

Implications of the Mulago judgment on policy and administration of Mulago Hospital

This is a brief of the groundbreaking Mulago case in which Jennifer Musiimenta and her husband Michael Mubangizi – together with Center for Health, Human Rights and Development (CEHURD) – sued Mulago National Referral Hospital after the mysterious disappearance of the couple’s baby in the hospital shortly after birth. The objective of the policy brief is to explain the case and to bring out the implications of the judgment on policy and administration of the maternity ward at Mulago Hospital

Civil case No. 212 of 2013 in the High Court of Uganda: Center for Health, Human Rights and Development and Others versus Executive Director Mulago Hospital and Others.

CONTEXT

Mulago Hospital is the biggest hospital in Uganda and provides services in most medical and surgical sub-specialties. In addition, the hospital serves as a teaching hospital for Makerere University.¹

The official bed capacity of the hospital stands at 1790 – although it often houses over 3,000 patients.² As of June 2017, the Hospital had 1,726 staff (clinical and support), 58% of the approved establishment.³

Being a government health facility, the hospital is open to all persons and has a heavy patient load. During FY 2014/15, the hospital attended to 829,817 outpatients; 761,573 inpatients; 61,568 emergencies; 28,759 antenatal care (ANC) visits; 39,081 deliveries; 11,120 postnatal visits; 1,738,652 laboratory tests; 33,949 X-rays; 27,142 ultrasound scans; 49,680 immunizations;

13,397 major surgeries; 9,701 family planning clients.⁴

In 2015, the *New Vision* newspaper reported⁵ that the Hospital had the busiest labor suite in the world, with an average of 80-100 births per day, of which between 20-25 were delivery by caesarean section.

The Hospital’s three maternity wards operate with only 46 midwives, who work in shifts. Indeed, the midwife-to-patient ratio stands at 1:15, far below the 1:6 recommended by WHO for low resource settings. Each midwife attends to eight mothers in a single 8-hourly shift, starting from monitoring the progress of each mother from the time she checks in, to delivery and after.⁶

1 <http://health.go.ug/content/mulago-national-referral-hospital>

2 <https://mulagohospital.or.ug/about/>

3 Ministry of Health. Annual Health Sector Performance Report FY 2016/17

4 <http://health.go.ug/content/mulago-national-referral-hospital>

5 *New Vision*, 23 January, 2015. Mulago: the world’s busiest labor suite. https://www.newvision.co.ug/new_vision/news/1319539/mulago-world-busiest-labour-suite

6 *New Vision*, 23 January, 2015. Mulago: the world’s busiest labor suite. <https://>



The typical procedure involves taking the mother's blood pressure, respiration rate, temperature, fetal heart rate, contractions, etc. All this is supposed to be done hourly or after every four hours at most, depending on the stage of the labor.

In addition, every delivered baby has to be taken for cleaning, weighing and labeling and then given Vitamin K to guard it from bleeding disorders and tetracycline eye ointment to prevent infections.⁷

SUMMARY OF THE CASE AND COURT DECISION

Ms Jennifer Musiimenta went to Mulago Hospital with labor pains on 14th March 2012 and delivered a set of twins on the same day. However, one of the babies disappeared shortly after birth. The Hospital staff stated that the second baby was born dead but failed to produce the dead body. The couple decided sue Mulago Hospital and the Attorney General for the unlawful disappearance of their baby.

In its judgment, delivered in January 2017, the Judge agreed that the Hospital violated rights of the couple to information, to health

and freedom from torture, with the latter referring specifically to the psychological torture that the couple suffered. Court awarded the couple Ushs 85 million in general damages.

Most importantly, the Judge stated that the case points to a systemic problem concerning respect and handling of the dead generally and babies Mulago Hospital and the kind of psychological torture that parents endure when they go to the Hospital to deliver babies.

IMPLICATIONS OF THE JUDGMENT TO MULAGO HOSPITAL

The Judge concluded that this case clearly demonstrated that there is a systemic problem in Mulago Hospital which compromises the safety of newborns and ordered the Hospital to undertake reforms, not just in the procedures for handling babies delivered in the hospital, but for the improvement of maternal and newborn health services in the hospital.

However, it is not clear from the judgment what the current procedures for handling newborn babies (alive or dead) at the Hospital are. Trying to trace hints about how babies that are born alive in Mulago are handled, the doctor who attended to Ms

Musiimenta in the delivery room explained in his testimony that he conducted this delivery with a midwife (Ms Mandida), whom he called in after the first baby came out and again after the second, dead baby came out. At this point, it seems that the midwife will show the mother the baby before taking the baby away for cleaning, weighing, and labeling in a separate room. The mother will be moved to the post delivery room for cleaning and resting, where she will then be given the baby.

The Uganda Clinical Guidelines (2016) require the health provider to keep the baby with the mother in the same bed or within

www.newvision.co.ug/new_vision/news/1319539/mulago-world-busiest-labour-suite

⁷ New Vision, 23 January, 2015. Mulago: the world's busiest labor suite. https://www.newvision.co.ug/new_vision/news/1319539/mulago-world-busiest-labour-suite

easy reach as part of the general care of newborn after delivery, but which also helps enhance the security of the baby.

As for babies born dead, it appears that the body will be shown to the mother before taken away. The doctor testified that Ms Musiimenta told him that she did not want to see the dead baby and therefore he handed over to the midwife to take care of the babies and the mother. The midwife testified that she wrapped the body and took it for weighing, labeling and then to a separate room where dead bodies are kept. She testified that the mortuary attendant did not pick the body for two days because the label had fallen off. Ms Musiimenta and her husband testified that they went to the mortuary after two days and they were informed that there was no dead body of a baby.

In June 2015, *Observer* newspaper reported⁸ that Mulago Hospital had put in place a set of measures to minimize cases of babies being stolen or switched:

- Restricting access to the post-natal ward by people going in to see their loved ones following delivery. This helps to keep those ‘pretending’ to be coming to see their relative when their true aim is to confuse discharged mothers and steal their babies.
- When an expectant mother arrives at Mulago Hospital, her details and that of her attendant are recorded by the security personnel for later reference, and the attendant issued with a card containing all his/her information which is also recorded in the Hospital’s data base. Each mother is entitled to only one attendant whom she has entrusted to bear the card. That expectant mother thereafter triaged with other mothers in the labor ward on 5C.

8 Rachael Ninsiima. How Mulago curbs baby theft. The Observer, 24, June 2018. <http://observer.ug/features-sp-2084439083/38423-how-mulago-curbs-baby-theft>

- The Hospital staff report that two security guards are deployed on each ward to manage those entering and exiting. The guards “diligently” check the discharged mother’s information form to ensure that it corresponds with the information on the entry form. This is in a bid to ensure that it is the actual mother that has gone away with the baby.
- Additionally, the Hospital also reports that CCTV cameras have been installed for surveillance of ongoing activities within the labor suite. To restrict entry to the ward, security door sets where only authorized personnel sign in by inserting their thumb have been installed on the labor suite at 5C and the postnatal ward on 5B.
- Earlier in 2013, the Hospital reported to have installed electronic display boards to help staff and patients identify who was on duty and at what time, to hold them responsible in case of any mishap.
- Stricter measures are also being enforced for access to the new born special care unit. Mothers entering the unit to breastfeed their babies have to present an identification note signed and stamped by the in-charge. This is to prove that the baby is actually hers.
- Women who deliver by caesarean section are only anaesthetized locally, rather than the entire body, to help them keep awake and watch over their babies.

These and any other measures put in place to ensure the safety of the movement of babies in the Hospital must be reported to Court and verified and assessed by CEHURD, as per the Court order. There is also need for Mulago Hospital to demonstrate how the implementation of these enhanced measures will be overseen and regularly reviewed for effectiveness. Besides what the Hospital reports to have done as contained in the *Observer* story, there are other measures that this paper recommends.

RECOMMENDATIONS

- Mulago Hospital should carry out simultaneous administrative and disciplinary inquiries into the conduct of its staff with respect to how the midwife handled the newborn or its body and how it left her care, with a view to determining whether she flouted any procedural guidelines applicable in the hospital or her profession. Disciplinary action should be undertaken depending on the findings of the inquiry.
- The Hospital should undertake a thorough review of the existing procedures on how the different cases of babies born in the hospital move from the care of one staff to the other, until discharge. The guidelines for staff who attend to expectant mothers and their newborns should be clearly laid down; the staff trained and oriented to adhere to them; and enforcement mechanisms put in place to ensure compliance, including strict supervision mechanisms as well as administrative and disciplinary sanctions and structures to handle non-adherence.
- If the review of the procedures finds that the problem is with implementation, the Hospital should still show how it intends to address the current implementation challenges. In such a case, guidelines should be simplified/clarified, staff oriented, and strong enforcement mechanisms put in place, enhanced surveillance and security around and within the hospital, strict disciplinary processes, and closer collaboration with security agencies.
- Mulago Hospital should strengthen the meaningful involvement of patients/clients, expectant mothers and attendants in maintaining vigilance in the maternal ward and keeping newborns safe, but also in creating a friendly operational environment where communication, feedback and complaints redress mechanisms are well-understood, appreciated and effective.

CONCLUSION

It should be noted that Court left the door open to more orders, especially with respect to the order regarding the handling and safety of babies. This means that Court could issue additional orders in that respect if it deems it fit and could indeed be approached

by any of the parties to the case with such a request. There need for Mulago Hospital to ensure that the current reforms are assessed, consultations and engagement are undertaken, the necessary reforms implemented and monitored.