



THE PARLIAMENTARY MOTION ON MATERNAL HEALTH 15TH DECEMBER 2011

What Does It Mean for Maternal Health Advocacy?

On 15 December 2011, the Parliament of Uganda adopted a landmark motion urging Government to address the country's alarming rate of maternal deaths and, among other things, consider compensating the families of victims.

Like all resolutions of Parliament, the "*Motion for a Resolution of Parliament Urging Government to Institute Measures to Address Maternal Mortality and Other Matters Incidental Thereto*" is not binding on the part of government, does not have legal force, cannot be enforced in a court of law and, indeed, there is no evidence that Government has implemented or started to implement it.

However, the motion is a formal expression of Parliament's position and expectations on a matter of

national importance and the Executive has a moral and political obligation to implement it. The motion is a major milestone in the advocacy for the protection and promotion of not only sexual and reproductive health rights but for human rights in general.

Mandate of Parliament in the protection and promotion of human rights

While the primary function of Parliament is to make laws, legislatures constitutionally have mandates beyond the making of laws. In the case of Uganda, Article 79 of the 1995 Constitution defines the functions of Parliament to include the "power to make laws on any matter for the peace, order, development and good governance of Uganda". In addition to this, Article 79(3) requires Parliament to protect the Constitution and promote democratic governance in Uganda.

In this respect, Article 79(3) gives Parliament a very broad mandate and one which is moreover couched in an obligatory manner. The mandate requires Parliament to among others protect the human rights standards as detailed in the Bill of Rights contained in the Constitution and reflected in the international obligations Uganda has assumed by virtue of ratification of human rights treaties and accession to the various international human rights standards.



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...Parliament resolves as follows:-

- 1) That Parliament tasks Government through the Ministry of Health to strictly enforce maternal health audits and take action on established causes.
- 2) That government develops a policy of compensation of the families of all women who die as a result of maternal related causes while in Government facilities. Further, Parliament urges Government to implement its commitment of allocating 15% of the total national budget to the health sector as per the Abuja declaration.
- 3) That Government expedites to reform the midwifery training curriculum by enhancing the duration of training in maternal and child health modules and updates Parliament every six months on the progress.
- 4) That Government re-centralises the recruitment of Medical personnel and addresses the critical shortage of medical professionals particularly, through recruitment at a minimum of 2000 well trained, motivated and equitably deployed midwives., in order to reverse the current rate of deaths resulting from preventable maternal related causes. Further, Government reports to Parliament on the status of implementation of this resolution, within two months from this date, and presents to Parliament its commitment and plans for recruitment of at least 5,000 midwives by 2015.
- 5) That Government empowers the Community and enhance their capacity to get involved in the fight against maternal and infant mortality by requiring that Local Council I in the Country do maintain a register of pregnant women in the village, indicating the outcome of the pregnancy, and make returns to the Subcounty quarterly, which in turn should compile half-yearly reports to be transmitted to the District. Further, Government rolls out village health teams to all districts, and empowers them to enhance their capacity in the fight against maternal and infant mortality.
- 6) That Government compiles and tables to Parliament annual reports on the status of maternal health in the country with full national maternal mortality audit report and that Parliament shall dedicate a particular day to debate this report and propose the way forward.
- 7) That Government should urgently implement the accelerated PMTCT strategy in order to secure an AIDS-free generation and also does scale up accessibility to a complete package of quality reproductive health services that include antenatal care, delivery care, postpartum care, family planning services, as well as access to comprehensive and basic emergency obstetric care services throughout the country.
- 8) That Government convenes a national convention for the dominant voices to reconcile their stand on family planning with a view of harmonising family planning messages.

Using international human rights frameworks

In recent years, an international practice has emerged by which Parliament has assumed a very big role in the protection and promotion of human rights. Thus, according to the Westminster Consortium:

“The international human rights framework provides a tool against which parliamentarians can assess executive and administrative action. Programmes, practices and policies and other activities routinely have an impact on individual rights. Parliamentary powers and tools can be used to scrutinise whether these activities meet domestic constitutional standards and the human rights obligations of the state. ... In countries where the resources of the courts are limited and where individual access to justice is slow, expensive or otherwise impaired, parliaments can perform an important preventive role, challenging government to proactively design their practices to protect and promote fundamental human rights standards.” – The Westminster Consortium Human Rights and Parliaments (2003)

The motion as a follow-up on international recommendations

The Inter-Parliamentary Union lists the follow-up of recommendations and decisions of the treaty-monitoring bodies as one of the human rights-related functions of Parliament. In the case of Uganda, the treaty-monitoring bodies have made a number of recommendations which Uganda is obliged to implement and Parliament is supposed to monitor. Some of the recommendations on maternal health are reflected in the observations and recommendations of the motion of Parliament.

- In 2002, the Committee on the Elimination of Discrimination Against Women (CEDAW) advised the Government of Uganda to design and implement national health, including reproductive health, programmes to prevent early pregnancies and induced abortions in rural and urban areas. This is in addition to providing safe and affordable contraceptives.
- In 2010, the CEDAW Committee advised the Government of Uganda to strengthen its efforts to reduce the incidence of maternal and infant mortality and increase women's access to health-care facilities and medical assistance by trained personnel, especially in rural areas.

The motion as human rights promotion of women

Maternal and neo-natal conditions contribute the highest percentage (20-24%) of Uganda's total burden of ill-health and avoidable death. Maternal mortality rate stands at 435 per 100,000 live babies, while the infant mortality

rate is at 88 per 1000 live births. These deaths are largely a consequence of poor management of pregnancies and deliveries.

Access to essential maternal health services is appalling. Access to emergency obstetrics care remains extremely low at 5.1% nationally, compared to the UN recommended rate of 15% for Uganda. The unmet need for family planning is estimated at 41%; and only about 39% of expectant mothers deliver under professional care in health facilities.

This situation is contrary to the spirit of the African Charter on Human and Peoples Rights and the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (Maputo Protocol), which Uganda ratified recently. Article 14 of the protocol requires Uganda and other state parties to ensure availability, affordability, accessibility of health information to women as well as the establishment and strengthening of pre-natal, delivery and post-natal health and nutritional services for women during pregnancy and while they are breast-feeding.

Recommendations of the motion

After a preamble that referred to the Constitutional obligations of Government toward expectant mothers, the poor state of maternal health in Uganda, the critical shortage of midwives and other health professionals, and the limited access to family planning services.

Key human rights observations of the motion

In its preamble, the motion cites several human rights related instruments and provisions as they relate to maternal health:

- **Constitution of Uganda**, Article 33(3): “The State shall protect women and their rights, taking into account their unique status and natural maternal functions in society.”
- **Constitution of Uganda**, Objective XV: “The State shall recognize the significant role that women play in society.”
- **Constitution of Uganda**, Objective XX: “The State shall take all practical measures to ensure the provision of basic medical services to the population.”
- **UN Millennium Development Goals**, Goal 5: Improve maternal health
 - Target 5.A: Reduce by three quarters the maternal mortality ratio
 - Target 5.B: Achieve universal access to reproductive health
- **African Charter on Human and Peoples Rights**, Article 4: “Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.”



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• **Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa** (Maputo Protocol), Article 14:

“1. States Parties shall ensure that the right to health of women, including sexual and reproductive health is respected and promoted. This includes:

- a) the right to control their fertility;
- b) the right to decide whether to have children, the number of children and the spacing of children;
- c) the right to choose any method of contraception;
- d) the right to self-protection and to be protected against sexually transmitted infections, including HIV/AIDS;
- e) the right to be informed on one's health status and on the health status of one's partner, particularly if affected with sexually transmitted infections, including HIV/AIDS, in accordance with internationally recognised standards and best practices;
- g) the right to have family planning education.

2. States Parties shall take all appropriate measures to:

- a) provide adequate, affordable and accessible health services, including information, education and communication programmes to women especially those in rural areas;
- b) establish and strengthen existing pre-natal, delivery and post-natal health and nutritional services for women during pregnancy and while they are breast-feeding;
- c) protect the reproductive rights of women by

authorising medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus.”

Key messages

Uganda has not fulfilled its obligations as set out in the national Constitution and in international treaties to protect and promote human rights, including sexual and reproductive health rights of expectant mothers, who continue to die from preventable pregnancy-related causes.

Like other resolutions of Parliament, the 15 December 2011 maternal health motion is not binding on Government. However, Parliament as a body constituted and representing the citizenry of Uganda, has to ensure that social services and above all the rights enshrined in the Constitution and other regional and international instruments to which Uganda is party are protected, promoted, realised and fulfilled.

By virtue of the doctrine of separation of powers and its constitutional mandate, Parliament can use resolutions of this kind to hold Government accountable, delivering to its people and upholding its national, regional and international obligations

The motion and its recommendations are a strong tool for advocacy that reasserts Uganda's international human rights obligations in the area of reproductive health care and the rights of women.