRBodies/TB/COVID19/Statement-CERD-COVID-19.docx#:~:text=The%20COVID%2D19%20pandemic%20is,all%20Forms%20of%20Racial%20Discrimination>.>). Accessed on 10 April 2023.



indigenous people, migrants, refugees, asylum seekers, national and ethnic minorities, religious minorities, and linguistic minorities, who were already susceptible to racial discrimination.<sup>155</sup> Racial discrimination in the delivery of healthcare services is prohibited by the Article 5 (e) IV, of the ICERD. It is crucial to make sure that everyone has equitable access to healthcare services, testing, treatment, and immunisation during pandemics, regardless of their race or ethnicity. In *Verein Klima Seniorinnen Schweiz & Ors. v Switzerland*, Court held that Switzerland is party to the Convention on the Elimination of All Forms of Discrimination which requires Switzerland to provide equal protection to women, for example, in accessing healthcare.<sup>156</sup> Governments and healthcare organisations must, therefore, stop any discriminatory actions that could harm certain racial or ethnic groups.<sup>157</sup>

Article 5, further emphasises how crucial it is to guarantee equal and inclusive access to public services, this includes public health services. Governments are responsible for creating pandemic response strategies that take into account the unique needs and vulnerabilities of all racial and ethnic groups. Article 7 of the ICERD is also very relevant to public health protection even though it does not specifically mention public health. This is because it emphasises eliminating prejudices, fosters tolerance understanding, and promotes human rights ideas, all of which are important for preserving public health. During the COVID-19 pandemic in Uganda, UN experts believed Uganda used emergency powers to target LGBT people during a Kyengyera shelter raid during COVID outbreak.<sup>158</sup> COVID-19 fueled xenophobic and racist views, including hate speech and violence against

<sup>155</sup> See, Statement on the coronavirus (COVID-19) pandemic and its implications under the International Convention on the Elimination of All Forms of Racial Discrimination (7 August 2020), available at, [www.ohchr.org/Documents/HRBodies/TB/COVID19/Statement-CERD-COVID-19.docx#:~:text=The%20COVID%2D19%20pandemic%20is,all%20Forms%20of%20Racial%20Discrimination](http://www.ohchr.org/Documents/HRBodies/TB/COVID19/Statement-CERD-COVID-19.docx#:~:text=The%20COVID%2D19%20pandemic%20is,all%20Forms%20of%20Racial%20Discrimination). Accessed on 10 April 2023.

<sup>156</sup> No. 53600/20, (ECtHR).

<sup>157</sup> ICERD 1966, Article 4.

<sup>158</sup> See, UN Rights Experts Fear Uganda is Using COVID-19 Emergency Powers to Target LGBT People, available at, [www.ohchr.org/en/press-releases/2020/04/un-rights-experts-fear-uganda-using-covid-19-emergency-powers-target-lgbt](https://www.ohchr.org/en/press-releases/2020/04/un-rights-experts-fear-uganda-using-covid-19-emergency-powers-target-lgbt) accessed on 10 April 2023.



ethnic groups incorrectly linked to the virus.<sup>159</sup> Inclusive public health initiatives therefore reduce health inequalities and promote equity by addressing racial discrimination and promoting equitable approaches.

The ICERD promotes global collaboration to end racial discrimination.<sup>160</sup> Global cooperation is crucial during pandemics to overcome racial inequities in public health outcomes through sharing best practises, information, and resources. Cooperation across nations can help ensure an equitable and successful response that protects everyone's health and well-being, regardless of race or ethnicity.

ICERD principles of non-discrimination, equality, and health rights are relevant for human rights and public health protection during pandemics, despite, not explicitly addressing them. The Treaty promotes human rights-based, equitable pandemic response by promoting non-discrimination, healthcare access, inclusive policies, data gathering, awareness, and international collaboration. To combat racial inequities and discrimination in healthcare, governments and public health authorities should implement pandemic response methods based on ICERD principles.

## **2.4 Regional Human Rights Legal Framework Applicable to Public Health Protection during Pandemics in Uganda**

### **2.4.1 Constitutive Act of the African Union, 2000**

The African Union (AU), is an international organisation made up of African countries, established in 2000. The Constitutive Act acts as its legal framework.<sup>161</sup> The Act is pertinent when discussing public health protection during pandemics even if it does not

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<sup>159</sup> See, Committee on the Elimination of Racial Discrimination, General Recommendation No. 35 (2013) on combating racist hate speech, CERD/C/GC/35, paras. 3, 22; 36, 37, 40 and 44. Accessed at, [www.refworld.org/docid/53f457db4.html](http://www.refworld.org/docid/53f457db4.html) accessed on 10 May 2023.

<sup>160</sup> Preamble of the ICERD 1966.

<sup>161</sup> Constitutive Act of the African Union, available at <https://au.int/en/treaties/constitutive-act-african-union> accessed on 10 March 2023. Apparently, the African Union consists of 55 member states.

specifically mention public health or pandemics.<sup>162</sup> The promotion of peace, security, and stability on the African continent is a major theme of the AU's Constitutive Act according to its Preamble and Article 3(f). A successful public health response during pandemics depends on sustaining peace and stability. Governments and healthcare organisations can collaborate to implement public health initiatives, coordinate efforts, and provide medical treatment to affected communities. Article 3 (e) and 4 of the Act places a strong emphasis on regional integration, cooperation, and solidarity among African countries. Such cooperation is essential for sharing knowledge, skills, and resources to enhance public health. The AU can assist the exchange of best practises in public health protection, facilitate cooperation between member States, and harmonise response measures. It can additionally coordinate regional plans for monitoring, early detection, and pandemic responses.

The AU also has the power to intervene in member States under Article 4(h) of its Constitutive Act. This is usually in order to stop or resolve war crimes, wars, and other serious situations that endanger the continent's peace, security, and stability. Public health response is also possible with this broad power. The AU can mobilise resources, coordinate continental emergency responses, and assist in the deployment of medical personnel and supplies to safeguard public health. Article 3 (h and k) of the Act places a focus on the advancement of human rights, social progress, and the welfare of Africans. Protecting people's human rights, especially their right to health, is crucial during public health emergencies. The AU can collaborate with its member States to guarantee that public health interventions taken are equitable, non-discriminatory, and based on human rights. During COVID-19 for instance, International cooperation was essential for preventing, managing, and monitoring the pandemic's effects in medical, economic, social, and other areas.

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<sup>162</sup> Chris Alden and Charles Dunst, "COVID-19: Africa and the African Union" (London School of Economics and Political Science), available at, [www.lse.ac.uk/international-relations/centres-and-units/global-south-unit/COVID-19-regional-responses/Africa-and-COVID-19](http://www.lse.ac.uk/international-relations/centres-and-units/global-south-unit/COVID-19-regional-responses/Africa-and-COVID-19) accessed on 10 March 2023.

In Uganda, the President pledged support to the AU COVID-19 Vaccination Bingwa initiative that aimed at accelerating vaccination to 70% across the African continent.<sup>163</sup> The Act further gives the AU the ability to collaborate with other nations and organisations on issues of mutual concern. According to Article 3(n), the Union is required to ‘partner with relevant international partners in the eradication of preventable diseases and the promotion of good health on the continent.’<sup>164</sup> For instance, the Africa CDC closely collaborates with member nations to increase disease surveillance, strengthen healthcare systems, and build Capacity for outbreak response.<sup>165</sup> It promotes cooperation among African nations by organising and assisting the mobilisation of resources, knowledge, and medical supplies during pandemics.<sup>166</sup>

The AU can work with Organisations such as, the WHO to share information, obtain technical expertise, and promote African interests in global health governance. International collaboration can enhance the AU’s Capacity to respond to public health emergencies and have access to resources for public health protection. Public health is not specifically addressed in the AU’s Constitutive Act, however, it serves as a starting point for addressing public health issues. Its principles, goals, and platforms act as a point for cooperation. The AU can help improve health outcomes for Africans by promoting human rights, peace and security, collaboration, and development.

It should be noted, therefore, that the AU’s Act does not expressly address pandemics. Its emphasis, however, on human rights, governance, regional cooperation, and peace and security is crucial for protecting human rights and public health during such crises. The Act provides a framework for member States to improve their public health responses, protect human rights, and ensure the well-being of their populations during pandemics.

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<sup>163</sup> See, President Museveni commits to increase COVID-19 Vaccine uptake in Africa, available at, <https://au.int/fr/node/42044> accessed on 30 May 2023.

<sup>164</sup> This led to the introduction of the Africa Centre of Disease Control, See the History of Africa Centre of Disease Control (CDC), see, <https://africacdc.org/about-us/our-history/> accessed on 30 May 2023.

<sup>165</sup> Africa Centre of Disease Control, available at, <https://africacdc.org/> accessed on 30 May 2023.

<sup>166</sup> Ibid.

This is through upholding human rights principles, promoting democratic governance, supporting regional coordination, and emphasising peace and security.

#### **2.4.2 African Charter on Human and Peoples' Rights, 1981**

African Charter on Human and Peoples' Rights is the document that outlines the freedoms and rights of individuals and groups in Africa, which was adopted in 1981. The Charter does not specifically mention public health or pandemics, but, it is nonetheless relevant to public health protection during pandemics. The right to life and the right to the best possible state of bodily and mental health are both recognised in Articles 4 and 16, respectively, of the African Charter. These provisions are important during pandemics because they imply that African governments must take action to safeguard public health. It further implies that governments must stop the spread of diseases, and guarantee access to healthcare services and resources required for people's well-being.

Article 2 of the Charter states that it is unlawful to discriminate on the basis of race, ethnicity, religion, language, gender, or any other category, including one's health. International cooperation was essential in the framework of COVID-19 for preventing, managing, and monitoring the pandemic's effects in medical, economic, social, and other areas. In order to combat diseases that are quickly spread across borders, the entire international community must act as one. The provision of resources, access to healthcare, and public health measures during pandemics must be done without discrimination of any kind. Governments must work proactively to reduce gaps and guarantee that health initiatives and interventions are carried out impartially during a pandemic. Governments should also make sure that marginalised and vulnerable populations have fair access to support, information, and medical care.

The African Charter also upholds the freedom of speech the right to freedom of expression in Article 9. Access to timely and accurate information is essential for people to protect themselves, make wise decisions, and support public health initiatives during pandemics. Governments should promote easy access to reliable information, permit free speech, and combat the spread of misleading information that could impede public health protection.

Article 17 of the Charter affirms the right to education. Governments should work to reduce the impact of pandemics on children's access to high-quality education, even if they frequently cause disruptions in educational institutions. For instance, In the case of Legal and Human Rights Centre and Centre for Reproductive Rights (on behalf of Tanzanian girls) v United Republic of Tanzania, the African Committee of Experts on the Rights and Welfare of the Child ruled that the Respondent State's practice of allowing schools to expel pregnant girls and denying enrollment to those already pregnant violates their right to education.<sup>167</sup> The ruling gains particular significance during times of pandemics, when a notable increase in the number of young girls becoming pregnant is observed due to a variety of factors, including the imposition of lockdown measures. It underscores the importance of upholding the right to education for pregnant girls, especially in challenging circumstances, and highlights the need to prevent discriminatory practises that can further hinder their access to education. There should, therefore be steps taken to ensure ongoing education, such as providing vulnerable students with support and remote learning possibilities.

The protection of vulnerable populations, such as children, women, the elderly, people with disabilities, and refugees, is emphasised in the Charter under Article 18. These groups are frequently more vulnerable during pandemics and need extra care and assistance to ensure their rights and well-being are safeguarded. In Article 1 of the Charter, nations are required to respect, uphold, and implement human rights. In, *Organisation Mondiale Contre la Torture et Ligue de la Zone Afrique pour la Défense des Droits des Enfants et Eleves (pour le compte de Céline) c. Republique Démocratique du Congo*. The case involved a lawsuit filed on behalf of a 17-year-old girl who was violently attacked and raped by two men. Local police, who were aware of the attackers' identities, witnessed the beginning of the attack but did not intervene. The complainants also alleged that the police knew about an organized gang that had attacked the victim and others, yet failed to take action due to financial constraints. The Commission ruled that the Democratic Republic of the Congo

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<sup>167</sup> The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) Communication No: 0012/Com/001/2019 Decision No 002/2022.

(DRC) had violated multiple articles of the African Charter on Human and Peoples' Rights in this context.<sup>168</sup> Governments, therefore, have a responsibility to take the necessary actions to stop the spread of diseases, provide access to healthcare services, and safeguard people during pandemics. The Charter is relevant to pandemics, therefore, by emphasizes human rights, equality, and dignity for governments to safeguard people and communities during public health emergencies, without specifically providing pandemic recommendations.

#### **2.4.3 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003**

The African Charter on Human and Peoples' Rights on the Rights of Women in Africa, is also known as the Maputo Protocol. It was passed in 2003 with a strong focus on advancing and safeguarding women's rights.<sup>169</sup> The Charter does not specifically mention pandemics, its provisions, however, apply to situations involving public health emergency. According to Article 14 of the Maputo Protocol, women have the right to obtain healthcare, including sexual and reproductive health services. Women's access to essential healthcare during a pandemic, especially reproductive healthcare and services, should be protected and accorded top priority to preserve their wellbeing.

In accordance with Articles 2 and 3, the Protocol forbids discrimination against women and guarantees their safety from all types of violence, including gender-based violence. The likelihood of gender-based violence, including domestic violence, may increase during a pandemic. Governments should therefore take action to stop such violence, respond to it, and make sure that women's rights are upheld and supported. Articles 10 and 12 of the Maputo Protocol specifically highlight women's right to education and access to

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<sup>168</sup> Case No. 325/06, African Commission on Human and Peoples' Rights (2015).

<sup>169</sup> In 1981, the Organization of African Unity, now the African Union, adopted the African Charter on Human and Peoples' Rights which was unanimously adopted in 1981 in Nairobi Kenya and came into force in 1986. Two protocols to the Charter have been adopted, that is, the Additional Protocol on the Establishment of the African Court on Human and Peoples' Rights (1998), and the Protocol on the Rights of Women in Africa (2003) available at [https://au.int/sites/default/files/treaties/36390-treaty-0011\\_african\\_charter-on-human-and-peoples-rights\\_e.pdf](https://au.int/sites/default/files/treaties/36390-treaty-0011_african_charter-on-human-and-peoples-rights_e.pdf); also [www.achpr.org/history](http://www.achpr.org/history) all accessed on 17 February 2023.

information. It is crucial to ensure women have accurate information on public health initiatives, prevention tactics, and healthcare services during a pandemic. Governments, additionally, ought to work to minimise obstacles to women's education and offer other resources for lifelong learning. Articles 15 and 19 of the Protocol recognise that women have the right to engage in economic activities, have access to resources, and exercise their social and cultural rights.<sup>170</sup> Women may experience unique difficulties during a pandemic, such as job loss or increased caring obligations. The protection of women's economic and social rights, the provision of social support, and ensuring their involvement in decision-making should all be priorities for governments.

Article 23 emphasises the protection of women who belong to vulnerable groups, such as girls, elderly women, women with disabilities, among others. These groups might experience increased vulnerabilities and particular difficulties during a pandemic. Governments should place a high priority on their defence, guarantee their access to medical care, and offer professional assistance.<sup>171</sup>

During the COVID-19 pandemic, governments around the world, including Uganda, faced numerous challenges in upholding human rights and protecting vulnerable populations.<sup>172</sup> The Committee on the Elimination of Discrimination against Women mandates that States ratify the CEDAW Convention to prevent COVID-19 measures from discriminating against women.<sup>173</sup> The pandemic had a disproportionate impact on women, exacerbating existing gender inequalities and leading to an increase in gender-based violence, economic

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<sup>170</sup> International Network for Economic, Social and Cultural Rights, *Claiming Women's Economic, Social and Cultural Rights* (New York, 2013).

<sup>171</sup> See, Impact of COVID-19 on Women's Rights, available at, [www.ncbi.nlm.nih.gov/pmc/articles/PMC9596342/](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9596342/) accessed on 10 March 2023.

<sup>172</sup> See, Peter Kisaakye. et al., 'Vulnerability to violence against women or girls during COVID-19 in Uganda' (2023). BMC Public Health 23, 23. Available at, <https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-022-14951-7#:~:text=About%20three%20in%20four%20respondents,the%20onset%20of%20COVID%2D19.&text=Figure%201%20shows%20the%20different,by%20respondents%20in%20the%20study>. Accessed on 10 May 2023.

<sup>173</sup> The Committee on the Elimination of All Forms of Discrimination against Women issued a statement on 21 April 2020, entitled, 'Call for Joint Action in the Times of the COVID-19 Pandemic', and a Guidance Note on CEDAW and COVID-19. Can be accessed at, [www.corteidh.or.cr/tablas/centro-covid/docs/Covid-19/CEDAW-statement-COVID-19-final.pdf](https://www.corteidh.or.cr/tablas/centro-covid/docs/Covid-19/CEDAW-statement-COVID-19-final.pdf) accessed on 10 May 2023.

hardships, and limited access to essential services. Pandemics demand governments to address women's unique needs and rights, ensuring access to information, healthcare, and protection from violence.<sup>174</sup> The Charter emphasizes human rights, equality, and dignity for governments to safeguard people and communities during public health emergencies, without specifically providing pandemic recommendations. African nations can use the Charter as a guide to make sure that their populations' rights and welfare are respected in difficult situations like pandemics.

The Maputo Protocol, therefore, targets gender inequalities, reproductive rights, and human rights, as well as integrating AU initiatives for public health and human rights protection. The protocol improves public health outcomes and contributes to the general well-being of African individuals and communities by enhancing women's rights, particularly their right to health.

#### **2.4.4 Treaty for the Establishment of the East African Community, 1999**

The Treaty for the establishment of the East African Community (EAC), 1999, is a regional integration Treaty between seven East African countries: Burundi, Kenya, Rwanda, Democratic Republic of Congo, South Sudan, Tanzania, and Uganda.<sup>175</sup> The Treaty aims at promoting economic, social, and political integration in the region and also create a common market and monetary union.<sup>176</sup>

The Treaty does not directly mention public health or pandemics, however, it can nonetheless be used to protect public health during pandemics. The EAC Treaty seeks to encourage regional integration and cooperation among its signatory nations.<sup>177</sup> Such collaboration is essential during pandemics for exchanging information, resources, and best

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<sup>174</sup> See, CEDAW General Recommendation No. 19: Violence against Women, Adopted at the Eleventh Session of the Committee on the Elimination of Discrimination against Women, in 1992 (Contained in Document A/47/38), available at, [www.legal-tools.org/doc/f8d998/pdf/&ved=2ahUKEwi4r8KY2dX](http://www.legal-tools.org/doc/f8d998/pdf/&ved=2ahUKEwi4r8KY2dX) accessed on 30 May 2023.

<sup>175</sup> Overview of the East African Community, available at, [www.eac.int/overview-of-eac#:~:text=The%20East%20African%20Community%20\(EAC,of%20Tanzania%2C%20with%20its%20headquarters](http://www.eac.int/overview-of-eac#:~:text=The%20East%20African%20Community%20(EAC,of%20Tanzania%2C%20with%20its%20headquarters) accessed on 10 March 2023.

<sup>176</sup> Treaty for the Establishment of the East African Community, 1999.

<sup>177</sup> See, Preamble to the Treaty for the Establishment of the East African Community, 1999.



practises. EAC Treaty can promote collaboration, goal sharing, public health harmonisation, and cross-border surveillance for effective pandemic response. Article 75(1) c of the Treaty ensures trade facilitation and removal of non-tariff barriers during pandemics, ensuring continuous supply of essential medications and supplies. East Africa Heads of State requested regional strategy for certifying and disseminating COVID-19 test results during the pandemic. The EAC can assist member States in taking action to speed up and streamline the cross-border movement of essential medical supplies. For instance, EA Heads of State requested health, trade, and transportation Ministers to develop a regional strategy for certifying and disseminating COVID-19 test results during the pandemic.<sup>178</sup> It was also aimed at reducing the socioeconomic effects of COVID-19 through continuous effective trade. For instance, Uganda experienced significant market disruptions due to COVID, causing industries to temporarily close due to difficulties accessing export markets and affecting their operations.<sup>179</sup>

The EAC Treaty acknowledges the value of member nations working together on health-related issues. The treaty establishes a framework for cooperation in disease management, medical research, and health system improvement under Articles 117 and 118, without specific guidance on pandemics. This framework can be utilised by the EAC to encourage sharing of information, team training, and Capacity building in public health disaster preparedness and response. The EAC Treaty promotes standardisation of laws and regulations among its signatory nations in Article 126 (1) b. Pandemics enable coordinated public health measures, testing, treatment, and vaccination techniques in member States for uniformity.<sup>180</sup> The EAC Treaty also gives the partner States the ability to act jointly in

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<sup>178</sup> EAC Heads of State meet to discuss about COVID-19, more information on, [www.eac.int/communique/1725-communique%C3%A9-heads-of-state-consultative-meeting-of-the-east-african-community](http://www.eac.int/communique/1725-communique%C3%A9-heads-of-state-consultative-meeting-of-the-east-african-community) accessed on 10 March

<sup>179</sup> SEATINI, Socio-Economic Impact of Covid-19 on the East African Community; Implications on Industry, Trade, Health and Welfare, and Recommendations (SEATINI Uganda). Available at, <https://seatiniuganda.org/wp-content/uploads/2020/06/DISCUSSION-PAPER-ON-THE-SOCIAL-AND-ECONOMIC-IMPACT-OF-COVID.pdf> accessed on 10 May 2023.

<sup>180</sup> See EAC COVID-19 Response Plan Arusha, 27 April 2020, available at, [www.eac.int/component/documentmanager/?task=download.document&file=bWFpbl9kb2N1bWVudHNfcGRmX0VDbnRuUXFrbl090ZWVYaFh2THdTVkRNRUFDIENPVkIEIC0xOSBSRVNQOT05TRSBQTEFO&counter=648](http://www.eac.int/component/documentmanager/?task=download.document&file=bWFpbl9kb2N1bWVudHNfcGRmX0VDbnRuUXFrbl090ZWVYaFh2THdTVkRNRUFDIENPVkIEIC0xOSBSRVNQOT05TRSBQTEFO&counter=648) accessed on 10 May 2023.

times of emergency and crisis. The EAC Treaty also values and acknowledges cooperation with other regional and global bodies, for instance in its Article 3 (g) and 130. The EAC can collaborate with international partners like WHO and Africa CDC to secure technical expertise, funding, and resources for public health protection during pandemics. By utilising its regional platform, the EAC can help member States better coordinate their efforts and mobilise resources to respond to public health emergencies.

It is noted, therefore, that the Treaty for the Establishment of the East African Community prioritises regional economic integration but also addresses human rights and public health protection during pandemics. It contributes to a coordinated and effective regional response to public health challenges, including pandemics, through health cooperation, human rights protection, policy harmonisation, regional health infrastructure development, and emergency response mechanisms.

#### **2.4.5 The Dar-Es-Salaam Declaration on Peace, Security, Democracy and Development in the Great Lakes Region, 2004**

This Declaration in the Great Lakes Region was adopted in 2004. It aimed at promoting peace, security, democracy, and development in the Great Lakes Region of Africa.<sup>181</sup> The Declaration may be important for protecting public health during pandemics even though it does not specifically mention public health or pandemics. The Dar-Es-Salaam Declaration places a strong emphasis on peace and security in the Great Lakes region in Articles 17-27. Pandemics can exacerbate existing conflicts and also create new ones. Maintaining peace and security is essential for a successful public health response during pandemics. Governments and health authorities can collaborate on public health initiatives, provide essential healthcare services, and coordinate stable efforts.

The Declaration further acknowledges the value of regional coordination and cooperation for stability, safety, and growth in Article 13. Its guidelines on regional cooperation can,

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<sup>181</sup> History of the Dar-Es-Salaam Declaration, available at, [https://icglr.org/ova\\_doc/dar-es-salaam-declaration-on-peace-security-democracy-and-development-in-the-great-lakes-region/](https://icglr.org/ova_doc/dar-es-salaam-declaration-on-peace-security-democracy-and-development-in-the-great-lakes-region/) accessed on 10 March 2023.

therefore, be expanded to cover collaboration on issues related to public health, since pandemics do not respect national boundaries. Regional cooperation facilitates cross-border disease surveillance, control, resource exchange, and expertise exchange in disease surveillance and control. This could improve how well the Great Lakes region responds to a pandemic. Article 27 of the Dar-Es-Salaam Declaration also emphasises the significance of socioeconomic development for peace and prosperity. For successful public health protection during pandemics, addressing the socio-economic implications is essential. Development initiatives improve healthcare access, system Capacity, and prepare for future health issues.

The Declaration's emphasis on development can help address the fundamental factors influencing health and foster long-term public health resilience. Article 47 of the Declaration emphasizes cooperation in scientific research, especially health, for promoting development. During pandemics, this aspect is particularly important, as strong health systems are critical for effective pandemic response and control. By cooperating, member States can take use of the Declaration's provisions to improve the region's ability to respond to pandemics, recover from them, and promote long-term stability and growth.

The Dar-Es-Salaam Declaration, although, is primarily concerned with peace, security, democracy, and development, it is also concerned with human rights and public health during pandemics. It indirectly contributes to the protection of human rights and the improvement of public health outcomes in the Great Lakes Region; by emphasising human rights, addressing vulnerabilities, promoting regional collaboration, and recognising the importance of democratic governance and socioeconomic development.

#### **2.4.6 Agreement Establishing the Intergovernmental Authority for Development (IGAD), 1986**

The Intergovernmental Authority on Development (IGAD) is a regional organization in Africa aimed at promoting cooperation and integration among its member States. It is

regulated by the Agreement establishing the IGAD.<sup>182</sup> The primary focus of IGAD is on issues, such as, peace and security, sustainable development, and economic cooperation. These issues have a relevance to public health protection during pandemics in several ways. For instance, the IGAD can play a role in coordinating health responses and efforts among its member States during pandemics. To address issues with public health, it includes coordinating cooperative projects and exchanging information, resources and best practises. IGAD may also promote regional collaboration in accordance with Article 7 in areas like disease surveillance, early warning systems, and response plans. By coordinating efforts, the region as a whole can respond uniformly and help stop the spread of diseases. In the event of pandemics, IGAD can also assist its member nations in resource mobilisation.<sup>183</sup> This includes developing global partnerships, gaining access to financing sources, and managing donor support. It can also push for more funding from international organisations and donor nations in order to enhance health systems and effectively combat pandemics.

Article 13A provides for areas of cooperation by the member States. IGAD can use this broad aspect to help its member States improve their Capability for pandemic preparedness and response. This can involve training programs and workshops on topics such as disease surveillance, laboratory diagnostics, infection prevention and control, and vaccine distribution among others.<sup>184</sup> IGAD has indeed been instrumental in the region's response to pandemics like the COVID-19 pandemic in West Africa.<sup>185</sup> During the COVID-19 pandemic for instance, the 5th European Union-IGAD played a number of roles in improving public health in the IGAD region. It included delivering vital medical supplies,

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<sup>182</sup> History of the IGAD, available at, <https://au.int/en/recs/igad> accessed on 10 March 2023.

<sup>183</sup> For instance, IGAD was very actively mobilizing resources during Ebola outbreak in Uganda, more information at, <https://igad.int/igad-is-cognisant-of-the-imminent-risk-posed-by-the-ongoing-ebola-outbreak/> accessed on 10 March 2023.

<sup>184</sup> See, IGAD Sharing information about COVID-19, available at, <https://igad.int/covid-19/> accessed on 10 May 2023.

<sup>185</sup> IGAD is Cognisant of the Imminent Risk Posed by the Ongoing Ebola Outbreak in Uganda, available at, <https://igad.int/igad-is-cognisant-of-the-imminent-risk-posed-by-the-ongoing-ebola-outbreak/> accessed on 10 March 2023.

expanding access to water, enhancing health and sanitation services, and reducing gender-based violence in over member countries.<sup>186</sup>

The Agreement establishing the IGAD further adds that States must always act in accordance with the 14 objectives of the Agreement. These include protecting life, providing aid to those in need, and lessening suffering in their interactions with one another and at the national level. It adds that in the case of man-made or other natural disasters, States shall facilitate the transportation of food and emergency supplies to achieve this goal.<sup>187</sup> The IGAD can therefore coordinate resource mobilisation and reach the people most affected by pandemics and reduce the suffering caused by public health emergencies. IGAD can therefore contribute to a more effective and well-coordinated response to upcoming pandemics by strengthening the Capability of member States. The value of IGAD in pandemics is based in its Capacity to promote regional collaboration, coordination, and resource mobilization to collectively address public health issues. IGAD can improve readiness, response, and recovery activities by utilising its platform and regional networks, helping to safeguard public health in its member States.

IGAD's primary focus is on regional economic cooperation and prosperity. Its mission, aims, and initiatives, however, are important for human rights and public health during pandemics. It promotes peace, addresses migration concerns, encourages regional health cooperation, and stimulates collaboration and advocacy in East Africa, with the goal of preserving human rights and improving public health.

## **2.5 Conclusion**

In Uganda, assessing the national, regional and international human rights framework in the context of pandemics highlights the need to strike a delicate balance between safeguarding public health and preserving fundamental rights. International frameworks such as the UDHR and declarations do not explicitly address pandemics, but, they

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<sup>186</sup> IGAD commenced the 5<sup>th</sup> EU-IGAD COVID-19 Response Project Steering Committee in Djibouti commenced on 4 July 2022. For more information, see, <https://igad.int/eu-igad-covid-19-response-continues-its-support-to-vulnerable-communities-across-the-igad-region/> accessed on 10 March 2023.

<sup>187</sup> Ibid.

indirectly contribute to protecting human rights and improving public health outcomes. This is through addressing vulnerabilities, fostering regional collaboration and socioeconomic development. Regional organizations like IGAD and the EAC also recognize the importance of human rights and public health alongside economic integration. Uganda, as a party to international human rights treaties, has a solid foundation for protecting individual liberties during health crises. There has, however, been concerns about the proportionality and enforcement of public health measures, particularly during the COVID-19 pandemic. To address this challenge, Uganda must ensure that measures taken are proportionate, necessary, non-discriminatory, and temporary. Continued oversight, transparency, and engagement with civil society are essential to uphold human rights while effectively managing public health emergencies.

## CHAPTER THREE

### NON-LEGAL MEASURES ADOPTED BY GOVERNMENT IN FAVOUR OF PUBLIC HEALTH PROTECTION DURING COVID-19 PERIOD IN UGANDA

#### 3.0 Introduction

Uganda adopted and implemented non-legal measures to address the challenges posed by COVID-19 and protect public health. COVID-19 culminated into a national disaster, requiring government's intervention. The 1995 Ugandan Constitution states in the Sixth Schedule that the main obligation for disaster preparedness and management rests with the State. Objective 23 of the Constitution requires the State to establish effective machinery for addressing natural disasters and disruptions to normal life.<sup>188</sup> Uganda implemented a combination of legal and non-legal measures during COVID-19, spanning across social, cultural, political, and economic spheres.<sup>189</sup> Non-legal initiatives were crucial in raising public awareness, promoting preventive measures, and fostering community cooperation. Uganda effectively responded to the crisis by combining non-legal approaches with legal measures, minimizing public health impact, and paving the way for a resilient recovery.<sup>190</sup> This chapter highlights the importance of non-legal measures in supplementing traditional legal approaches, while addressing COVID-19 challenges.

#### 3.1 Political Measures

##### 3.1.1 Leadership and Coordination

During the COVID-19 pandemic, leadership and coordination played a crucial role in providing strategic direction and mobilizing resources for the epidemic response. The National Policy for Disaster Preparedness and Management (2011) categorizes pandemics

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<sup>188</sup> see, *Nyakaana v National Environment Management Authority and Ors* (Constitutional Appeal No. 5 of 2011) [2015] UGSC 14 (20 August 2015), where justice Katureebe, referring to the National Objectives and Directive Principles of State Policy under the Constitution, he stated that; "to my mind, this means that these objectives have gone beyond merely guiding us in interpreting the Constitution, but may in themselves be justiciable.

<sup>189</sup> David Lagoro Kitara et al., 'COVID-19 pandemic, Uganda's story' (2020) Vol 35 issue 2:51 Pan African Medical Journal, available at, <https://doi.org/10.11604/pamj.supp.2020.35.2.23433> accessed on 20 July 2023.

<sup>190</sup> See, Ahmed M. Sarki, Alex Ezech, et. al., 'PhD Uganda as a Role Model for Pandemic Containment in Africa' (American Public Health Association, 2020) Vol. 110 American Journal of Public Health, 1800-1802, available at, <https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2020.305948> accessed on 8 July 2023.

and epidemics as disaster incidents; and establishes an effective framework for integrating disaster preparedness and management into development processes.<sup>191</sup> This framework encompasses planning, saving lives, protecting livelihoods, and preserving the country's resources. To fulfil the Disaster Preparedness and Management Policy of 2011 during COVID-19 period, Uganda developed the COVID-19 Response Structure.<sup>192</sup> The structure included various institutions and individuals responsible for specific tasks. At the forefront was the President, who served as the main focal point and executor of the Response Structure. The President provided regular updates to the public, issued directives, and made policy decisions to address the pandemic.<sup>193</sup>

The MOH played a significant role in developing and implementing health policies, organizing and overseeing the medical response. It also ensured the continuity of essential health services amidst the pandemic.<sup>194</sup> Within the COVID-19 Response Structure, the Scientific Advisory Committee also played a crucial role. Comprising scientists, researchers, and public health specialists, the Committee reviewed and analyzed scientific data, research, and emerging evidence related to COVID-19. Their professional recommendations assisted the government in making informed decisions.<sup>195</sup>

In leadership and coordination, COVID-19 Task Forces were also established to enhance coordination and leadership at various levels.<sup>196</sup> This included the COVID-19 District Task Force and the inter-Agency Task Force, Village Task Forces among others. These task

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<sup>191</sup> See, Department of Disaster Preparedness and Management Office of the Prime Minister, The National Policy for Disaster Preparedness and Management (2011) 11.

<sup>192</sup> See, Ministry of Health, COVID-19 Preparedness and Response Plan, (March 2020 – June 2021) 11, available at [https://covid19.gou.go.ug/uploads/document\\_repository/authors/ministry\\_of\\_health/document/COVID19\\_PreparednessResponse\\_Plan\\_Signed\\_Vers\\_July2020.pdf](https://covid19.gou.go.ug/uploads/document_repository/authors/ministry_of_health/document/COVID19_PreparednessResponse_Plan_Signed_Vers_July2020.pdf) accessed on 8 July 2023.

<sup>193</sup> See, President's Address on COVID-19 & New Guidelines, available at, [www.statehouse.go.ug/media/news/2020/03/25/presidents-address-covid19-new-guidelines](http://www.statehouse.go.ug/media/news/2020/03/25/presidents-address-covid19-new-guidelines) accessed on 8 July 2023.

<sup>194</sup> Ministry of Health, Guidance on Continuity of Essential Health Services during the COVID-19 outbreak (April 2020). Available at, [https://tciurbanhealth.org/wp-content/uploads/2020/05/MOH-GUIDANCE-ON-BUSINESS-CONTINUITY-000.docx3\\_.pdf](https://tciurbanhealth.org/wp-content/uploads/2020/05/MOH-GUIDANCE-ON-BUSINESS-CONTINUITY-000.docx3_.pdf) accessed on 8 July 2023.

<sup>195</sup> See, Badru Bukenya, Paul Mukwaya and Tonny Oyana, Politics and Covid-19 in Kampala (May 2022 Briefing Paper) 19.

<sup>196</sup> See for instance sub County COVID 19 Task Forces, available at, COVID-19 task forces, leaders remain vigilant as the virus spreads to communities, at, [www.unicef.org/uganda/stories/covid-19-task-forces-leaders-remain-vigilant-virus-spreads-communities](http://www.unicef.org/uganda/stories/covid-19-task-forces-leaders-remain-vigilant-virus-spreads-communities) accessed on 9 July 2023.



forces were responsible for providing direction, monitoring the situation, and ensuring efficient coordination among the numerous parties involved in the pandemic response.<sup>197</sup> The Central government was the leader for overall coordination and communication initiatives. In its leadership role, the Central Government identified, appointed, and led the coordinating body for pandemic preparedness and response. It enacted or modified legislation and policies necessary to sustain and optimise pandemic preparedness, Capacity development, and response efforts across all sectors. Local Governments featured prominently in the overall national response and were facilitated by the Central government

## **3.2 ECONOMIC MEASURES**

### **3.2.1 Economic Stimulus Package**

The Government of Uganda provided 2.6 trillion Uganda shillings in direct subsidies to business owners, which came to be known as the "economic stimulus package."<sup>198</sup> The money from the economic stimulus package was given by the Bank of Uganda to three institutions, the Uganda Development Bank (UDB), the Uganda Development Corporation (UDC), and the Microfinance Support Centre. It was to be used as loans and grants to aid MSMEs that were severely impacted by the pandemic.<sup>199</sup>

The COVID-19 stimulus package had multiple objectives to address the impact of the pandemic.<sup>200</sup> For instance, the package sought to support COVID-19 healthcare expenses while at the same time recovering household incomes and preserving jobs.<sup>201</sup> The plan called for enhancing agricultural inputs through programmes like NAADS and the e-

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<sup>197</sup> See, Badru Bukenya, Paul Mukwaya and Tonny Oyana, *Politics and Covid-19 in Kampala* (May 2022 Briefing Paper) 19.

<sup>198</sup> An economic stimulus package is an attempt by the government to boost economic growth and lead the economy out of a recession or economic slowdown, more information available at, [www.economicshelp.org/blog/glossary/economics-stimulus-package/](http://www.economicshelp.org/blog/glossary/economics-stimulus-package/) accessed on 20 May 2023.

<sup>199</sup> Analysis of the Performance of the Post Covid-19 Economic Stimulus Package in Uganda, available at, <https://seatiniuganda.org/download/analysis-of-the-post-covid-19-economic-stimulus-packages-in-uganda/> accessed on 20 May 2023.

<sup>200</sup> An economic stimulus package is an attempt by the government to boost economic growth and lead the economy out of a recession or economic slowdown, more information available at, [www.economicshelp.org/blog/glossary/economics-stimulus-package/](http://www.economicshelp.org/blog/glossary/economics-stimulus-package/) accessed on 20 May 2023.

<sup>201</sup> See, Analysis of the Performance of the Post Covid-19 Economic Stimulus Package in Uganda, available at, <https://seatiniuganda.org/download/analysis-of-the-post-covid-19-economic-stimulus-packages-in-uganda/> accessed on 20 May 2023.

Voucher Scheme.<sup>202</sup> In response to both the coronavirus outbreak and natural calamities, emergency social protection was put in place.<sup>203</sup> In the 15 pilot districts, the Social Assistance Grant for the Elderly (SAGE) was made available to people aged 65 and older as well as those 80 years of age and older.<sup>204</sup> Credit was made accessible through SACCOs and microfinance institutions to help micro and small-scale businesses in order to boost economic activity.<sup>205</sup> The Uganda Development Bank (UDB) encouraged expanded access to credit by providing low-interest financing to manufacturing, agribusiness, and other private sector businesses.<sup>206</sup>

The stimulus package also concentrated on hastening the payment of arrears due by the government to businesses in the private sector and quickening the creation of industrial and commercial parks.<sup>207</sup> Tax relief measures were put in place to lessen the burden on businesses.<sup>208</sup> For corporations and SMEs in the hardest-hit industries, such as tourism, manufacturing, horticulture, and floriculture, payment of PAYE, Corporation Income tax, and presumptive tax was delayed, and interest on tax arrears was waived.<sup>209</sup>

### **3.2.2 Support for Small and Medium-sized Enterprises (SMEs)**

SMEs are essential to Uganda's economy, and during the COVID-19 pandemic, this sector received specific support from the government. Supporting SMEs is critical for overall

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<sup>202</sup> See, Analysis of the Performance of the Post Covid-19 Economic Stimulus Package in Uganda, available at, <https://seatiniuganda.org/download/analysis-of-the-post-covid-19-economic-stimulus-packages-in-uganda/> accessed on 20 May 2023.

<sup>203</sup> Uganda Country Case Study Equity in COVID-19 Mitigation and Policy Responses (University Of Southern California, 2021) Global Health Human Rights 14, available at, <https://amref.org/download/uganda-country-case-study-equity-in-covid-19-mitigation-and-policy-responses/> accessed on 25 May 2023.

<sup>204</sup> See, Analysis of the Performance of the Post Covid-19 Economic Stimulus Package in Uganda, available at, <https://seatiniuganda.org/download/analysis-of-the-post-covid-19-economic-stimulus-packages-in-uganda/> accessed on 20 May 2023.

<sup>205</sup> United Nations Agenda (2020) 'Leaving No One Behind: From the COVID-19 Response to Recovery and Resilience Building. Analyses of the Socioeconomic Impact of COVID-19 in Uganda'.

<sup>206</sup> See, UDB Facilitates Business Resilience and Recovery Post COVID-19, available at, [https://budget.finance.go.ug/sites/default/files/National%20Budget%20docs/UDB%20Public%20Statement\\_1.pdf](https://budget.finance.go.ug/sites/default/files/National%20Budget%20docs/UDB%20Public%20Statement_1.pdf) accessed on 23 May 2023.

<sup>207</sup> Analysis of the Performance of the Post Covid-19 (n. 204).

<sup>208</sup> Amref Health Africa Program on Global Health and Human Rights, Institute on Inequalities in Global Health, University of Southern California, Equity in COVID-19 mitigation and policy responses: *Uganda Country Case Study* (August 2021) 14.

<sup>209</sup> Analysis of the Performance of the Post Covid-19 (n. 204).

economic growth and employment creation.<sup>210</sup> For SMEs to survive and develop during COVID-19 period, access to credit and financing was essential. Government's help in this area was in form of loan guarantees, subsidised interest rates, or unique credit facilities designed specifically for SMEs.<sup>211</sup> These measures lessened SMEs' financial burdens by assisting them in maintaining their operations, keeping their employees, and making investments in essential assets. Particularly during COVID times, SMEs frequently needed assistance and support in managing the challenges of running a business. Government provided access to expert advice, mentoring programmes, and training seminars.<sup>212</sup>

The development of these strategies, as well as the adaption of recommended business models, such as digital innovation, to the changing economic climate, aided SMEs in making well-informed decisions. Government provided Capacity-building initiatives, workshops, and educational materials to improve business management functions, like financial management and digital skills.<sup>213</sup> The government gave SMEs the information and abilities they needed to meet the difficulties posed by the epidemic and position themselves for success in the future.

### **3.2.3 Agriculture Sector Support**

The government of Uganda developed policies to promote farmers and guarantee food security during COVID 19. Agriculture is a crucial industry in Uganda, however, it experienced swings during the first quarter (March to May) of the pandemic. It had the highest decrease in output because the majority of the economy was shut down.<sup>214</sup>

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<sup>210</sup> See, Hamiza Olema, The Impact of Coronavirus Lockdown on Small Scale Businesses in Arua Municipality, Uganda. (2020, Makerere University Business School) International Journal of Science and Research, available at, [www.researchgate.net/publication/344247799\\_The\\_Impact\\_of\\_Coronavirus\\_Lockdown\\_on\\_Small\\_Scale\\_Businesses\\_in\\_Arua\\_Municipality\\_Uganda](http://www.researchgate.net/publication/344247799_The_Impact_of_Coronavirus_Lockdown_on_Small_Scale_Businesses_in_Arua_Municipality_Uganda) accessed on 7 July 2023.

<sup>211</sup> Ibrahim M. Okumu, Susan N. Kavuma, et. al., 'Uganda and COVID-19: Macroeconomic Policy Responses to the Pandemic (May 2023). Available at, <https://reliefweb.int/report/uganda/uganda-and-covid-19-macroeconomic-policy-responses-pandemic> accessed on 7 July 2023.

<sup>212</sup> See, COVID-19 hit SMEs to Get Lower Interest Rates after Training, available at, [www.newvision.co.ug/category/business/covid-19-hit-smes-to-get-lower-interest-rates-94039](http://www.newvision.co.ug/category/business/covid-19-hit-smes-to-get-lower-interest-rates-94039) accessed on 7 July 2023.

<sup>213</sup> See, Covid -19 Investor Support Portal, available at, [www.ugandainvest.go.ug/covid19/](http://www.ugandainvest.go.ug/covid19/) accessed on 7 July 2023.

<sup>214</sup> See, How Agriculture Sector Survived Covid-19 to Remain Strong among Top Performers, Available at, [www.independent.co.ug/how-agriculture-sector-survived-covid-19-to-remain-strong-among-top-performers/](http://www.independent.co.ug/how-agriculture-sector-survived-covid-19-to-remain-strong-among-top-performers/) accessed on 7 July 2023.

Primarily, transportation restrictions hindered farmers' ability to get to work as well as the flow of goods to domestic, international, and local markets. The government, therefore, put in place mechanisms to help farmers' access markets and make connections with consumers. For instance, livestock markets were closed, however, animals were sold and purchased at their raised farms, with a maximum of ten people present.<sup>215</sup> In order to provide this support, connections were made between markets, transportation was made easier, and fair pricing for agricultural goods were guaranteed.

Ugandan government also encouraged farmers to increase productivity, recognising the agricultural industry's significance in the economy.<sup>216</sup> The government of Uganda supported the farmers through providing agricultural inputs like seeds, fertilisers, and insecticides.<sup>217</sup> It made sure farmers had access to high-quality inputs necessary for preserving agricultural productivity and boosting yields. It expanded its services to provide farmers with information on agricultural expertise, best practises, and contemporary methods.<sup>218</sup> The government increased mobile technologies, virtual platforms, and field visits to provide additional services and maintain health and safety standards during the pandemic.<sup>219</sup> Some of these mobile technologies were to market their produce online on various social media platforms.<sup>220</sup>

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<sup>215</sup> See, COVID-19 Advisory: Guidance On Delivery Of Livestock Related Services In Line With The Guidelines Issued By H.E The President, available at, [www.agriculture.go.ug/2020/03/19/covid-19-advisory-guidance-on-delivery-of-livestock-related-services-in-line-with-the-guidelines-issued-by-h-e-the-president/](http://www.agriculture.go.ug/2020/03/19/covid-19-advisory-guidance-on-delivery-of-livestock-related-services-in-line-with-the-guidelines-issued-by-h-e-the-president/) accessed on 7 July 2023.

<sup>216</sup> Ibid.

<sup>217</sup> For instance, Harvest plus Collaborating with Ugandan Government to Supply Planting Material during Covid-19 Period. Available At, Reaching Ugandan Farmers during the COVID-19 Crisis, [www.harvestplus.org/reaching-ugandan-farmers-during-the-covid-19-crisis/#:~:text=The%20Ugandan%20government%20allowed%20the,farmers'%20access%20to%20planting%20material](http://www.harvestplus.org/reaching-ugandan-farmers-during-the-covid-19-crisis/#:~:text=The%20Ugandan%20government%20allowed%20the,farmers'%20access%20to%20planting%20material). Accessed on 7 July 2023.

<sup>218</sup> See, Nutrition-related COVID-19 Advisory to Farmers and the General Public, available at, [www.agriculture.go.ug/2020/03/28/covid-19-advisory-to-farmers-from-the-minister-for-agriculture-animal-industry-and-fisheries/](http://www.agriculture.go.ug/2020/03/28/covid-19-advisory-to-farmers-from-the-minister-for-agriculture-animal-industry-and-fisheries/) accessed on 7 July 2023.

<sup>219</sup> See, Can Digital Platforms Help Mitigate Agricultural Losses From Covid In Uganda?, Available at, <https://trade4devnews.enhancedif.org/en/op-ed/can-digital-platforms-help-mitigate-agricultural-losses-covid-uganda> accessed on 7 July 2023.

<sup>220</sup> See, Marketing Your Produce during Covid-19 Crisis, Available At, [www.monitor.co.ug/uganda/magazines/farming/marketing-your-produce-during-covid-19-crisis-1884822](http://www.monitor.co.ug/uganda/magazines/farming/marketing-your-produce-during-covid-19-crisis-1884822) accessed on 7 July 2023.

These services assisted farmers in improving their farming practises, adopting new technologies, and making well-informed decisions to increase productivity. The government aimed to improve farmers' productivity, food security, and mitigate COVID-19 disruptions through agricultural inputs, extension services, and market support. These actions supported Uganda's agricultural sector's overall sustainability and resiliency.

### **3.2.4 Monetary Policy Measures**

The Bank of Uganda implemented monetary policy measures to support economic stability and supply liquidity during the COVID-19 pandemic. For instance, the benchmark interest rates were lowered by the Bank of Uganda. This was done to encourage borrowing and investment while lowering the cost of credit for consumers and enterprises. Lower interest rates boosted economic activity and spending, promoting overall economic recovery and stability.<sup>221</sup> On June 8 of 2020, the Bank of Uganda also lowered its policy rate by one percentage while announcing that Covid-19 was still having a substantial impact on the country's economy.<sup>222</sup>

The Central bank further provided liquidity support to financial institutions, to ensure the smooth functioning of the financial system. This was in form of short-term loans, adding liquidity to the system and improving banks' ability to extend credit to individuals and businesses.<sup>223</sup> All the other financial institutions in Uganda followed the Bank of Uganda's guidelines, being the Central Bank of the Country. Monetary policy measures tackled economic challenges and promoted stability by ensuring adequate liquidity in the financial

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<sup>221</sup> See, Circular to All Executives of Commercial Banks, Credit Institutions and Micro Finance Deposit-Taking Institutions May 2021, available at, [www.bou.or.ug/bou/bouwebsite/bouwebsitecontent/Supervision/Supervision-Guidelines-and-Circulars/2021/Circular-Addendum-to-Credit-Relief-Guidelines-on-3rd-Restructures.pdf](http://www.bou.or.ug/bou/bouwebsite/bouwebsitecontent/Supervision/Supervision-Guidelines-and-Circulars/2021/Circular-Addendum-to-Credit-Relief-Guidelines-on-3rd-Restructures.pdf) also see, [www.bou.or.ug/bou/bouwebsite/RelatedPages/Publications/article-v2/Credit-Relief-Measures-to-Uphold-Financial-Stability-and-Reduce-Economic-Impact-of-COVID-19](http://www.bou.or.ug/bou/bouwebsite/RelatedPages/Publications/article-v2/Credit-Relief-Measures-to-Uphold-Financial-Stability-and-Reduce-Economic-Impact-of-COVID-19) all accessed on 7 July 2023.

<sup>222</sup> See, Bank of Uganda Cuts Rate and Warns of Lasting Disruption, Available at, [www.centralbanking.com/central-banks/monetary-policy/monetary-policy-decisions/7558486/bank-of-uganda-cuts-rate-and-warns-of-lasting-disruption](http://www.centralbanking.com/central-banks/monetary-policy/monetary-policy-decisions/7558486/bank-of-uganda-cuts-rate-and-warns-of-lasting-disruption) accessed on 7 July 2023.

<sup>223</sup> Tuyishimire Bertrand, *Fiscal Measures That Could Be Undertaken By Bank of Uganda During And After The Covid-19 Pandemic* (April 2020).

system. Banks intended to support businesses, households, and the overall economy during times of crisis by implementing such measures.

### **3.2.5 Digital Transformation and E-commerce**

The COVID-19 pandemic brought to light how important digital technology and e-commerce are, for enabling economic activity and promoting connectivity. COVID-19 highlighted global governments' need for digital transformation programs to benefit citizens and businesses.<sup>224</sup> During the pandemic, the government of Uganda, enhanced internet connectivity, ensured dependable, affordable services for digital inclusion and facilitating online commercial activity.<sup>225</sup>

The government also made investments in infrastructure development to improve internet connectivity, particularly in rural areas, and reduce the digital divide.<sup>226</sup> Building and enhancing digital infrastructure, such as data centres, broadband networks, and digital payment systems, can lay a solid foundation for digital transformation. These programmes promoted digital communication, secure online transactions, and e-commerce. During the COVID19 lockdown, more digital tools were used, including mobile money, online commerce, online learning, and disease surveillance and monitoring.<sup>227</sup> The government continued its initiatives to promote digital literacy and provided businesses and individuals with the opportunity to receive training.<sup>228</sup> People and companies used technology more

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<sup>224</sup> See, Connecting Informal Market Vendors to E-Commerce to Reach Consumers in the Wake of Covid-19 and Beyond, available at, [www.undp.org/uganda/blog/connecting-informal-market-vendors-e-commerce-reach-consumers-wake-covid-19-and-beyond](http://www.undp.org/uganda/blog/connecting-informal-market-vendors-e-commerce-reach-consumers-wake-covid-19-and-beyond) accessed on 8 July 2023.

<sup>225</sup> See, Government of Uganda Releases Inclusive Digital Economy Scorecard (IDES) Report (Kampala, Uganda 27, 2021) available at, [www.uncdf.org/article/7187/government-of-uganda-releases-inclusive-digital-economy-scorecard-ides-report-2021](http://www.uncdf.org/article/7187/government-of-uganda-releases-inclusive-digital-economy-scorecard-ides-report-2021) accessed on 8 July 2023.

<sup>226</sup> See, Government Partners with Huawei to Achieve Digital Transformation, Available at, [www.newvision.co.ug/category/news/govt-partners-with-huawei-to-achieve-digital-157125](http://www.newvision.co.ug/category/news/govt-partners-with-huawei-to-achieve-digital-157125) accessed on 8 July 2023.

<sup>227</sup> See, Tony Thompson, "Digital Transformation in Uganda: A Path to Recover" (JULY 08, 2020, Nasikiliza) World Bank Blogs, Available at, <https://blogs.worldbank.org/nasikiliza/digital-transformation-uganda-path-recovery> accessed on 7 July 2023.

<sup>228</sup> See, Digital Solutions for Faster Recovery from COVID-19 Crisis in Uganda, available at, [www.aa.com.tr/en/africa/digital-solutions-for-faster-recovery-from-covid-19-crisis-in-uganda/2342025](http://www.aa.com.tr/en/africa/digital-solutions-for-faster-recovery-from-covid-19-crisis-in-uganda/2342025) accessed on 8 July 2023.

effectively, accessed online markets, and conducted e-commerce activities.<sup>229</sup> Schools and other educational institutions also appreciated the internet as it was a convenient mode of studying remotely.<sup>230</sup> The government was essential in setting up the supportive regulatory framework for digital and e-commerce activities. This involved creating precise legal frameworks, data protection laws, consumer safeguards, and e-commerce rules that promoted security, trust, and fair competition in the online market.<sup>231</sup>

The government promoted digital transformation to harness e-commerce and digital technologies for business support, economic growth, and pandemic resilience. These measures helped to long-term economic growth by building a more technologically inclusive and connected society.

### **3.3 Social-Cultural Measures**

#### **3.3.1 Public Health Awareness**

Uganda implemented a number of social measures during the COVID-19 epidemic to lessen the effect of the virus on its citizens. Public health education was among them. Public health initiatives were initiated by the government of Uganda to spread knowledge of COVID-19 prevention and control methods.<sup>232</sup> The MOH emerged as the main authority for COVID-19 information. They created a website specifically for COVID-19 and used their social media channels to communicate updates, instructions, and significant announcements.<sup>233</sup> This involved educating the public on the value of hand cleanliness,

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<sup>229</sup> See, How Ugandan Businesses Are Embracing E-Commerce, Available at, [www.independent.co.ug/how-ugandan-businesses-are-embracing-e-commerce/](http://www.independent.co.ug/how-ugandan-businesses-are-embracing-e-commerce/) accessed on 8 July 2023.

<sup>230</sup> See, COVID-19 Forced Ugandan Teachers to Go Digital, Teaching Them Important Lessons, available at, [www.globalissues.org/news/2022/09/07/31807](http://www.globalissues.org/news/2022/09/07/31807) accessed on 8 July 2023.

<sup>231</sup> COVID-19 and Data Rights in Uganda (Hewlett Foundation 2022), available at, <https://cipesa.org/wp-content/files/documents/COVID-19-and-Data-Rights-in-Uganda-Report.pdf> accessed on 8 July 2023.

<sup>232</sup> Cristin Alexis Fergusl, Elizabeth Storer et al. 'COVID-19 Information Dissemination in Uganda: Perspectives From Sub-National Health Workers' (2021). BMC Health Services Research, available at, [www.researchgate.net/publication/355134499\\_COVID-19\\_information\\_dissemination\\_in\\_Uganda\\_Perspectives\\_from\\_sub-national\\_health\\_workers](http://www.researchgate.net/publication/355134499_COVID-19_information_dissemination_in_Uganda_Perspectives_from_sub-national_health_workers) Accessed 24 May, 2023.

<sup>233</sup> See, twitter account for MOH, available at, @MinofHealthUG. Joined November 2014. [https://twitter.com/MinofHealthUG?ref\\_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor](https://twitter.com/MinofHealthUG?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor) accessed on 10 May 2023.



mask use, social distance, and other preventive measures through a variety of media.<sup>234</sup> The ability to reach a wide audience and connect to many people made social media, print media, radio, television, and other media outlets powerful communication tools. Government engagement with various people and ages through a variety of channels increased effective communication and comprehension.<sup>235</sup> The government wanted to inform the public about preventative measures and promote their adoption through advertisements.

Public health campaigns addressed misunderstandings, responded to inquiries, and provided factual information to combat COVID-19 rumors. The government also supported evidence-based practises and recommendations from health authorities, which helped the population establish trust and confidence.

### **3.3.2 Community Engagement**

Uganda's response to COVID-19 was greatly aided by community engagement.<sup>236</sup> Civil societies, community groups, religious leaders, and public figures actively educated the public, advocated preventive measures, and urged health regulations compliance. Religious leaders have a large following and serve as an excellent avenue of communication for key government instructions and programmes affecting the citizenry.

During the pandemic lockdown, religious leaders sent positive messages to their followers while adhering to government directives to close all places of worship. They also encouraged their followers to continue praying and to avoid moving in public where they could contract the disease.<sup>237</sup> They were key collaborators in public health efforts because

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<sup>234</sup> Wilson W. Muhwezi, Jonas Mbabazi, et.al. 'The Performance of the COVID-19 District Task Forces in Uganda: Understanding the Dynamics and Functionality' (ACODE, Kampala 2020), Series No.101, Policy Research Paper 49.

<sup>235</sup> Ibid. 64.

<sup>236</sup> See, the Uganda Red Cross, The National Community Engagement Strategy for Covid-19 Response: Ministry Of Health And Technical Inter-Sectoral Committee Covid-19 Community Engagement Strategy Sub-Committee (30th September, 2020), available at, [www.redcrossug.org/images/forms/NATIONAL-COVID-19-COMMUNITY-ENGAGEMENT-STRATEGY-300920-V3.pdf](http://www.redcrossug.org/images/forms/NATIONAL-COVID-19-COMMUNITY-ENGAGEMENT-STRATEGY-300920-V3.pdf) Accessed 8 July 2023.

<sup>237</sup> See, Religions Play a Crucial Role during Uganda's Lockdown, Available at, <https://blogs.lse.ac.uk/africaatlse/2020/04/17/what-role-religions-play-uganda-lockdown-covid-19/> Accessed 9 July 2023.



they could effectively communicate with a sizable audience through sermons, religious gatherings, and neighbourhood events. Local information dissemination and assistance were also greatly aided by non-governmental organisations (NGOs), and community-based organisations (CBOs) because of their strong community relationships.<sup>238</sup> Groups with strong community relationships supported precautionary measures, dispersed supplies, and assisted vulnerable populations, ensured safety. They could successfully communicate public health messages, respond to complaints, and promote adherence to health norms. For instance, Advocates for the People, a CBO, on behalf of the community; was instrumental in determining whether the National Drug Authority had properly granted permission to Jena Herbals Uganda Ltd to produce, sell and distribute Covidex drug during the COVID-19 pandemic.<sup>239</sup> Their participation assisted in organising communities and winning their cooperation.

These forums provided chances for the locals to express their worries, pose questions, and get accurate information from health professionals. Public figures significantly impacted COVID-19 by spreading information, encouraging community participation, and volunteering for food delivery, among other things.<sup>240</sup> The parties' collaboration enhanced knowledge and fostered community responsibility for following health regulations and preventing virus spread through collective efforts.

### **3.3.3 Inclusiveness**

The pandemic in Uganda severely affected disadvantaged populations, such as, low-income earners, elderly people, refugees, people with disabilities, and other marginalised

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<sup>238</sup> Kabwama N. Steven, Kiwanuka N. Suzan et al., 'Private Sector Engagement in the COVID-19 Response: Experiences and Lessons from the Democratic Republic Of Congo, Nigeria, Senegal and Uganda.' (2022) 18, 60 *Global and Health* 4/10.

<sup>239</sup> *Advocates for People (AFP) & Musa Muhammad Kigongo v National Drug Authority & Jena Herbals Uganda Ltd* Miscellaneous Application No 209 of 2021; also, in *Center For Food and Adequate Living Rights [CEFROHT] v Attorney General* (Miscellaneous Cause No. 75 of 2020) this Organisation brought in light government's failure and omission to issue guidance on the access to and availability of food during the corona virus (COVID19)

<sup>240</sup> For instance the Corona Virus song by Bobi Wine, a Public Figure and a Musician, see, [www.youtube.com/watch?v=PUHrck2g7Ic](https://www.youtube.com/watch?v=PUHrck2g7Ic) accessed on 9 July 2023.

groups.<sup>241</sup> In this study, inclusion was seen through the view of vulnerable communities. Inclusion was critical in the COVID-19 response to guarantee that resources reached the most vulnerable, not the most powerful. Efforts were, therefore, made to provide food assistance, cash transfers, and social assistance to financially struggling individuals during the epidemic.<sup>242</sup> Programmes for providing food assistance were essential in tackling immediate food insecurity. This support was very helpful for people who had lost their jobs or had restricted access to food sources. Individuals and families in need received immediate financial support in the form of cash transfers. These transfers assisted individuals in meeting their basic requirements, paying for necessary services, and adjusting to the pandemic's economic effects. Cash transfers gave vulnerable groups more flexibility to meet their individual needs.<sup>243</sup>

During the total lockdown, when transport became difficult, pregnant mothers in various regions were given special priority for easy access to health-care services.<sup>244</sup> Other types of social assistance included food aid, financial transfers, healthcare, mental health, housing, and educational support. The government made an effort to make sure that these assistance programmes were fair, well-targeted, and got to the people who needed them the most. Vulnerable groups were identified through collaboration with local communities, civil society, and the support was then tailored to their needs. Uganda worked hard to lessen the socioeconomic effects of the pandemic on vulnerable groups and to promote social inclusion by putting such measures in place. This ultimately contributed to the well-being and resilience of the nation as a whole.

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<sup>241</sup> Nuwematsiko Rebecca, Nabiryo, Maxencia. et al., 'Unintended Socio-Economic and Health Consequences of COVID-19 Among Slum Dwellers in Kampala, Uganda' (2022) 22, 88 BMC Public Health. Available at, <https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-021-12453-6> accessed on 9 July 2023

<sup>242</sup> Development Initiatives, 'Targeting Covid-19 Relief in Uganda: The Role of Data, Statistics and Evidence' (July 2021) 3.

<sup>243</sup> See, HI Helping Vulnerable People Navigate Covid-19 in Uganda, available at, [www.hi.org/en/news/hi-helping-vulnerable-people-navigate-covid-19](http://www.hi.org/en/news/hi-helping-vulnerable-people-navigate-covid-19) accessed on 9 July 2023.

<sup>244</sup> Joint Advocacy For Sexual Reproductive Health And Rights In Uganda, *Sexual Reproductive Health and Covid-19 In Uganda: Avoiding The Pitfalls of Unintended Consequences For Maternal, Newborn, Child, Adolescent, And Nutrition Health In The National Response* (Technical Brief Series).

### 3.3.4 Mental Health Support

Globally, the COVID-19 pandemic had a serious effect on people's mental health.<sup>245</sup> Support for mental health during this crucial time was more crucial than ever for addressing people's psychological and emotional wellbeing. The government, healthcare organisations, and mental health specialists made efforts to offer easily accessible resources and information about mental health.<sup>246</sup> This included the websites, hotlines, and internet platforms that provided direction, self-help resources, and details on how to cope up with the pandemic. These tools were created to aid people in understanding and managing their mental health issues.

Several mental health experts switched to offering online counselling services in order to guarantee continuity of care.<sup>247</sup> Online counselling and therapy sessions enabled individuals to receive help during lockdowns, ensuring accessibility and support. People experiencing mental health crises received critical rapid assistance via helplines and crisis intervention agencies. Many workplaces understood how crucial it was to help their workers' mental health at during COVID period.<sup>248</sup> They put into place programmes like, employee assistance programs, mental health services, and flexible work schedules to improve wellbeing and address workplace stressors.

The government and organisations also started public education and awareness efforts to combat the stigma associated with being a COVID-19 victim.<sup>249</sup> These campaigns aimed

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<sup>245</sup> Harriet Akello, Breandan Kennelly and John Cullinan, (PREPRINT, April 2022) Research Gate 'Relationship between Mental Health and Health Work Functioning during the Covid-19 Pandemic in Uganda' available at, <https://doi.org/10.21203/rs.3.rs-1496609/v1> accessed on 9 July 2023.

<sup>246</sup> Nelson Ssewante, Nantaayi Brandy, et. al., 'Psychological Distress and Access to Mental Health Services Among Undergraduate Students During the COVID-19 Lockdown in Uganda' (2022), available at, [www.researchgate.net/publication/361024866\\_Psychological\\_Distress\\_and\\_Access\\_to\\_Mental\\_Health\\_Services\\_Among\\_Undergraduate\\_Students\\_During\\_the\\_COVID-19\\_Lockdown\\_in\\_Uganda\\_Front](https://www.researchgate.net/publication/361024866_Psychological_Distress_and_Access_to_Mental_Health_Services_Among_Undergraduate_Students_During_the_COVID-19_Lockdown_in_Uganda_Front) accessed on 9 July 2023.

<sup>247</sup> Ibid.

<sup>248</sup> See, Michael Kawesa Sekadde, MTN GM HR, Prioritize Emotional Well-Being of Staff during Lockdown, available at, [www.mtn.co.ug/prioritize-emotional-well-being-of-staff-during-lockdown/](https://www.mtn.co.ug/prioritize-emotional-well-being-of-staff-during-lockdown/) accessed on 9 July 2023.

<sup>249</sup> See, Fighting the stigma of testing positive for COVID-19, available at, [www.wvi.org/stories/uganda/fighting-stigma-testing-positive-covid-19](https://www.wvi.org/stories/uganda/fighting-stigma-testing-positive-covid-19) accessed on 9 July 2023.

to increase understanding of mental health issues, encourage seeking assistance, and provide practical stress-reduction methods.

### **3.4 Conclusion**

These non-legal measures adopted emphasise the significance of a comprehensive and coordinated approach involving diverse stakeholders; in order to respond effectively to public health emergencies and enhance resilience in the event of pandemics. Collaboration with local authorities and implementation of economic measures are key factors in mitigating the impact of pandemics. Social-cultural measures, such as, public health awareness, community engagement, inclusiveness, solidarity, and mental health support, significantly support individuals and communities during crises. To combat public health emergencies, therefore, the Ugandan government and the relevant authorities should, prioritise good leadership, coordination, and economic policies. The government should also collaborate with local governments and public-private partnerships for resource mobilisation, expertise sharing, and targeted support. Economic initiatives such as stimulus packages, SME support, and agricultural investments can be promoted so as to attain stability, employment retention, and economic recovery.

## CHAPTER FOUR

### EXAMINATION OF THE RESPONSES UNDERTAKEN TO PROTECT PUBLIC HEALTH AND HUMAN RIGHTS DURING COVID-19 PERIOD IN UGANDA

#### 4.0 Introduction

The COVID-19 pandemic posed unprecedented challenges to governments worldwide, demanding swift and decisive responses to protect public health.<sup>250</sup> The outbreak's extreme speed and scope necessitated not just quick but also creative and, at times, severe remedies. Authorities in Uganda, a country facing its own distinct set of challenges, were forced to implement a number of severe measures. These included travel restrictions, temporary closure of educational facilities, implementation of strict isolation and quarantine standards, and a number of additional steps meant to stop the spread of the virus and protect the general public's health.<sup>251</sup> These actions were certainly required to lessen the atrocious impacts of the pandemic, but, they also sparked an intense and at times heated discussion about their unintended consequences, particularly in relation to human rights.<sup>252</sup> Discussions concerning the potential loss of civil liberties and the precarious balance between protecting basic human rights during a global health crisis surfaced as the country struggled with the necessity of balancing the curve. This examination glances deeply into the many effects of the pandemic-driven measures in Uganda, illuminating the complex interplay between the responsibility to respect the fundamental principles of human rights and the duty to safeguard public health.

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<sup>250</sup> Kilkon Ko, Kentaro Sakuwa, et. al., *International Comparative Analysis of COVID-19 Responses* (KDI School of Public Policy and Management) available at, [www.kdevelopedia.org/asset/99202202040168675/1643954530372.pdf](http://www.kdevelopedia.org/asset/99202202040168675/1643954530372.pdf) accessed on 25 July 2023.

<sup>251</sup> Joseph k. Matovu, Steven Kabwama, et al., "COVID-19 Awareness: Adoption of COVID-19 Preventive Measures, and Effects of COVID-19 Lockdown among Adolescent Boys and Young Men in Kampala, Uganda." (2021). Vol. 46 Journal of Community Health, 842–853 <https://doi.org/10.1007/s10900-021-00961-w> accessed on 26 July 2023.

<sup>252</sup> John Barugahare, Fredrick N. Nakwagala, et al., "Ethical and Human Rights Considerations in Public Health in Low and Middle-Income Countries: An Assessment Using the Case of Uganda's Responses to COVID-19 Pandemic" (2020) Vol 21, Article No. 91 BMC Med Ethics, available at, <https://doi.org/10.1186/s12910-020-00523-0> accessed on 25 July 2023.

#### 4.1 The COVID-19 Legal Framework

In Uganda, the legal framework for public health is primarily governed by the Public Health Act, which falls under the jurisdiction of the Ministry of Health.<sup>253</sup> This Act, established in 1935 and amended in 2022, designates the central government with the responsibility of preventing and controlling outbreaks and pandemics, while granting local governments the authority to enforce public health provisions.<sup>254</sup> During the COVID-19 pandemic, Uganda relied extensively on this Act which among others provides for the Non-Pharmaceutical Interventions (NPIs). Sections 10, 11, 27, and 36 empowered the Minister of Health to create subsidiary legislation or Rules to deal with the COVID pandemic. According to Section 14 of the Interpretation Act, these Rules are recognised as law and form part of Uganda's legal system.<sup>255</sup> They covered various aspects, including the movement of vehicles, border and educational closures, restrictions on places of worship, curfews, among others.<sup>256</sup>

Other supporting laws included the 1995 Constitution of Uganda, the Local Government Act Cap., 243, the UPDF Act Cap., 2005 among others. There were also presidential addresses as a supplement to the legal framework.<sup>257</sup> The challenge with the president's statements and guidelines was that, they were not recognized as law. This necessitated the enactment of Rules for their enforcement.<sup>258</sup> Another challenge was that the NPIs, also, had to be adjusted as the pandemic situation evolved, which meant that the COVID-19 Rules needed frequent updates to remain effective. The changes were usually instant and further led to confusion among the public. It later became excruciating in complying with the ever-changing guidelines and also led to economic uncertainty. There were difficulties

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<sup>253</sup> Uganda Public Health Act Cap. 281,

<sup>254</sup> Uganda Public Health Act Cap. 281 Part V, and s5.

<sup>255</sup> The Uganda Interpretation Act Cap. 3.

<sup>256</sup> See, national subsidiary legislation on the dissertation preliminary pages.

<sup>257</sup> For instance see, Republic of Uganda, Address by H.E. Yoweri Kaguta Museveni President of the Republic of Uganda to the Nation Updates on Matters Regarding Corona Virus (COVID-19) and Lockdown Relaxation 22nd June, 2020 Nakasero. 2020, available at, <https://statehouse.go.ug/sites/default/files/attachments/speeches/address-corona-virus-22-june-2020-converted.pdf> accessed on 27 July 2023.

<sup>258</sup> See, *Male H. Mabirizi v the Attorney General* (Misc. Cause No. 193 of 2021) Male H. Mabirizi challenged the implementation of presidential speeches without enactment of any Act of Parliament or statutory instruments.

in long-term planning and also led to violation of some human rights. It is possible that the perception of a human rights violation during COVID-19 responses is what prompted legal action in Ugandan courts of law.<sup>259</sup> For instance, the closing of entertainment avenues and open-air performances was challenged in *Theatrical Association of Uganda and Another against the Attorney General* (Misc. Cause 369 of 2021). The case of *Kiganda Michael versus the Attorney General* (Constitutional Petition No. 20 of 2021) contested the closure of places of worship or prayer. The case of *Tumuheirwe Arthur versus the Attorney General* (Misc. Cause No. 382 of 2020) in which the closure of business premises was challenged. The existing legal framework, to make it worse, particularly, the Public Health Act, was only amended in 2022.<sup>260</sup>

This means that, at the outbreak of COVID-19 and before, the country was surviving on the Public Health Act that was enacted in 1935 and therefore outdated, and did not adequately align with the evolving needs and societal changes. This with no doubt resulted into challenges in its effectiveness. Uganda's legal framework relied upon during COVID-19 period therefore exposed weaknesses in legislation, making it difficult to effectively address public health issues while simultaneously upholding the protection of human rights.

## 4.2 Lockdowns and Movement Restrictions

To stop the COVID-19 from spreading, Uganda implemented two national lockdowns. The first was proclaimed in March 2020 following the confirmation of the first case. The second, occurred in June 2021 in conjunction with an increase in infections showcasing the second wave in the country.<sup>261</sup> The initial lockdown lasted 75 days, but, the subsequent one

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<sup>259</sup> Martha Isabella Achan, Immaculate Nabukenya, et. al., "COVID-19 and the law in Uganda: A Case Study on Development and Application of the Public Health Act from 2020 to 2021" (2023) Vol 23, Article No. 761 BMC Public Health, available at, <https://doi.org/10.1186%2Fs12889-023-15555-5> accessed on 28 July 2023.

<sup>260</sup> Ibid.

<sup>261</sup> Government of Uganda. Address by H.E Yoweri Kaguta Museveni President of the Republic of Uganda to the Nation on the Corona Virus (COVID-19) Guidelines on the Preventive Measures, 18 March 2020, State House-Entebbe. Available online: [https://covid19.gou.go.ug/uploads/document\\_repository/authors/h.e.\\_yoweri\\_kaguta\\_museveni/Address\\_by\\_H\\_E\\_Yoweri\\_Kaguta\\_Museveni\\_on\\_Corona\\_Virus\\_18th\\_March\\_2020.pdf](https://covid19.gou.go.ug/uploads/document_repository/authors/h.e._yoweri_kaguta_museveni/Address_by_H_E_Yoweri_Kaguta_Museveni_on_Corona_Virus_18th_March_2020.pdf) accessed on 25 July 2023.



only lasted 42 days. Strict social distancing rules were implemented during both lockdowns. These included the closing of all schools and training facilities, the implementation of a nighttime curfew, the suspension of all forms of public transport (including airports), the prohibition of public gatherings, and the closing of commercial establishments, among others.<sup>262</sup>

In Uganda, the implementation of lockdowns and movement restrictions during the COVID-19 pandemic resulted into far-reaching consequences. For instance, the lockdown measures had significant repercussions on both the formal and informal sectors of Uganda's economy.<sup>263</sup> Due to the pandemic and lockdown, majority of individuals experienced income reductions, job losses, and business closures, which made access to food become more problematic. The limited access to food was due to insufficient funds to purchase it, increased food prices, and a scarcity of specific food items. These economic challenges had a cascading effect on people's livelihoods, directly affecting their right to a decent standard of living and, threatening their right to life in the end.<sup>264</sup> As the lockdown measures and travel restrictions tightened, many sick individuals found themselves facing challenges in accessing essential healthcare services. The restrictions on movement made it problematic for patients and pregnant mothers to travel to healthcare facilities, especially those residing in remote or rural areas.<sup>265</sup> These limits had an impact on ambulances and public transport, which made it more difficult to access medical facilities.<sup>266</sup> As a result of

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<sup>262</sup> Government of Uganda. Address by H.E Yoweri Kaguta Museveni President of the Republic of Uganda to the nation on the COVID-19 Resurgence and Current Status of the Pandemic in the Country, 6 June 2021 Nakasero. Available online: <https://statehouse.go.ug/sites/default/files/attachments/speeches/speech-resurgency-covid-19.pdf> accessed on 25 July 2023.

<sup>263</sup> Esther K. Nanfuka and David Kyaddondo, 'Making Improvisations, Reconfiguring Livelihoods: Surviving the COVID-19 Lockdown by Urban Residents in Uganda' (2022) COVID 2, no. 12: 1666-1688 <https://doi.org/10.3390/covid2120120> accessed on 25 July 2023.

<sup>264</sup> Rebecca Nuwematsiko, Maxencia Nabiryo, et al. 'Unintended Socio-Economic and Health Consequences of COVID-19 among Slum Dwellers in Kampala, Uganda' (2022) Vol 22, no. 88, BMC Public Health <https://doi.org/10.1186/s12889-021-12453-6> accessed on 25 July 2023.

<sup>265</sup> Allen Kabagenyi, Betty Kyaddondo, et. al., "Disruption in Essential Health Service Delivery: A Qualitative Study on Access to Family Planning Information and Service Utilization during the First Wave of COVID-19 Pandemic in Uganda" (2022) Vol 13, PubMed Central 75-82, available at, <https://doi.org/10.2147%2FOAJC.S360408> accessed on 25 July 2023.

<sup>266</sup> Anna Hedstrom, Paul Mubiri, et. al., "Impact of the early COVID-19 Pandemic on Outcomes in a Rural Ugandan Neonatal Unit: A Retrospective Cohort Study" (Plos one 2021) Vol. 16 (12) PubMed Central, available at, <https://doi.org/10.1371%2Fjournal.pone.0260006> accessed on 25 July 2023.



these challenges, some sick individuals including the pregnant mothers, unfortunately, lost their lives or experienced a deterioration in their health that could have been mitigated under normal circumstances.<sup>267</sup> For instance, Biryabarema reported that Scovia Nakawooya's unborn child died inside her womb as she struggled to reach a hospital on foot. He continued to report that pregnant Scovia also died hours later, and that this was not the only case of its kind.<sup>268</sup>

There were also reports of reductions in the utilisation of the overall health services, all, due to lockdown and movement restrictions.<sup>269</sup> The unintended consequences of movement restrictions during the COVID-19 pandemic in Uganda highlight the complex decisions and difficult choices faced by the government in balancing public health measures with other priorities.

### 4.3 Quarantine and Isolation Centers

Quarantine and isolation facilities were established as an essential part of the reaction to the COVID-19 pandemic in Uganda. These facilities were developed to accommodate people who had tested positive for the virus, or those who were thought to be affected. People who had had close contact with cases that had been identified to be positive with the virus were also isolated. Quarantine and isolation measures were imposed for those entering the country or suspected of exposure. The Ugandan government mandated a minimum 14-day period of isolation for confirmed COVID-19 patients starting in April 2020.<sup>270</sup> Close contacts of confirmed cases and the majority of travelers from abroad

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<sup>267</sup> See, Pandemic Response Forsakes Patients with Chronic Illnesses, available at, <https://globalpressjournal.com/africa/uganda/pandemic-tactics-hit-patients-chronic-illnesses/> accessed on 25 July 2023.

<sup>268</sup> See, In Uganda, Mothers in Labour Die Amidst Coronavirus Lockdown, available at, [www.reuters.com/article/us-health-coronavirus-uganda-idUSKCN21R2FA#:~:text=KAMPALA%20\(Reuters\)%20%2D%20Scovia%20Nakawooya's,lockdown%2C%20a%20rights%20group%20said](https://www.reuters.com/article/us-health-coronavirus-uganda-idUSKCN21R2FA#:~:text=KAMPALA%20(Reuters)%20%2D%20Scovia%20Nakawooya's,lockdown%2C%20a%20rights%20group%20said) accessed on 20 July 2023.

<sup>269</sup> Andia-Biraro, Baluku Joseph, et al., 'Effect of COVID-19 pandemic on inpatient service utilization and patient outcomes in Uganda' (2023) Vol 13 Article no. 9693 Scientific Reports, available at, <https://doi.org/10.1038/s41598-023-36877-9> accessed on 20 July 2023.

<sup>270</sup> See, Uganda Ministry of Health (MOH). National Guidelines for Quarantine in Context of COVID-19. Kampala: MOH; 2020. Accessed December 1, 2022. [www.health.go.ug/cause/national-guidelines-for-quarantine-in-context-of-covid-19/](http://www.health.go.ug/cause/national-guidelines-for-quarantine-in-context-of-covid-19/) accessed on 20 July 2023.

entering the country were subject to a 14-day quarantine.<sup>271</sup> These facilities were crucial in halting further transmission, however, they also raised a number of difficulties and challenges. For instance, one major concern was the varying conditions in these centers.<sup>272</sup>

Some of the facilities included everything needed to give people access to healthcare, pleasant housing, and healthy meals. There were, however, some isolation and quarantine centres which were overcrowded, had poor sanitation, and lacked basic health supplies.<sup>273</sup>

Usually, the vulnerable members of the society who could not afford better facilities were the ones who were dealing with these uncomfortable conditions. For instance, in the study carried out by Rawlance Ndejjo and others, they established that some of the quarantined persons complained that the hygiene of the quarantine centres and ventilation was very poor, and the feeding was very poor too with no drinking water at all meal times.<sup>274</sup> This with no doubt impacted the physical health of the quarantined.<sup>275</sup> It may also be argued that the stringent control and restricted movement inside these facilities compromised the worth and freedom of the people who stayed there as well. For instance, the study carried out by Rawlance Ndejjo, and others, also established that some of the quarantined persons' rooms were very small that they could not even exercise.<sup>276</sup> Others added that they could not even be allowed to reach the balcony of their rooms to interact with the outside environment. This utterly disturbed their mental health.<sup>277</sup>

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<sup>271</sup> Ibid.

<sup>272</sup> See, District COVID-19 quarantine Centers to be closed over Poor Management, available at, [www.independent.co.ug/district-covid-19-quarantine-centers-to-be-closed-over-poor-management/](http://www.independent.co.ug/district-covid-19-quarantine-centers-to-be-closed-over-poor-management/) accessed on 25 July 2023.

<sup>273</sup> Jimmy Spire Ssentongo, *Quarantined: My Ordeal in Uganda's Covid-19 Isolation Centers* (Kindle Edition, 2021).

<sup>274</sup> Rawlance Ndejjo, Gloria Naggayi, et. al., "Experiences of persons in COVID-19 Institutional Quarantine in Uganda: A Qualitative Study" (2021) Vol. 21 Article No. 482 BMC Public Health available at, <https://doi.org/10.1186/s12889-021-10519-z> accessed on 25 July 2023.

<sup>275</sup> Ibid.

<sup>276</sup> Rawlance Ndejjo, Gloria Naggayi, et. al., "Experiences of persons in COVID-19 Institutional Quarantine in Uganda: A Qualitative Study" (2021) Vol. 21 Article No. 482 BMC Public Health available at, <https://doi.org/10.1186/s12889-021-10519-z> accessed on 25 July 2023.

<sup>277</sup> Ibid.

In some cases, individuals who had been in quarantine centers reported experiencing stigmatization and discrimination from their communities upon their return.<sup>278</sup> For instance, in a documentary by Eastern Africa and the Kenya ICT Action Network, Sarah M, a business consultant, recounted her experience. She mentioned that when she was taken for quarantine, the health officials did so in front of the entire village, resulting in her being stigmatized upon her return. That when she came back, the whole village never wanted to associate with her at all.<sup>279</sup>

In a research carried out by Makerere University, it was also reported that some COVID-19 survivors were discriminated and were not allowed to use community services like boreholes. That even using money that had been used by a COVID-19 survivor was difficult.<sup>280</sup> The experience with isolation and quarantine facilities in Uganda, therefore, brought to light the difficult balance between safeguarding human rights and preserving public health. These actions, although, were essential in halting the virus's spread, they had to be carried out in a way that protected peoples' rights to autonomy, dignity, and privacy. To guarantee that the rights of persons in isolation or quarantine were protected, clear procedures and control were required.

#### **4.4 The COVID-19 Policy Response**

The COVID-19 reaction in Uganda raised important issues regarding how vulnerable groups, such as the poor, refugees, migrants, disabled and homeless people, are treated. Public health measures were crucial in halting the virus's spread, but they disproportionately affected these populations, intensifying inequalities.<sup>281</sup> This raised

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<sup>278</sup> Makerere University, 'Improving Health Communication, Dealing With Stigma, and Coping Strategies in the Context of the Covid-19 Pandemic in Uganda' (Policy brief 1, August 2021).

<sup>279</sup> Documentary by Pollicy in partnership with Article 19 Eastern Africa and the Kenya ICT Action Network, Surveillance, Data Protection and Freedom of Expression in Uganda during COVID-19(31 May 2021) at 2:09 minutes, available at, , <<https://pollicy.org/resource/surveillance-data-protection-and-freedom-of-expression-in-uganda-during-covid-19/>> at, accessed on 25 July 2023.

<sup>280</sup> Makerere University, 'Improving Health Communication, Dealing With Stigma, and Coping Strategies in the Context of the Covid-19 Pandemic in Uganda' (Policy brief 1, August 2021).

<sup>281</sup> Moyo Khangelani, Ronald Kalyango, 'Who is watching? Refugee protection during a pandemic - responses from Uganda and South Africa' (2021) Vol 9, issue 37 Comparative Migration Studies, available at, <<https://doi.org/10.1186/s40878-021-00243-3>> accessed on 25 July 2023.

concerns about possible violations of their fundamental rights to protection, and health. These populations experienced further strain as a result of the pandemic because of the higher infection risks associated with their living conditions. Their access to necessary services was hampered by measures like lockdowns and mobility restrictions.

In some refugee settlements, there were reports of a food shortages.<sup>282</sup> For example, the World Food Programme regretted to report in December 2020 that it had to cut the food rations for refugees in Uganda because of the lockdown effects and decline in funding.<sup>283</sup> This affected the wellbeing of the refugees especially their right to life. During the pandemic, the homeless people too faced untold suffering. It was difficult for them to follow the rules for cleanliness and physical separation since they frequently had no access to healthcare, sanitary facilities, or shelter. It was also challenging for them to find a secure place to stay when lockdowns and curfews were implemented. In one interview with the Daily Monitor and a street dweller, a one Ahimbisibwe Umar complaining of the police brutality to chase them off the street stated, “the president said if someone is in their home, leave them alone but the LDU’s always beat us whenever they find us on the verandas or in our shanty houses, these are our homes, what do they want us to do? Where do they want us to go?” These heart-breaking statements showed how unprepared the government of Uganda was in declaring some measures without considering all groups of people in the society.<sup>284</sup>

People with disabilities too claimed that lock-down procedures had a bad impact on their social life, income, education, and food security, as well as their mental and physical health.<sup>285</sup> In a study carried out by women’s probono initiative, it was established that some

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<sup>282</sup> Paul Bukuluki, Hadijah Mwenyango, et. al, ‘The socio-economic and psychosocial impact of Covid-19 pandemic on urban refugees in Uganda’ 2020, Volume 2, Issue 1 Social Sciences & Humanities Open, available at, <https://doi.org/10.1016/j.ssaho.2020.100045> accessed on 25 July 2023.

<sup>283</sup> See, WFP Cuts Refugees’ Food Rations in Uganda as Funding Declines, available at, [www.wfp.org/news/wfp-cuts-refugees-food-rations-uganda-funding-declines](http://www.wfp.org/news/wfp-cuts-refugees-food-rations-uganda-funding-declines) accessed on 25 July 2023.

<sup>284</sup> See, The Dilemma of Life on the Street amid Lockdown, available at, [www.monitor.co.ug/uganda/news/national/the-dilemma-of-life-on-the-street-amid-lockdown-1885982](http://www.monitor.co.ug/uganda/news/national/the-dilemma-of-life-on-the-street-amid-lockdown-1885982) accessed on 8 July 2023.

<sup>285</sup> Femke B. Mbazzi, Ruth Nalugya, et.al, ‘The impact of COVID-19 measures on children with disabilities and their families in Uganda, Disability & Society’ (2022), vol. 37 issue 7, Disability and Society 1173-1196, available at, <https://doi.org/10.1080/09687599.2020.1867075> accessed on 8 July 2023.

women living with disabilities did not understand what was going on in the country during COVID-19 period. That information was not well relayed upon them in the manner that was required and had lost trust in many people. One of the respondents in the interview stated that because blindness, she needed someone to hold her hand and help her navigate around but people feared her as much as she feared them too. This made her life more difficult as it impacted on her mental and general wellbeing.<sup>286</sup> The poor often faced limitations to accessing healthcare services, both due to financial constraints and overwhelmed healthcare systems.<sup>287</sup>

The government also took long to regulate the prices charged in private health facilities.<sup>288</sup> Numerous reports emerged concerning individuals who, having been unable to settle their substantial medical debts, found themselves confined within hospitals until they could discharge their financial obligations. For example Toffa Tamale recounted that the hospital declined to release his mother's body due to outstanding medical expenses.<sup>289</sup> This made it harder for the poor to get tested and receive medical care. Due to the disproportional pandemic responses, other regular critical services were under-delivered. For instance, according to Geoffrey Macho, the parliamentary chair for mental health issues, said that government focus shifted to COVID, and other diseases were neglected because they were not seen to be urgent.<sup>290</sup> Marlis, an epileptic patient almost died of chronic seizures since government had cut off funding for her medication.<sup>291</sup> The struggles these vulnerable

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<sup>286</sup> See, The Plight of Women with Disabilities during the Covid-19 Pandemic in Kenya and Uganda, available at, <https://womenprobono.org/the-plight-of-women-with-disabilities-during-the-covid-19-pandemic-in-kenya-and-uganda/> accessed on 8 July 2023.

<sup>287</sup> Opinion Juris, "The Poor Person Is Meant to Die: Uganda's Failing Health System in the Context Of Covid-19", available at, <http://opiniojuris.org/2021/08/17/the-poor-person-is-meant-to-die-ugandas-failing-health-system-in-the-context-of-covid-19/> accessed on 25 July 2023.

<sup>288</sup> *Mulumba Moses & CEHURD v. AG & Ors* HCC Miscellaneous Application 489 of 2021, CEHURD argued that the government of Uganda through the Ministry of Health has the obligation to regulate medical fees chargeable by health facilities in the treatment of persons suffering from COVID-19.

<sup>289</sup> See, In Uganda, Disputes over Bills Mark Chaotic COVID-19 Care, available at, <https://apnews.com/article/uganda-africa-business-health-coronavirus-pandemic-e453a11cd72ac66856a7b5c61fe5cba0> accessed on 25 July 2023.

<sup>290</sup> Edna Namara, How the Pandemic Forced Patients off Their Medication, available at, <https://globalpressjournal.com/africa/uganda/pandemic-tactics-hit-patients-chronic-illnesses/> accessed on 25 July 2023.

<sup>291</sup> Ibid.

groups faced served as a reminder of how crucial it is to safeguard everyone's rights and well-being in the event of a public health emergencies. It brought to light the necessity for policies that give the most vulnerable people top priority and guarantee their access to social support and healthcare.

#### **4.5 Surveillance and Contact Tracing**

Uganda implemented a number of monitoring techniques in response to the COVID-19 pandemic in an effort to track and limit the virus's spread. The goal of these measures was to protect public health and lessen the effects of the pandemic.<sup>292</sup> This strategy, however, led to serious worries about the possible loss of civil liberties and privacy rights.<sup>293</sup> During the pandemic, contact tracing and location tracking were two of the main surveillance techniques that were employed.<sup>294</sup> The travels of people who had tested positive for COVID-19 were tracked using mobile applications and geo-location data.<sup>295</sup>

The surveillance also identified individuals who had come into close contact with them.<sup>296</sup> These techniques raised questions regarding the gathering and use of personal data, even if they were sometimes useful for early detection and containment. There were worries over the safety and preservation of this data as well as the likelihood of abuse or security breaches. For instance, in a documentary by Eastern Africa and the Kenya ICT Action Network, the victims of data collection had a lot of negative things to say about how Uganda handled the entire surveillance situation.<sup>297</sup> For instance, Mary K said that she

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<sup>292</sup> Alice Namale, Suzanne N. Kiwanuka, et. al., Testing & Surveillance: Uganda (Makerere university school of public health) Exemplars in Global Health, available at, [www.exemplars.health/emerging-topics/epidemic-preparedness-and-response/testing-and-surveillance/uganda](http://www.exemplars.health/emerging-topics/epidemic-preparedness-and-response/testing-and-surveillance/uganda) accessed on 25 July 2023.

<sup>293</sup> See the Uganda Computer Misuse Act 2011, the Uganda Data Protection and Privacy Act 2019.

<sup>294</sup> Alice Namale, Suzanne N. Kiwanuka, et. al., Testing & Surveillance: Uganda (Makerere university school of public health) Exemplars in Global Health, available at, [www.exemplars.health/emerging-topics/epidemic-preparedness-and-response/testing-and-surveillance/uganda](http://www.exemplars.health/emerging-topics/epidemic-preparedness-and-response/testing-and-surveillance/uganda) accessed on 25 July 2023.

<sup>295</sup> Ibid.

<sup>296</sup> See, Contact Tracing for COVID-19 Suspects; A Surveillance Officers' Day, available at, [www.independent.co.ug/contact-tracing-for-covid-19-suspects-a-surveillance-officers-day/](http://www.independent.co.ug/contact-tracing-for-covid-19-suspects-a-surveillance-officers-day/) accessed on 25 July 2023.

<sup>297</sup> See, Documentary by Pollicy in partnership with Article 19 Eastern Africa and the Kenya ICT Action Network, Surveillance, Data Protection and Freedom of Expression in Uganda during COVID-19(31 May 2021) at 6:40 minutes, available at, <https://pollicy.org/resource/surveillance-data-protection-and-freedom-of-expression-in-uganda-during-covid-19/> at, accessed on 25 July 2023.

called a certain motorcycle rider to pick up her COVID-19 results on her behalf from a certain hospital because they were ready. That when the motorcycle rider came back, he informed her that she was fine and had nothing to worry about. Mary was surprised by how the guy knew her results. The hospital, interestingly, never verified whether he was the rightful owner of the results or not.<sup>298</sup> In the same documentary, Magoba Julius said that after burying their mother, who had died of pneumonia, the District Medical Officer of Jinja, along with health officials, arrived unexpectedly and ordered the family to be taken to quarantine. Nobody explained anything to them, and they were taken to quarantine centers with the assistance of the police, almost as if they were rebels.<sup>299</sup> Nicholas Opolot, a cyber-lawyer, added that the health workers responsible for collecting data collected information that was very private and not necessary for COVID-19 tracking. He also pointed out that these workers did so without having knowledge of any data protection laws.<sup>300</sup>

Privacy concerns were further complicated by questions over how long such data would be kept and if it would be connected to specific people or kept anonymous. The use of surveillance technology, therefore, without defined legal and ethical frameworks raised concerns about striking a balance between individual rights and public health demands.<sup>301</sup> Striking a balance between safeguarding the public's health and upholding people's right to privacy was a challenge for governments. Building public trust and guaranteeing compliance with surveillance measures required open and honest communication about the goal, scope, and safety measures in place.

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<sup>298</sup> See, Documentary by Pollicy in partnership with Article 19 Eastern Africa and the Kenya ICT Action Network, Surveillance, Data Protection and Freedom of Expression in Uganda during COVID-19(31 May 2021) at 4:27mins, available at, , <https://pollicy.org/resource/surveillance-data-protection-and-freedom-of-expression-in-uganda-during-covid-19/> at, accessed on 25 July 2023.

<sup>299</sup> Ibid at 0:01minutes.

<sup>300</sup> Ibid at 2:51minutes.

<sup>301</sup> See, Joint Committee on Human Rights, Third Report of Session 2019–21, Human Rights and the Government's Response to Covid-19: Digital Contact Tracing, HC 343/ HL Paper 59



#### 4.6 Censorship and Suppression of Information

The pandemic raised issues about censorship and the suppression of information in Uganda.<sup>302</sup> In some cases, the government was accused of silencing dissenting voices and restricting free expression.<sup>303</sup> This was particularly in light of information that contradicted official accounts of those in charge of controlling the pandemic.<sup>304</sup> For instance, Augustine Yiga of Revival Church Kawaala, was arrested and convicted for disseminating misleading COVID-19 messages.<sup>305</sup> In a documentary by Eastern Africa and the Kenya ICT Action Network, Magoba Julius shared a Facebook video explaining the Ministry of Health's mishandling of COVID-19 situations. The Ministry called him, with warnings that if he did not stop speaking out, they would locate him and confiscate his phone.<sup>306</sup> Some journalists and media agencies in Uganda, also, stated they experienced restriction and harassment from the government throughout the pandemic.

Concerns regarding press freedom were raised by instances of journalists being detained or subjected to harassment for covering COVID-19-related topics, particularly if their reporting was critical of the government's response. There were, also claims that the Ugandan government managed the flow of information by dictating the narrative around COVID-19. This included restricting access to specific pandemic data, such as infection rates or the Capacity of the healthcare system, and limiting critical debate on these subjects. Some journalists covering the coronavirus lockdown measures, were assaulted by Ugandan security forces. For instance, When Julius Ocungi, a well-known journalist, was

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<sup>302</sup> See, Pen America, 'Protecting Your Voice in a Pandemic: A COVID-19 Free Expression Information Center – Uganda' available at, <https://pen.org/covid-19-free-expression-information-center-uganda-en/> accessed on 25 July 2023.

<sup>303</sup> Collaboration on International ICT Policy for East and Southern Africa (CIPESA), *How Covid-19 Fight Has Hurt Digital Rights In East Africa* (January 2021). Available at, <https://cipesa.org/2021/02/how-the-covid-19-fight-has-hurt-digital-rights-in-east-africa/> accessed on 25 July 2023.

<sup>304</sup> See, COVID-19 CRISIS: KCCA Staff Arrested over Spreading Fake News on Coronavirus, available at, [www.pmldaily.com/news/2020/04/covid-19-crisis-kcca-staff-arrested-over-spreading-fake-news-on-coronavirus.html](http://www.pmldaily.com/news/2020/04/covid-19-crisis-kcca-staff-arrested-over-spreading-fake-news-on-coronavirus.html) accessed on 25 July 2023.

<sup>305</sup> See, City Pastor Arrested for Misleading COVID-19 Messages, available at, [www.independent.co.ug/city-pastor-arrested-for-misleading-covid-19-messages/](http://www.independent.co.ug/city-pastor-arrested-for-misleading-covid-19-messages/) accessed on 25 July 2023.

<sup>306</sup> Documentary by Pollicy in partnership with Article 19 Eastern Africa and the Kenya ICT Action Network, Surveillance, Data Protection and Freedom of Expression in Uganda during COVID-19(31 May 2021) at 6:40 minutes, available at, <https://pollicy.org/resource/surveillance-data-protection-and-freedom-of-expression-in-uganda-during-covid-19/> at, accessed on 25 July 2023.



photographing police officials closing down a neighbourhood pub in the northern district of Kitgum, Ugandan security personnel slapped, punched and kicked him. They even followed him home and demanded that he destroys the pictures he had photographed.<sup>307</sup> The lack of information made it difficult for the people to make informed decisions and raised questions about how transparent the government's responses were. Individuals who expressed ideas or facts that went against government narratives or policies occasionally faced legal consequences.<sup>308</sup> Arrests and prosecutions for spreading what the government called, "false information" about the pandemic sparked debates over the limits of the freedom of speech.<sup>309</sup> During a public health emergency, having access to reliable and fast information is essential. Censorship and suppression of information can impede the public's understanding of the virus, preventive measures, and available resources, potentially putting lives at risk.

The government of Uganda had a challenge of striking a balance between managing the flow of information and the spread of misinformation; while respecting the freedom of speech and access to information. This experience highlights the need for the government to uphold and protect fundamental rights, even during emergencies. Striking a balance between public health imperatives and freedom of speech, requires clear guidelines, transparency, and accountability in government actions.

#### **4.7 Court Closures**

At the wake of COVID-19, emergency measures were put in place to stop the COVID-19 pandemic from spreading. These included partial closure of the courts of law. The courts suspended public hearings and only listened to urgent matters.<sup>310</sup> Courts remained open to

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<sup>307</sup> See, Made for Minds, Uganda: Journalists Attacked in COVID-19 Lockdowns, available at, [www.dw.com/en/ugandan-journalists-assaulted-by-security-forces-amid-coronavirus-lockdowns/a-53235644](https://www.dw.com/en/ugandan-journalists-assaulted-by-security-forces-amid-coronavirus-lockdowns/a-53235644) accessed on 25 July 2023.

<sup>308</sup> See, Unwanted Witness, 'News Brief: UCC Tightens Social Media Censorship as Uganda Registers First Case of COVID19' available at, [www.unwantedwitness.org/news-brief-ucc-tightens-social-media-censorship-as-uganda-registers-first-case-of-covid19/](https://www.unwantedwitness.org/news-brief-ucc-tightens-social-media-censorship-as-uganda-registers-first-case-of-covid19/) accessed on 25 July 2023.

<sup>309</sup> Ibid.

<sup>310</sup> See, Chief Justice Administrative and Contingency Measures to Prevent and Mitigate the Spread of (CORONA VIRUS) Covid-19 By The Judiciary (CJ/C.7 March 19, 2020).

filing new cases but not entertaining them. Where possible, judgments were delivered online.<sup>311</sup> As a result, those whose human rights concerns emerged as a result of the pandemic responses were delayed or not prosecuted at all.<sup>312</sup> It should be noted that during the lockdown, people continued to commit crimes, yet, the court system was essentially at a standstill.<sup>313</sup> In some instances, some were detained without proper legal proceedings. This led to untold congestion in prison centres which in turn risked transmission of COVID-19, a threat to prisoner's health.<sup>314</sup> For instance, in August 2020, Amuru prison in northern Uganda registered 153 COVID-19 positive cases.<sup>315</sup> This was majorly attributed to congestion coupled with lack of access to the necessary health care in prisons.<sup>316</sup> Upon such an event, some prisoners escaped from various prisons in fear of the COVID-19 infection when COVID cases had been reported in jails.<sup>317</sup> The case of *Turyamusiima Geoffrey v the Attorney General and Dr. Jane Ruth Aceng* is an example of a plea for legal services to be listed among the essential services to remedy the situation.<sup>318</sup>

It was, therefore, difficult for the government to strike a balance between the need to maintain due process rights and the necessity of public health. COVID-19 in Uganda weakened due process rights, emphasizing the need for unwavering dedication to rule of law and protection of individual rights. Even if exceptional measures could be required in an emergency, they should be reasonable, temporary, and regularly evaluated. To guarantee that such measures do not cause a long-term loss of due process, clear legislative frameworks must be in place.

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<sup>311</sup> <sup>311</sup> See, Chief Justice Administrative and Contingency Measures to Prevent and Mitigate the Spread of (CORONA VIRUS) Covid-19 By The Judiciary (CJ/C.7 March 19, 2020).

<sup>312</sup> *Turyamusiima Geoffrey v Attorney General & Dr. Jane Ruth Aceng* HCC Miscellaneous Cause No. 77 of 2020.

<sup>313</sup> See, Uganda's prisoner population surges, raising fears of COVID-19 outbreak, available at, [www.reuters.com/article/ozatp-uk-health-coronavirus-uganda-priso-idAFKCN2531LU-OZATP](https://www.reuters.com/article/ozatp-uk-health-coronavirus-uganda-priso-idAFKCN2531LU-OZATP) accessed 25 July 2023.

<sup>314</sup> Ibid.

<sup>315</sup> See, Amuru Prison Closed as 153 Test Positive for Covid-19, available at, [www.monitor.co.ug/uganda/news/national/amuru-prison-closed-as-153-test-positive-for-covid-19-1924660](https://www.monitor.co.ug/uganda/news/national/amuru-prison-closed-as-153-test-positive-for-covid-19-1924660) accessed 25 July 2023.

<sup>316</sup> Richard Migisha, Job Morukileng, et al., Investigation of a COVID-19 Outbreak at a Regional Prison, Northern Uganda, (September 2020). Vol. 43, Article No. 10 Pan African Medical Journal, available at, <https://doi.org/10.11604/pamj.2022.43.10.33598> accessed on 25 July 2023.

<sup>317</sup> Ibid.

<sup>318</sup> *Turyamusiima Geoffrey V Attorney General & Dr. Jane Ruth Aceng* HCC Miscellaneous Cause No. 77 of 2020.

## 4.8 Restrictions on Religious Gatherings

Throughout the COVID-19 pandemic, Uganda's restrictions on religious gatherings were a sensitive topic. These limitations were put in place to stop the virus's spread, which was a real public health issue.<sup>319</sup> They, however, also brought up significant issues about the balance between public safety and the defence of personal liberties, notably the right to exercise religious beliefs. People were prevented from going to their places of worship, engaging in religious rites, prayers, and community activities. For instance, Wisdom Katumba Peter and Imaam Bbaale Muhammed dragged the government to court, arguing that the ban was unjust, arbitrary, disproportionate, discriminatory, unjustified and infringed the Applicants' right to practice, manifest, enjoy, profess, maintain and promote their religions.<sup>320</sup> The Applicants argued that the government had to find a way of protecting public health without closing down places of worship.

In some cases, these restrictions were not clearly communicated or were subject to abrupt changes, which confused religious leaders and their followers. For instance, during a certain press conference, the chairperson of Uganda Joint Christian Council (UJCC) and the Archbishop of Kampala, Dr. Cyprian Kizito Lwanga said that the idea of the president reopening churches was welcome but the guidelines were not clear.<sup>321</sup> He added that it was not reasonable for big churches to have the same number of congregation as the small churches.<sup>322</sup> This lack of clarity made it difficult for individuals to understand and exercise their rights. Religious leaders and worshippers who disobeyed the law were in the end arrested and harassed.<sup>323</sup> Such conduct can be viewed as a breach of both the right to

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<sup>319</sup> Etheldreda Leinyuy Mbivnjo, Ephraim Kisangala, et al., "Web-based COVID-19 Risk Communication by Religious Authorities in Uganda: A Critical Review" (September, 2021) Vol 40 Article No. 63 Pan African Medical Journal, available at, <https://doi.org/10.11604/pamj.2021.40.63.27550> accessed on 26 July 2023.

<sup>320</sup> See, Religious Leaders Drag Government to Court for Locking Places of Worship, Available at, <https://nilepost.co.ug/2021/08/04/religious-leaders-drag-government-to-court-for-locking-places-of-worship/> accessed on 26 July 2023.

<sup>321</sup> See, COVID-19: Church Leaders Ask Government to Reconsider Restriction, available at, [www.newvision.co.ug/news/1527758/covid-19-church-leaders-govt-reconsider-restrictions](http://www.newvision.co.ug/news/1527758/covid-19-church-leaders-govt-reconsider-restrictions) accessed on 26 July 2023.

<sup>322</sup> Ibid.

<sup>323</sup> See, Police Arrest over 18 for Public Prayers during Pandemic, available at, [www.ugchristiannews.com/police-arrest-over-18-for-public-prayers-during-pandemic/](http://www.ugchristiannews.com/police-arrest-over-18-for-public-prayers-during-pandemic/) accessed on 26 July 2023.

arbitrary detention and the freedom of religion and belief.<sup>324</sup> Some religious organisations adopted virtual services, but not all communities had access to these substitutes.<sup>325</sup> This further created digital inequities.

Restrictions on religious gatherings therefore, had a significant emotional and psychological impact on individuals. For many, religious practises provide comfort, solace, and a sense of solidarity.<sup>326</sup> The inability to engage in these practises led to emotional distress. In times of the COVID-19 crisis, therefore, Uganda found it challenging to strike the right balance between public safety and the protection of individual rights. The government must communicate transparently, engage religious leaders, and respect human rights by ensuring proportionate, necessary, and respectful restrictions.

#### **4.9 Closure of Educational Institutions**

Due to the COVID-19 pandemic, Ugandan educational institutions had to be closed in order to preserve public health.<sup>327</sup> While schools were closed, the government used a variety of strategies to keep students in lower grades engaged in their studies. These strategies included printing and distributing materials for home studies, as well as, delivering lessons via television, radio, newspapers, and the Internet.<sup>328</sup> These measures did, however, raise issues regarding possible violations of a number of human rights, including the right to education and its related rights.<sup>329</sup>

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<sup>324</sup> See, the case of *Kiganda Michael v the Attorney General* (Constitutional Petition No. 20 of 2021) contested the closure of places of worship or prayer.

<sup>325</sup> See, John Semakula, Ugandan Clergy: Internet Tax Prevents Access to Online Church in Lockdown, available at, <https://religionunplugged.com/news/2021/7/19/ugandan-clergy-internet-tax-prevents-access-to-online-church-in-lockdown> accessed on 26 July 2023.

<sup>326</sup> WHO, Practical considerations and recommendations for religious leaders and faith-based communities in the context of COVID-19 (Interim guidance, 7 April 2020).

<sup>327</sup> Ministry of Education and Sports, Uganda Covid-19 Education Response GPE Project (P174033, August 2021).

<sup>328</sup> See, Blessed Atwine, 'COVID-19 and E-Learning in Uganda: How Can the Education Access Inequality Gap Be Closed?' available at, <https://eprcug.org/press-releases/covid-19-and-e-learning-in-uganda-how-can-the-education-access-inequality-gap-be-closed/> accessed on 25 July 2023.

<sup>329</sup> Korkmaz Özge, Erer Elif, et. al., 'Internet Access and Its Role on Educational Inequality during the COVID-19 Pandemic. (Telecomm Policy. 2022 ) Vol. 46 Article No. 5 Pubmed Central 102353, available at, <https://doi.org/10.1016%2Fj.telpol.2022.102353> accessed on 25 July 2023.

During COVID-19, the AfriChild Centre of Excellence for the Study of the African Child reported that four out of ten Ugandan children lacked access to government-provided home study materials and virtual courses.<sup>330</sup> The closures widened the existing inequalities in education.<sup>331</sup> Underprivileged students faced limited access to remote learning resources, potentially resulting into unequal educational opportunities. This was due to limited internet, computers, and serene study environments.<sup>332</sup>

During lockdown, vulnerable populations like disabled children, refugees, and the poor faced increased barriers to accessing food and other services.<sup>333</sup> The AfriChild Center of Excellence for the Study of the African Child reported that during COVID-19, almost three in every ten children reported a reduction in daily meals frequency. They added that this was common with children from urban locations.<sup>334</sup> With schools closed, some children also engaged in child labor. Alun McDonald, head of advocacy and communications for Save the Children in Uganda reported that children were seen on the streets selling various goods and alcohol. He added that some also worked in some of the big gold mines and also engaged in sex work to help their families make ends meet.<sup>335</sup> There were other complaints of early marriages and sexual violence against young girls, who were exploited in large numbers during school closures.<sup>336</sup> All this caused mental health issues to children which in turn injured their general wellbeing. The government typically implemented educational

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<sup>330</sup> The AfriChild Center of Excellence for the Study of the African Child, *The Effect of Covid-19 on the Wellbeing of Children in Uganda*, 2021. Kampala, Uganda (AFRICHILD Makerere University, 2021) 2.

<sup>331</sup> Simone Datzberger, Jenny Parkes, et.al., 'Intensified Inequities: Young People's Experiences Of Covid-19 And School Closures In Uganda' (September 2022) Vol 37 Issue 1, the international journal of childhood and children services 71-90, available at, <https://doi.org/10.1111/chso.12627> accessed on 25 July 2023.

<sup>332</sup> See, Ronald Makanga kakumba, AD515: Limited Access to Electricity and Digital Technologies a Barrier to E-Learning in Uganda (April, 2022), available at, [www.afrobarometer.org/publication/ad515-limited-access-to-electricity-and-digital-technologies-a-barrier-to-e-learning-in-uganda/](http://www.afrobarometer.org/publication/ad515-limited-access-to-electricity-and-digital-technologies-a-barrier-to-e-learning-in-uganda/) accessed on 20 July 2023.

<sup>333</sup> The AfriChild Center of Excellence for the Study of the African Child, *The Effect of Covid-19 on the Wellbeing of Children in Uganda*, 2021. Kampala, Uganda (AFRICHILD Makerere University, 2021) 1.

<sup>334</sup> Ibid.

<sup>335</sup> Sally Hayden, Thomson Reuters Foundation FEATURE-With Schools Closed, Child Labour on the Rise in Lockdown Uganda, available at, [www.reuters.com/article/uganda-children-labour-idUSL8N2EE1TW](http://www.reuters.com/article/uganda-children-labour-idUSL8N2EE1TW) accessed on 20 July 2023.

<sup>336</sup> Milliam Kiconco, 'COVID-19 Pandemic and Increased Teenage Pregnancy in Uganda' (Kyambogo University, 2021) Vol. 8 issue 10, Advances in Social Sciences Research Journal 301–309, available at, <https://doi.org/10.14738/assrj.810.11022> accessed on 20 July 2023.

institution closures during the pandemic to protect public health, despite legitimate concerns about the closures. In such circumstances, the government had to make an effort to adopt measures that lessened the negative effects on education. Such as, offering remote learning options, guaranteeing equitable access to educational resources, and creating detailed strategies for securely reopening educational facilities.

#### **4.10 The COVID-19 Enforcement Measures**

Disproportional COVID-19 enforcement measures in Uganda had a significant and negative impact on human rights. It should be noted that COVID regulations were put in place to protect public's health, but, their enforcement stretched too far involving excessive force. There were several reports of using unreasonable force by law enforcement during the implementation of COVID-19 regulations. These included instances of physical bodily harm, beatings, shootings some of which resulted into fatalities. Some people died at the hands of the enforcement officers for violation of the COVID-19 Rules. On 22 July 2020, BBC News reported that the Uganda security forces may have been more deadly than the virus itself. The news reported further that when Uganda had just confirmed its first case, at least 12 people had died at the hands of the officers for violation of COVID measures.<sup>337</sup> This directly impacted their right to life.

Excessive force and inhumane treatment by law enforcement agents constituted a clear violation of the right to be free from torture, cruel, inhuman, degrading treatment or punishment. For instance, Alanyo Joyce, a street vendor said that she was about to close her fried chicken stall for curfew when an official kicked a pan of boiling oil over her. Her skin was burnt off around her face, arms, legs and her chest. She added that it was very hard for her to live with her new appearance. It was very unfair for her to go through this

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<sup>337</sup> See, Uganda, Where Security Forces May Be More Deadly Than Coronavirus, available at, [www.bbc.com/news/world-africa-53450850#:~:text=Uganda%20%2D%20where%20security%20forces%20may%20be%20more%20deadly%20than%20coronavirus,-Published&text=In%20Uganda%2C%20at%20least%2012,first%20death%20from%20Covid%2D19](http://www.bbc.com/news/world-africa-53450850#:~:text=Uganda%20%2D%20where%20security%20forces%20may%20be%20more%20deadly%20than%20coronavirus,-Published&text=In%20Uganda%2C%20at%20least%2012,first%20death%20from%20Covid%2D19). Accessed on 26 July 2023.

ordeal, all in the name of protecting public health.<sup>338</sup> As pandemic-related regulations were being implemented, arbitrary arrests and detentions increased frequently. People were kept for lengthy periods of time without cause or due process, or in overcrowding and unhygienic places. Macklean Kyomya, Executive Director Alliance of Women Advocating for Change, stated to have received reports about women who had been arrested with no cause. That some of these arrests occurred through raids in various locations including Lira, Wakiso, Kampala, and Kasese among others.<sup>339</sup> She added that some women were targeted with violence, blackmail, and arrest by police.<sup>340</sup> These activities violated the right to liberty and personal security. People avoided healthcare facilities out of fear of running into law enforcement.

Some groups of people were also disproportionately targeted by enforcement tactics, leading discrimination. For instance, the LGBT group that was targeted and stormed in Kyengyera, the sex workers among others.<sup>341</sup> This not only violated human rights but also increased the existing inequalities and tensions within society. On the 24th of April 2020, the Uganda Human Rights Commission itself released a statement articulating its stance against the human rights abuses that had manifested during COVID-19 enforcement.<sup>342</sup> They raged from the right to life, health, freedom from torture among others. Pandemics therefore, demand that the government protects public health while adhering to international human rights standards.

Disproportionate enforcement methods not only violate human rights, but also, undermine the overall effectiveness of the pandemic response. Upholding human rights, even in times

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<sup>338</sup> The Guardian, I Realised My Body Was Burning: Police Brutality in Uganda Lockdown, available at, [www.theguardian.com/global-development/2020/may/28/i-realised-my-body-was-burning-police-brutality-in-uganda-lockdown](https://www.theguardian.com/global-development/2020/may/28/i-realised-my-body-was-burning-police-brutality-in-uganda-lockdown) accessed on 26 July 2023.

<sup>339</sup> Uganda's COVID-19 Response is Terrorizing Women with Arbitrary Detention, Blackmail, and Violence, available at, <https://healthgap.org/press/ugandas-covid19-response-is-terrorizing-women-with-arbitrary-detention-blackmail-and-violence/> accessed on 26 July 2023.

<sup>340</sup> Ibid.

<sup>341</sup> See, Ugandan LGBTI community left vulnerable in pandemic lockdown, available at, [www.ibanet.org/article/E13D94F1-FF3E-45EC-8E95-A593FC22D487](https://www.ibanet.org/article/E13D94F1-FF3E-45EC-8E95-A593FC22D487) accessed on 26 July 2023.

<sup>342</sup> Uganda Human Rights Commission, Statement on the State of Human Rights and the Fight Against COVID- 19 in Uganda (Friday, 24th April 2020).



of emergencies, is essential for preserving dignity and well-being of individuals while addressing public health challenges effectively.

#### **4.11 Conclusion**

In Uganda, the comprehensive response to the COVID-19 pandemic included the closure of schools, harsh enforcement measures, quarantine, and isolation measures among others. While these actions were largely driven by the need to protect public health, they raised significant concerns about human rights. Balancing public health imperatives with the protection of fundamental freedoms required careful consideration, transparency, and accountability. The closure of schools disrupted education, particularly for vulnerable populations, and highlighted the digital divide. Disproportionate enforcement measures, including excessive force and arbitrary arrests, resulted into human rights violations and eroded trust in law enforcement. Restrictions on freedom of worship infringed on the right to religious expression, while partial court closures delayed access to justice especially to the human rights violations. Quarantine and isolation measures, although necessary, sometimes lacked transparency and adequate support for those affected. Striking a balance between public health and human rights remains a crucial challenge, emphasizing the importance of clear communication, accountability, and adaptability in managing crises.



## **CHAPTER FIVE**

### **Conclusions**

#### **5.1 Summary of Findings**

##### **5.1.1 Analysis of the Legal Framework Relevant to Public Health and Human Rights Protection in Uganda**

It was discovered that the international and national human rights legal framework applicable to public health protection during pandemics reveals a complex interplay between the imperative to safeguard public health and upholding fundamental human rights. International human rights instruments provide a strong foundation for protecting individual rights during health crises, however, their application in national contexts varies significantly. National legal frameworks, guided by international principles, often enable governments to implement necessary public health measures. The implementation of such measures, however, must be subject to strict scrutiny to ensure that they are proportionate, non-discriminatory, time-bound, and safeguarded from abuse of power. Striking a balance between public health imperatives and human rights protection remains a challenge, and continued vigilance and accountability mechanisms are essential to navigate this delicate equilibrium.

##### **5.1.2 Examining the Non-Legal Measures Taken by Government of Uganda in Favour of Public Health Protection during COVID-19 Period**

It was established that the non-legal measures adopted in Uganda's response to the COVID-19 pandemic highlighted the significance of a comprehensive and coordinated approach involving diverse stakeholders. This approach aimed to effectively respond to public health emergencies and enhance resilience in the face of pandemics.

##### **5.1.3 Examination of the Responses Undertaken to Protect Public Health and Human Rights in Uganda during the Covid-19 Pandemic**

It was established that while the measures adopted proved effective in mitigating the spread of COVID-19 and safeguarding public health, they frequently resulted into significant

human rights infringements. The entire Covid-19 emergency response machinery was positioned under the superintendence of the military while sidelining and subordinating the civilian health system leadership to the edge. The Ugandan authorities appear to have been reasonably successful in limiting Covid transmission and recording fewer CoVID-19 deaths, though whether the benefits justify the cost is open to debate.

## **5.2 Conclusions**

### **5.2.1 Analysis of the Legal Framework Relevant to Public Health and Human Rights Protection in Uganda**

During pandemics, protecting human rights and public health is a complex and interconnected task. The UN Charter plays a pivotal role by outlining principles and purposes that support these objectives through agencies like the WHO. Various international conventions and treaties, such as, the ICERD, CRC, CEDAW, ICESCR, CAT, and ICCPR, also, provide essential frameworks for addressing discrimination, violence, and socioeconomic consequences, thus safeguarding human rights and public health. Regional organizations like IGAD and the EAC recognize the significance of human rights and public health alongside their primary focus on regional economic integration. The Dar-es-Salaam Declaration and EAC Treaty remain relevant during pandemics, emphasizing human rights, vulnerability reduction, regional collaboration, and democratic governance for effectively addressing challenges. The Maputo Protocol and the AU's Act are instrumental in promoting human rights, governance, and regional cooperation. These aspects are indispensable for safeguarding human rights and public health during pandemics. Economic development, human rights, and public health outcomes are interconnected, requiring comprehensive protection during pandemics through various instruments and organisations. On a national space, Uganda can utilize several legal institutional frameworks relevant to public health and human rights protection. These frameworks include the Uganda Constitution, which holds utmost importance in the nation's hierarchy of laws and remains relevant at all times. Vision 2040, additionally serves as a long-term guide for the country's growth, even during challenging

periods such as lockdowns. The NDP III recognizes the impacts of pandemics and prioritizes public health, economic resilience, digital technologies, and the protection of vulnerable communities. The HSDP directs policies and initiatives to address health-related concerns amid lockdowns; while the Uganda Public Health Act 281 establishes a legal framework for disease prevention, surveillance, and emergency health responses in such situations. The Police Act, 303, as amended, also provides a legal foundation for police operations, emphasizing public safety and safeguarding individual rights at all times. The Local Governments Act, Cap. 243, also guides local governments in enforcing lockdown measures, delivering essential services, and effectively managing emergencies at the local level. Uganda can effectively handle the problems of pandemics while protecting both public health and human rights by utilising these legal instruments.

### **5.2.2 Examining the Non-Legal Measures Taken by Government of Uganda in Favour of the Public Health Protection during COVID-19 Period**

During the COVID-19 pandemic, the government considered both legal and non-legal measures to combat the crisis and address public health emergencies. Effective leadership, coordination, and fiscal policies played a crucial role in guiding and mobilizing resources to tackle the challenges at hand. Influential individuals of society gave encouraged the public to follow government rules and helped in information dissemination. Coordination among stakeholders resulted into a cohesive and harmonised response, improving collaboration and information sharing. Local authorities enforced preventive measures, and fiscal policies supported healthcare infrastructure and economic relief. Social-cultural measures like public health awareness, community engagement, inclusiveness, solidarity, and mental health support enhanced resilience during the crisis. These combined measures effectively addressed public health emergencies and mitigated the pandemic's impact. Uganda's government should strengthen cooperation in public health emergencies and prioritize human rights integration in pandemic response strategies and decision-making processes for increased resilience.

### **5.2.3 Examination of the Responses Undertaken to Protect Public Health and Human Rights in Uganda during the Covid-19 Pandemic**

In Uganda, the closure of schools, disproportionate enforcement measures, restricted freedom of worship, partial court closures, and quarantine and isolation measures implemented during the COVID-19 pandemic represented a complex balancing act between public health imperatives and human rights. While these measures were often necessary to curb the spread of the virus and protect public health, they raised significant concerns about their impact on fundamental human rights. The closure of schools disrupted education, disproportionately affecting vulnerable students and highlighting the digital divide. Disproportionate enforcement tactics, including excessive force, undermined the right to life, liberty, and physical integrity. Restricted freedom of worship infringed upon the freedom of religion and assembly. Partial court closures delayed access to justice, while quarantine and isolation measures raised questions about their necessity and the conditions faced by individuals in these facilities. Striking the right balance between public health and human rights remains an ongoing challenge, emphasizing the need for transparent communication, inclusivity, accountability, and adaptability in crisis management.

## **5.3 Recommendations**

The study found that Uganda's nexus between human rights and public health protection was not fully complied with during COVID-19, despite being provided for under national and international laws. The following are key recommendations for the government and other stakeholders in Uganda.

### **5.3.1 The Government of Uganda**

To enhance public health protection and human rights during pandemics, the government of Uganda should implement a comprehensive strategy that prioritizes transparent communication, equitable access to healthcare, and community engagement. This involves disseminating accurate and timely information to the public, fostering collaboration with international health organizations, and ensuring that vulnerable populations have access to essential services and resources. The government, should, also establish robust testing and

contact tracing systems, enforce quarantine measures judiciously, and guarantee the protection of human rights by avoiding discriminatory practices. The government should, further, actively involve communities in decision-making processes, address socio-economic disparities, and ensure that emergency measures adhere to international human rights standards. This holistic approach will not only mitigate the impact of pandemics on public health but also safeguard the fundamental rights of the population.

### **5.3.2 The Civil Society**

The civil society of Uganda should play a pivotal role in enhancing public health protection and human rights during pandemics by fostering community engagement, advocating for transparent and evidence-based public health policies, and monitoring the implementation of these measures. They should actively collaborate with governmental and international health agencies to ensure equitable access to healthcare resources, information dissemination, and vaccination campaigns. Civil society organizations can also empower local communities through education, address stigma associated with infectious diseases, and safeguard human rights by monitoring any potential abuses arising from pandemic response measures. They can also actively participate in the policymaking process and promoting a rights-based approach, the civil society can contribute significantly to a more resilient and just public health system in Uganda.

### **5.3.3 National Human Rights Institutions (NHRI)**

NHRIs, in conjunction with other significant stakeholders, play a crucial role in ensuring the protection of human rights and civic space during pandemics. They can provide advice to the government by making pronouncements and proposals on how to deal with pandemics while upholding human rights. In addition, they can provide virtual access to NHRI services during times of lockdown and offer effective redress for victims of human rights breaches. Inform those who have rights of the preservation of human rights norms during the epidemic and of their rights. Support the use of a non-discriminatory approach in the scope and application of emergency legislation, including the protection of marginalised or at-risk groups.

### **5.3.4 International Community**

To enhance public health protection and human rights during pandemics in Uganda, the international community should collaborate with local authorities to strengthen healthcare infrastructure, ensuring equitable access to vaccines, treatments, and essential medical supplies. Support should be directed towards enhancing public health education and awareness, emphasizing preventive measures and dispelling misinformation. Efforts should also be made to protect vulnerable populations, addressing social and economic disparities exacerbated by the pandemic. Respect for human rights must be prioritized in pandemic response strategies, with a focus on transparent communication, community engagement, and safeguarding civil liberties. International aid and cooperation should be coordinated to bolster Uganda's public health systems, fostering resilience and sustainability for future health crises.

### **5.3.5 Ugandan Citizens**

Ugandan citizens can significantly contribute to the enhancement of public health protection and human rights during pandemics by actively engaging in community awareness and education campaigns about proper hygiene practices, vaccination, and disease prevention measures. They should collaborate with local health authorities to disseminate accurate information, dispel myths, and promote adherence to public health guidelines. Citizens can additionally advocate for equitable access to healthcare resources, ensuring vulnerable populations receive necessary support. Engaging in respectful dialogue with government officials, participating in community-based initiatives, and fostering a sense of solidarity will collectively strengthen the nation's ability to navigate pandemics while upholding human rights and public health standards. Ugandan citizens can contribute to public health and human rights protection by adhering to guidelines and measures put in place by health authorities where need be. Compliance with public health regulations can be greatly improved by citizen and security institution cooperation. In order to ensure that the essential actions are effectively enforced, this collaboration may involve citizens reporting violations or non-compliance to the appropriate authorities.

### **5.3.6 The Researchers**

COVID-19 is a developing topic, and new research is published on a regular basis. Researchers should, therefore, stay updated on the latest studies, conclusions, and guidelines from credible organisations such as the WHO and the CDC. Collaboration among diverse stakeholders, including legislators, healthcare experts, community leaders, and the general public, is required to protect public health. Researchers should, therefore, collaborate and engage with these essential stakeholders throughout the research process. Interviews, surveys, and focus groups can assist in gathering varied perspectives and ensuring that findings are appropriate and relevant to actual life situations.

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## **APPENDICES**

### **APPENDIX 1**

Dear Respondent, thank you for participating in this survey, which aims to gather valuable information on Human Rights and Public Health Protection during COVID-19 in Uganda. For the purpose of examining Uganda's response to the COVID-19 Pandemic. Your responses will remain confidential, and there are no right or wrong answers. We value your honest opinions and experiences. The survey should take approximately 20 minutes to complete, and if you have any questions or need clarification, please feel free to ask. Your participation is entirely voluntary, and you may choose to withdraw at any time without consequences. Rest assured, your privacy is important to us, and your responses will be kept confidential and anonymized. When you're ready, please proceed with the survey questions. Thank you for your time and input."

#### **Section 1: Demographic Information**

Name (Optional):

Age:

Gender:

Occupation:

Location in Uganda:

#### **Section 2: Understanding the Pandemic Response**

6. Were you directly involved in or affected by the COVID-19 pandemic response in Uganda? (Please specify how by ticking)

Yes

No

7. What were the most significant measures implemented during the pandemic in your area? (e.g., school closures, quarantine, enforcement, etc.)

### **Section 3: Impact on Human Rights**

8. How do you perceive the impact of school closures on education, especially for vulnerable students, and the digital divide? (Please select by ticking)

Positive

Negative

Neutral

9. Were you or anyone you know affected by disproportionate enforcement measures, such as excessive force or arbitrary arrests? Please share your experiences if comfortable.

10. How did the lockdown affect your daily life and routine? (e.g., work, school, social activities)

11. Did you face challenges in accessing essential goods and services during the lockdown? (e.g., food, healthcare, medications)

Yes

No

12. How did restricted freedom of worship during the pandemic affect religious expression and assembly in your community?

13. How did you cope with these challenges, if applicable?

14. Were you satisfied with the government's communication regarding lockdown measures and pandemic updates?

#### **Section 4: Government Information Control**

15. Did you feel that the government in Uganda attempted to control or suppress information related to COVID-19 during the pandemic?

Yes

No

16. If you answered "Yes" to the previous question, please provide specific examples or instances where you felt information was controlled or suppressed.

#### **Section 5: Government Communication and Transparency**

17 How transparent do you believe the government was in its communication about COVID-19 measures and updates during the pandemic? (tick appropriately)

Very Transparent

Moderately Transparent

Not Very Transparent

Not Transparent at All

18. Were there any specific instances or areas where you felt the government's communication lacked transparency or clarity regarding the pandemic?

19. Did you perceive any restrictions or censorship on the media's reporting about COVID-19 in Uganda during the pandemic?

Yes

No

#### **Section 6: Contact Tracing and Surveillance Awareness**

20. Were you aware of contact tracing and surveillance measures implemented by the government in Uganda during the COVID-19 pandemic?

Yes

No

### **Section 7: Privacy Concerns**

21. Did you have concerns about your privacy being compromised due to contact tracing and surveillance measures during the pandemic?

Yes

No

22. If you had privacy concerns, please specify the aspects that worried you the most (e.g., data collection, tracking, government access to personal information).

### **Section 8: Data Collection and Sharing**

23. Were you or your personal data collected as part of contact tracing and surveillance efforts?

Yes

No

24. Were you informed about how your data would be collected, used, and shared for COVID-19 purposes?

Yes

No

### **Section 9: Access to Justice**

25. Did partial court closures in Uganda during the pandemic affect your access to justice or legal services in any way? Please explain.

### **Section 10: Quarantine and Isolation Measures**

26. How necessary do you believe quarantine and isolation measures were during the pandemic, and were you or anyone you know affected by these measures? Please describe your experiences.

27. What were the conditions like in quarantine or isolation facilities that you are aware of?

### **Section 11: Balancing Public Health and Human Rights**

28. How well do you think the government of Uganda balanced public health imperatives and the protection of human rights during the pandemic?

29. In your opinion, what strategies or actions could have improved the integration of human rights considerations into the pandemic response in Uganda?

### **Section 12: Additional Comments**

30. Is there anything else you would like to share regarding the impact of the COVID-19 pandemic on human rights and public health in Uganda?

### **Section 13: Consent**

31. Do you consent to your responses being used for research purposes while ensuring your anonymity and confidentiality?

Yes

No

**Thank you for your participation. Your insights will contribute to our research on this important topic.**