

Review Article

Challenges in the Implementation and Enforcement of Environmental Health and Public Health Law by Environmental Health Workers in Uganda: A Systematic Review

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ABSTRACT

Introduction: Environmental health and Public health law is critical for the promotion, preservation and protection of Public health in general in Uganda and all countries of the world. A number of challenges act as bottlenecks to the implementation and the enforcement of Environmental health and Public health law in Uganda.

Objectives: This review sought assess key features and sources, institutional enforcement mechanisms and challenges of environmental health and public health law in Uganda,

Materials and Methods: A systematic review of literature was conducted on empirical studies and legal documents on the key law features and sources, institutional enforcement mechanisms, and the contextual challenges affecting the implementation of environmental health and public health law in Uganda. Eligible studies were identified through searches of seven health and social sciences databases, websites of relevant organisations, the British Library database, and manual searches of academic journals. Relevant findings were extracted using a uniform data extraction tool and synthesized by narrative review.

Results: Findings showed that the sources of environmental health and Public health law were majorly Principal laws, subsidiary laws and international agreements, and the key challenges encountered in the enforcement were poor institutional framework; outdated laws; inadequate legal technical expertise; inadequate institutional support and interference by political actors.

Recommendations: The author recommends that government and other stakeholders should implement programmes for capacity building; review of outdated laws; formulation of regulations, and legal and policy surveillance.

Keywords; Challenges; implementation, enforcement, environmental health, public health law; Environmental health workers, systematic review, Uganda

INTRODUCTION

Environmental health and Public health work is incomplete without Public health and Environmental health law in place. An Environmental health officers operate within Urban and rural settings as an integral part of the health team. In Uganda, they participate in different programmes which include; pro-motive, preventive and environmental improvement programs. ^[1] Among the key mandates of Environmental health officers is the

enforcement of the Public health and Environmental law which involves; inspecting food, food premises, bars, hotels and other public places. Environmental health laws are also created to regulate and safeguard our environment. ^[2]

Different authorities have attempted to define Public health law resulting into a number of definitions. One such definition is that it, “a tool or a field that focuses legal practice, scholarship and advocacy on issues involving the government’s legal authorities

and duties “to ensure the conditions for people to be healthy,” and how to balance these authorities and duties with “individual rights to autonomy, privacy, liberty, property and other legally protected interests.”^[3] The scope of public health law is broad. Public health law issues range from narrow questions of legal interpretation to complex matters involving public health policy, social justice and ethics.^[3] A leading law Scholar, Gostin defines Public Health law as the study of the legal powers and duties of the state, in collaboration with its partners (e.g. healthcare, business, the community, the media, and academe), to assure the conditions for people to be healthy (to identify, prevent, and ameliorate risks to health in the population) and the limitations on the power of the state to constrain the autonomy, privacy, liberty, proprietary, or other legally protected interests of individuals for the common good.^[4]

With Uganda is experiencing poor water, Sanitation and Hygiene (WASH) levels in both urban and rural settings; 3 of 10 households lack pit latrines, 10% of Uganda practicing open defecation while only 8% use soap for hand washing^[5] and the overall latrine coverage is 27% (MOH 2017), in addition, the achievement of the Sustainable Development Goals that is SDG 6- clean water and sanitation, and SDG 3- good health and wellbeing^[6] can only be possible when concerted efforts are put in place, i.e. behavioral change approaches should be complemented by the enforcement of the Public health law to achieve the required WASH standards to enable people to live in a healthy environment which is critical in addressing a number of health issues in society. Public health law plays an important role in attaining public health goals; they serve as a foundation for governmental public health activities. Many of public health’s greatest successes are due to public health regulations, including high childhood immunization rates, improved motor vehicle safety, safer workplaces, and reduced tooth

decay. Public health regulations will continue to play an important role as humankind attempts to address emerging public health threats such as childhood obesity, healthcare-associated infections, motor vehicle injuries, and prescription drug overdoses.^[7]

MATERIALS AND METHODS

A systematic review of literature was conducted on empirical studies and legal documents on the key features and sources of the existing environmental health and public health laws in Uganda, the institutional mechanisms for the enforcement of the environmental health and public health laws, contextual challenges affecting the enforcement of environmental and public health law in Uganda and the suitable recommendations for improving the implementation of this law in Uganda. Eligible studies were identified through searches of five health and social sciences and legal databases, websites of relevant organisations, the British Library database, and manual searches of academic journals. Relevant findings were extracted using a uniform data extraction tool and synthesized by narrative review.

RESULTS

Assessment of the Public Health and Environmental health laws in Uganda ***Sources and types of Common Public health law in Uganda.***

In assessing the Public health and Environmental health law of Uganda, the various sources, and types of Public health as well as its enforcement were the sources of law are varied and generally include the following; Principal laws, subsidiary laws, case law, criminal law, case law, customary law, and international agreements.^[3]

In Uganda, the major types of Public health law comprise of the following; first, there is *Principal law* which is the body of Public Health law made by Parliament which is the national law-making organ. It is a law that covers a major subject area.^[8] It

is a law that is enacted by Parliament and assented to by the President of Uganda. The examples of Environmental health and Public health laws in Uganda include the following among others; i.e.

- Public Health Act, 1935 (Revised 2000), (Cap, 281);
- Food and Drugs Act, 1959 (CAP.278)
- Occupational Health and Safety Act, 2006.
- Water Act, 1997 (CAP.152)
- Town and Country Planning Act, 1951, (CAP. 246)
- Building Control Act, 2013
- National Environment Act, 1995, (CAP.153) and regulations and statutory instruments.
- Hotels Act, 1953 (CAP. 90)
- Liquor Act, 1960 (CAP.93).

The second type of law is *subsidiary legislation*. Subsidiary legislation is any proclamation, rule, regulation, order, resolution, notice, bye-law or other instrument made under or by virtue of any Ordinance and having legislative effect. It is subject to the approval of a Council, which may be given through either the positive procedure or the negative procedure. [9] In Uganda, the subsidiary legislation is comprised of the following; Ordinances, bye-laws rules, regulations orders. Ordinances and bye-laws are made by local authorities. [10]

Generally, In Uganda, Subsidiary legislation includes the environmental health and public health rules or regulations, [10] some of the examples of some of these regulations are;

- The Public Health regulations, 200;
- The Environmental Impact Assessment Regulations No. 13 of 1998, the National Environment (Standards for Discharge of Effluent into Water or on Land) Regulations No. 5 of 1999;
- The National Environment (Waste Management) Regulations No. 52 of 1999.

- The National Environment (Hilly and Mountainous Areas Management) Regulations No. 2 of 2000;
- The National Environment (Wetlands, River Banks and Lake Shore Management) Regulations No. 3 of 2000;
- The National Environment (Minimum Standards for Management of Soil Quality) Regulations No. 59 of 2001;
- The National Environment (Management of Ozone -Depleting Substances and Products) Regulations No. 63 of 2001;

The National Environment (Control of Smoking in Public Places) Regulations No. 12 of 2004;

The National Environment (Access to Genetic Resources and Benefit Sharing) Regulations No. 30 of 2005.

Apart from the regulations, there are ordinances and bye-laws. Ordinances are laws made by the district and city councils, an example are the Kampala district Sanitation Ordinance. [11] A number of bye-laws have been made by Sub counties, parishes and villages as per the Local Government Act, 1997. [10]

Thirdly, there are *International Agreements* which include the International health regulations (IHRs), 2015, which is an *international* legal instrument that is binding on 196 countries across the globe, including all the Member States of WHO. The IHR, which entered into force on 15 June 2007, require countries to report certain disease outbreaks and public health events to WHO. [12] The examples of such diseases are; cholera, yellow fever and plague.

Enforcement of the Environmental health and Public health laws in Uganda

a. Importance of enforcement

Laws cannot be useful until when they are implemented. It must be put into effect or implemented by an agency of the executive branch. [13] Just like any other law, the environmental health and public health laws should be enforceable for it to be effective. The Public health and

Environmental health law provide the basics which should be followed which are the essential foundation for the protection of environmental health and Public health in society. ^[14]

Compliance is necessary requirement, which will be followed by enforcement when it fails. Enforcement includes;- 1-Inspections to determine compliance with the law; 2-Negotiations with individuals or facility owners and managers who are out of compliance to develop mutually agreed standards and approaches to achieving compliance which are called *compliance agreements*, legal action to compel compliance, and sometimes compliance promotion which includes educational programmes, and technical assistance and subsidies. ^[14] Enforcement is a key component of regulation and is paramount in maintenance of standards, ^[15] Some of benefits of enforcement of Public health and Environmental health law include; - 1-Protection environmental health and Public health, 2-Promotion fairness, and 3-reduction of costs and liability.

Lubega ^[14] proposes the components of a good enforcement programme to include; -1-creating requirements that are enforceable, 2- knowing who is subject to the requirements and setting programme priorities, 3-promoting compliance in the regulated community, 4-monitoring compliance, 5-responding to violations, 6-clarifying roles and responsibilities, and 7-valuating the success of the program and holding program personnel accountable for success

b. Enforcement organs in Uganda

The major bodies responsible for the enforcement of these laws in Uganda include the following;

- Ministry of Health through its various departments and divisions. The Environmental Health division is a key division in the Ministry of Health that plays a key focal role in the enforcement of the Environmental health and Public

health law in it works with other ministries and government agencies such as;

- Ministry of Water and Environment which is responsible for the enforcement of the National Environment Act, 1995; Water Act, 1997; and the National Water and Sewerage Corporation Act.
- Ministry of Gender, Labour and Social Welfare which is responsible for enforcement of the Occupational Health and Safety Act (OSHA), 2006).
- Ministry of Agriculture, Animal Industry and Fisheries (MAAIF) through the veterinary department is responsible for the inspection of meat animals.
- National Environmental Management Authority (NEMA) which is responsible for the environmental monitoring of all forms of pollution.
- Urban and Rural Local Governments Authorities established under the Local Governments Act, 1997 through their Public Health departments and law enforcement departments. Such Local governments include; District Councils, City Councils, Municipal Councils, Town councils, Subcounty councils and Village (LC I) councils.
- Uganda Police Force (UPF) and the Local Administration personnel.
- Uganda Civil Aviation Authority, and Entebbe Airport for enforcement of International Health Regulations, 2005
- Ministry of Internal Affairs and Directorate of Immigration and Ministry of Health for enforcement of International Health Regulations, 2005
- The Directorate of Public Prosecutions (DPP) for the prosecution of non-compliant individuals.
- Courts-of-law in their various levels help to adjudicate on matters related to the Environmental health and Public Health such as; abatement of nuisances, pollution of all forms etc.

Challenges of Enforcement of the Public health and Environmental health laws in Uganda.

The Environmental health and Public health practitioners In Uganda are at crossroads when it comes to the implementation of Public health and Environmental health laws, this occasioned by a number of challenges and constraints.

The first challenge is poor institutional framework resulting into poor institutional linkages.^[14] Different Government Ministries, Departments and Agencies (MDAs) play uncoordinated roles towards the same goal of enforcement of Environmental health and Public health law in Uganda. For example; - in terms of institutional inspection, Ministry health's Environmental health/Public health practitioners have roles to play that differ from those of Industry inspectors of Ministry of labour; while Departments in the central and local government also have conflicting roles, all these have resulted into an implementation dilemma for practitioners.

Secondly, most of the Public health and Environmental health laws are outdated laws with unreasonable fines and sentences. Most the laws were enacted in 1930's to 70's with standards and requirements that are no longer suitable to the current standards. An example of this is the Public Health Act, 2000,^[16] a law that was first enacted in 1935, revised in 1964 and then currency 2000 has very small fines as low as Ug.shs 20 (around \$ 0.005), a denomination which is no longer in the legal market, in addition, the sentences are also very small in terms of weeks, months and so on.

Thirdly, inadequate legal technical expertise by the Public health and Environmental health Practitioners is another challenge. This is characterized by lack of knowledge in drafting and administration of legal documents like nuisance notices (MF 85), Court complaints, and charge sheets, legal procedure when seeking legal action and implementing court orders. In addition, most training curriculum

for environmental health and public health academic programmes incorporate Public health law and ethics but it is not comprehensively covered,^[17] in addition, the facilitators often do not have the requisite training and competences.

Another challenge is that of inadequate institutional support by responsible government departments. The work of Environmental health practitioners in implementing Environmental health and Public health law is hampered by the lack of resources like funding, transport facilities to facilitate their movement during field inspections and other enforcement campaigns, appropriate legal documentation include the right forms and enforcement personnel to support Environmental health personnel while executing their duties. A report by Kambibazi. E. and Kabwa. P. (2013), identified inadequate resources and a rigid regulatory structure as some of the factors that result into inadequate institutional support.^[18,19]

Last but not least, there is interference by political actors, at different levels of governance whose influence is paramount in the promoting Public health and Environmental health law yet when legal action is taken Public health and Environmental health practitioners against noncompliant individuals, Political actors step-in to obstruct the law from taking its course. Political contestations regarding decisions taken by practitioners are also common and have far reaching effects on the implementation and enforcement of the environmental health and public health law.^[19]

Recommendations

A number of actions can be adopted by different stakeholders in order to address the challenges of implementing the Environmental health and Public health law in Uganda. Some of these include the following:-

Legal capacity building

There is need capacity building for Environmental health and Public health

officers in matters related to law, its purpose, legal procedures and how legal action is executed when orders and the alike legal instructions are issued by courts of law. Legal capacity building is paramount for all law enforcers because it helps to equip officers with new knowledge, skills and attitudes to enable noncompliant individuals in ways suitable to the current context. It also helps to reinforce the existing institutional and legal framework,^[20] thus strengthening the legal infrastructure which entails both understanding the law and how it works and knowing what laws are empirically associated with better health outcomes.^[21]

Capacity building can take place at different level of government at both central and local government levels. Facilitators should be well informed in Environmental health and Public health law to be able to offer adequate content training needed to equip the practitioners. Legal capacity building can tailored to short courses delivered through seminars and workshops^[20] or practitioners can be sent for courses to universities or specialized institutions of learning with such legal programmes and training.^[22] Legal capacity building is an important consideration that the government and other stakeholders need to seriously prioritize.

Revision of the Principal laws by Parliament

Principal statutes like the Public health Act, 2000, Food and Drugs Act, among other have obsolete standards, inappropriate penalties and very lower fines compared to the current standards of living and economic conditions. The power to enact, or amend the law in Uganda is vested in the Parliament which is the national lawmaking body for Uganda according to article 79 of the constitution of the Republic of Uganda.^[23]

Formulation of the appropriate regulations

District and city council local governments in Uganda can make subsidiary laws called Ordinances according

to the Local governments act, 1997,^[10] similarly, lower government local units such as the municipal councils, subcounty councils, parish and village councils can make bye-laws to address the environmental health and public health challenges in their areas of the jurisdiction;^[10] Ministry of Health, Uganda in its website notes that; “Formulation of appropriate by-laws and regulation for improved environmental health.”^[24]

Legal and Policy surveillance

Laws should be up-to-date with the existing conditions in the country, requiring that regular legal and policy surveillance programmes should be conducted. Legal and policy surveillance programmes help to facilitate transparency for countries’ health laws which requires more than collecting and providing access to a mass of legal text but carrying out thorough research and analysis which is needed to turn the text into concise, actionable legal knowledge that is relevant to decision-makers and is comparable across countries and over time.^[21] Different sectors of government need to carry out regular surveys and studies to assess the relevance and suitability of the existing body of environmental health and Public health laws to the country or to the jurisdiction it applies

CONCLUSION

The Environmental health and Public health legal framework in Uganda is very elaborate, and it is critical and crucial in the public health promotion, protection and preservation efforts. It is therefore important to note that Public health professionals play important roles in health law – from the development of policies, through their enforcement, to the scientific evaluation of the health impact of laws,^[25] the Government of Uganda through Ministry of Health and all other stakeholders need to formulate an integral agenda to support the environmental health and public health legal framework in Uganda that will ensure the protection, preservation and promotion of

environmental health and public health in Uganda. This review highlights for a more nuanced understanding inform comprehensive evidence from empirical studies of the impact of poor implementation and enforcement of environmental health and public health law in Uganda.

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