

FACT SHEET

Human rights implications of LOAD-SHEDDING HEALTH FACILITIES

Electricity is an essential service for personal and household use but more so for use at such public facilities as hospitals. Interrupting electricity supply through improper procedures, particularly through unannounced or unexpected load-shedding, poses a direct risk to the lives of patients who may be in intensive care, receiving emergency treatment, or undergoing life-saving surgery. When electricity is interrupted, water supply will go off as well if the pumps are electricity-powered as most are; and refrigerated medicines, particularly vaccines, will go bad. And load-shedding hospitals is a bigger threat given that most hospitals do not have functional alternative power sources.



ACCESS TO ELECTRICITY IS A HUMAN RIGHT

Under the international human rights framework, access to electricity is a human right, both as a stand-alone right and as an element of several other rights. It is a stand-alone right in the context of economic, social and cultural rights under the International Covenant on Economic, Social and Cultural Rights (ICESCR).

In addition, it is an element of the right to health; the right to adequate housing; and the right to an adequate standard of living. And, in some contexts, the absence of electricity may compromise the right to dignity, the right to security, and the right to life.

THE RIGHT TO ELECTRICITY IN INTERNATIONAL TREATIES

Electricity is both explicitly and implicitly recognised as a human right in a number of international human rights treaties to which Uganda is signatory.

The right to electricity in the International Covenant on Economic, Social and Cultural Rights



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In the International Covenant on Economic, Social and Cultural Rights (ICESCR), electricity is implicitly recognised a component of the right to an adequate standard of living. This right is guaranteed by Article 11(1), which provides that:

“The States Parties to the present Covenant recognize the right of everyone to an **adequate standard of living** for himself and his family, including **adequate food, clothing and housing**, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.”

The Committee on Economic, Social and Cultural Rights, which monitors state compliance with the ICESCR, has defined the scope of the right to adequate housing as guaranteed under Article 11(1) of the Covenant to include “**sustainable access to energy for cooking, heating and lighting**”.

The right to electricity in the Convention on the Elimination of All Forms of Discrimination Against Women

The right to electricity is explicitly recognised by the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Article 14(2)(h) states:

“States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

...

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”

ACCESS TO ELECTRICITY AS A COMPONENT OF OTHER RIGHTS

The right to electricity is also implicitly recognised as a normative component of such substantive rights as housing and physical and mental health.

The right to electricity as an element of the right to adequate housing

In its General Comment No. 4, the Committee on Economic, Social and Cultural Rights, has defined the scope of the right to adequate housing as guaranteed under Article 11(1) of the ICESCR:

“All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, *energy for cooking, heating and lighting*, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.”

The right to electricity as an element of the right to health

The right to electricity is also a component of the right to the best attainable level of physical and mental health as guaranteed by Article 12 of the ICESCR. The ICESCR Committee has defined the elements of the right to health in General Comment No. 14 to include availability and access to **quality** medical goods and services, including hospital equipment. Quality equipment must be functional, and where such equipment uses electricity, the electricity must be available for them to be functional.

THE ELEMENTS OF THE RIGHT TO ELECTRICITY

The elements derive from the definition of the right to access electricity, which is defined as “**the right of everyone to access a reliable and adequate, and affordable electricity supply of sufficient quality for personal and household use**”.¹ One could extend this to go beyond “personal and household use” and include “use at public facilities”.

1) Access to electricity is for everyone

The element of “**everyone**” means that electricity facilities and services are universally available without discrimination, and special protective measures to ensure that marginalised groups enjoy electricity access would not be classified as discrimination. What this means is that discrimination in supply can be implemented in favour of people who are hospitalised as a vulnerable group in need of electricity.

¹ Stephen Tully “The Human Rights to Access Electricity” (2006) *The Electricity Journal* 30

2) Electricity must be accessible

“**Access**” in the physical sense entails availability of adequate infrastructure for, and geographical proximity to users, and includes the duty of suppliers to supply electricity, upon fulfilment of the set conditions. “Access” also refers to the obligation of the state to progressively realise the right, which among others requires the state to “incrementally expand electricity networks overtime”.

3) Electricity supply must be reliable

Electricity supply to be “**reliable**” means:

“Electricity supplies are regular, dependable, secure and continuous. Disconnection must not be arbitrary: it is only permissible in certain defined circumstances (e.g. non-payment, illegal use and risk to human health or safety), and must be exercised consistent with proper procedures (e.g. notification and opportunity to rectify).”²

Therefore, any disconnection inconsistent with proper procedures and renders supply unreliable, such as load-shedding of a hospital that results into the interruption in the functioning of vital medical equipment, is a violation of the right to electricity as well as the right to health and the right to life of affected patients.

4) Electricity supply must be adequate, of sufficient quality and affordable

“**Adequate**” means that consumers should not be deprived of the
² Stephen Tully “The Human Rights to Access Electricity” (2006) *The Electricity Journal* 30

minimum essential level necessary to lead a life of dignity.

“**Sufficient quality**” means that supply provides an acceptable strength to power the appliance for which it is intended.

“**Affordable**”, on its part, has been defined to mean that electricity tariffs must be reasonable, yet in the interest of providing the service, full cost recovery must be balanced against considerations of equity through subsidies to low income consumers.

THE RIGHT TO ELECTRICITY IN UGANDA

A large majority of Ugandans are not enjoying their right to access electricity. Only about 12% of the population are connected to the national electricity supply, while the remaining 88% are not. Even amongst the minority that has access to electricity, the supply is neither reliable nor affordable.

OBLIGATIONS OF THE KEY PLAYERS IN UGANDA'S ELECTRICITY INDUSTRY

The main players in the sector include the Government of Uganda, which makes the policy and sets the general direction of the sector; Electricity Regulatory Authority (ERA), which regulates and oversees the sector; and Umeme Ltd, which is in charge of electricity distribution and interfaces with electricity consumers.

Umeme and the right to electricity in Uganda

Umeme assumed the concession (lease) to manage the distribution of electricity in Uganda 2005, at a time Uganda Electricity Distribution Company (UDCL) was incurring power losses (the difference between electricity generated and electricity sold to consumers) of 35.7% through system leakages (heat, wire connections, transformers, etc) and commercial inefficiency (power thefts, erroneous bills, customer defaults, failure to read meters or to meter at all, etc).

Umeme was required to reduce the losses, which are partly responsible for high electricity tariffs, to 28%, but by 2009, it had only reduced it to 34.7%, several times higher than losses of 13.6% of Kenya Power and Lighting Company (KPLC). Reducing the losses by just 7% would save the country almost Ushs 50billion per year.

Partly as a result of this inefficiency, but also of ineffectiveness of supply planning and regulation, load-shedding is part and parcel of electricity supply in Uganda. Public hospitals are not among the prioritised consumers and patients – up to 150 of them in Jinja Regional Referral Hospital alone – have died as a result of Umeme’s load-shedding.

Electricity Regulatory Authority and the right to electricity in Uganda

The functions of ERA under the **Electricity Act (1999)**

The screenshot shows a news article from 'THE MONITOR'. The title is 'Uganda: Patients Stranded As Entebbe Hospital Suspends Operations'. The author is 'BY MARTIN SSEBUYIRA, 16 NOVEMBER 2011'. There are social media sharing buttons for Email, Print, and Share. Below the title, there are buttons for Comment, Recommend (0), Tweet (2), and +1 (0). The main text of the article reads: 'Entebbe — Patients in Entebbe are stranded after the Entebbe Hospital administration suspended its operations over water shortage and lack of power. The patients, who woke up on Monday morning to seek medical services, were dismayed on finding the hospital gate closed with a notice announcing the suspension of operations. "The hospital is experiencing water shortage. We can only handle emergency cases. Please bear with us and seek medical... (Resource: Entebbe Hospital Black-Out)'. There is a video player showing a scene with people in a hospital setting.

include setting the tariff structure, and developing and enforcing codes of conduct, performance and quality standards. And under the **Electricity (Primary Grid Code) Regulations, 2003**, ERA has powers to set requirements for reliability of supply and this may include the frequency with which supply to consumers may be interrupted, including for brief or temporary interruptions.

ERA has under-performed on these obligations and in the process played a part in the violation of the rights of many Ugandans to electricity, to an adequate standard of living, to health and to life, among others. Indeed, the **Privatisation and Utility Sector Reform Project (Privatisation Unit)**, the divestiture agency under the Ministry of Finance, has admitted in its statutory reports that reforms in both electricity generation and distribution “remain elusive following continued power rationing”.

Government obligations in a privatised electricity sector

The Government of Uganda privatised the provision of electricity by granting concessions to non-state actors in the generation and distribution services between 2002-04, and the service has since progressively become commercialised and unaffordable to an increasing number of Ugandans.

Under international human rights law, privatisation does not relieve the state of its responsibility to ensure that social services are accessible. The state is obliged to protect its people against any negative tendencies of private service providers through the regulation of tariffs and performance.

The failure of the state to develop infrastructure sufficient electricity supply is a violation, just as is the failure to provide alternative power sources due to insufficient government funding.

HUMAN RIGHTS IMPLICATIONS OF LOAD-SHEDDING HOSPITALS

Interrupting electricity supply through improper procedures, particularly through unannounced or unexpected load-shedding, implies:

- Patients in intensive care, receiving emergency treatment, or undergoing life-saving surgery may be denied their right to life, given that most public hospitals in Uganda do not have functional stand-by alternative power sources.
- Effective attendance to patients reaching hospital in emergency situation could delay, violating their right to health care.
- When electricity is interrupted, water supply may go off as well if the pumps are electricity-powered as most are. This will interrupt services and compromises hygiene and sanitation in affected hospitals
- Refrigerated medicines, particularly vaccines, will go bad and intended beneficiaries, who are most likely to be children, will remain at risk of preventable childhood illnesses.

