



Impact of COVID-19 on the Right to Health in Africa

REPORT

Background

The conversation was guided by General Comment No.14 of the UN Committee on Economic Social and Cultural Rights that guides states on their obligations under the Right to Health through the main features of this obligation which are availability, accessibility, acceptability and quality.

Although the numbers reported in Africa are lower than those reported in other regions in the world, these numbers are steadily increasing, an increase whose effect is being seen on health care systems across the continent. The historical and existing challenges of the public health care system have come to the fore in a combination of some or all of the following:

- a. Facility to population ratio greatly imbalance and unable to meet population demands
- b. Inadequacy of medical equipment and supplies.
- c. Inadequacy of staff required to meet the healthcare demands.
- d. Lack financial and research support

Ultimately these challenges are and continue to affect and negate the Right to Health for many across the continent.

Though COVID-19 presents new challenges, it has highlighted existing ones that ought to serve as an opportunity to consider the present and future state of healthcare in Africa.

There is a need to address the wider scoping questions of balance between

- a. Progressive realization of the right to health and corruption and wastage of public funds on the continent
- b. Meeting the need for universal health care and increasing privatization and commercialization of health services
- c. Improvement, retention and safety of medical personnel
- d. The reality of many working to meet their daily needs and the restricted movement, mandatory acquisition of PPEs and physical distancing as measures of combating the spread of the pandemic.



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INTRODUCTION



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COVID 19 and socio economic rights in Africa:
Revisiting “progressive realisation” for the
rights to health in South Africa and Zimbabwe



Ms. Specioza Avako

Implications of COVID-19 on
Sexual Reproductive Health Rights of
Women and Girls in Uganda



Dr. Ibrahim Banaru

Who cares for the carers in Pandemic:
A Human Rights Perspective to protecting
Healthcare worker

The plight of health workers in Sub-Saharan Africa

During the COVID-19 pandemic health workers across the continent have reported the lack of basic equipment such as PPEs and medical supplies as a major concern affecting their work in the face of COVID 19. Governments have denied such allegations. Countries such as Nigeria have reported the closure of health facilities with medical personnel citing fear of handling patients and contracting the disease. Though the ethics of this are in question, this withdrawal by medical personnel has shown the state of welfare for healthcare workers. As a result, an increasing number of health workers has contracted the disease with deaths on the rise in Sub-Saharan Africa. A failure to protect healthcare workers is affecting other health indicators and services such as maternal health. Eventually with more medical personnel being deployed from other services into COVID-19 response, other aspects of health stand to lose as a result of the above listed challenges and the unique strain the pandemic is placing on existing systems.

Measures that have been put in place by Governments include;

Prioritizing the screening and testing of health workers: those exhibiting symptoms of the pandemic. However, doctors have not been allowed to go into isolation due to the few medical staff already available across Sub-Saharan Africa, increasing the risk of infection.

Provision of adequate PPE: availability is still grossly low with differing definitions of who is a 'frontline healthcare' worker as a result of the inadequacy.

Set up of disinfection procedures: though these measures have been set up with great effort, measures have been reported as inadequate due to issues such as a lack of water and disinfectant in active COVID-19 response facilities.

Mental health support services: these have gone largely unsupplied with healthcare workers working in high pressure situations, longer hours, mental toll on risk of infection, in different areas of health practice and other circumstances of distress. The response so far has risen from civil society but there is a need for a coordinated and large scale response to support health workers' mental health.

Recruitment drives: there is a need to recruit for other non-COVID health response sectors and adequate substitution for the current numbers to aid the pressure on healthcare workers.

Financial motivation measures: Governments have pronounced financial packages for health workers with some experiencing significant delay e.g. in Nigeria. In addition, the implementation of life assurance policies and health compensation for infections to health workers, which have also been significantly delayed.

The protection and motivation of healthcare workers is a crucial and essential part of combating the pandemic. Placed in its larger context, the welfare of workers and the strength of the healthcare system on the whole has been greatly hampered by failure of governments to invest in their healthcare systems. This lack of investment has seen African healthcare systems fail to retain staff, provide essential medicines and reduce mortality rates in perennial diseases. Progressive realization is a reminder that resources are scarce for the realization of the Right to Health, but in the case of Africa, this progress is slowed down by the chronic lack of investment in healthcare systems.

Zimbabwe and South Africa: Measures taken towards the Realization of the Right to Health

International Legal Framework

The legal mechanisms are in place with the ratification of legal obligations such as the Convention of Human rights, ICESCR, African Charter of Human and Peoples Rights.

National Constitutional Provisions

Zimbabwean Constitution

Section 76 Every Citizen and Permanent Resident of Zimbabwe has the right to access basic health-care services, which include reproductive healthcare services •

Section 76 (2) - Every person living with a chronic illness has a right to have access to basic health-care services for the illness •

Section 76 (3) - No person may be refused emergency medical treatment in any healthcare institution.

Section 76 4) - The State must take reasonable legislative and other measures, within the limits of the resources available to it, to achieve the progressive realisation of the rights set out in this section

South African Constitution

27. Health care, food, water and social security

1. Everyone has the right to have access to

a. health care services, including reproductive health care;

2. The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights

3. No one may be refused emergency medical treatment.

Legislation

Zimbabwe

Public Health Act and extensively make provision for protection of healthcare.

Zimbabwe is obligated by the Abuja declarations to the allocation of at least 15% of its national budget to health care, and 7% in 2019 and 10% in 2020 in Zimbabwe, showing an increase towards the 15% mark.

With the political climate of Zimbabwe, the implementation of the budget has been significantly hampered with reports on the diversion of budget allocations to other aspects.

South Africa

National Health Act 2013 exists to make extensive provision for both public and private health care though the majority of the South African public rely on public health facilities. South Africa is a signatory to the Abuja declaration obligating the allocation of at least 15% to health care and has allocated 13% of its budget to health care.

South Africa has made significant strides although the other health indicators such as water and sanitation are still in significant want.

COVID-19 Response

Zimbabwe

COVID-19 has been declared a national disaster by the President. Resulting in a unique legislative action to respond to COVID.

The instruments have focused on containment measures but have failed to integrate with the entire healthcare system.

South Africa

Also declared COVID-19 a disaster but instead has strengthened its provincial health infrastructure.

This decentralization has assisted a more localized and effective response.

Uganda: Measures taken to safeguard access to Sexual and Reproductive Healthcare Services (SRHS)

Decisions being made concerning the pandemic are having a secondary impact on the health of women and girls across the continent. Access to maternal and sexual reproductive healthcare has posed a challenge with a threat to raise in maternal mortality. Uganda has reported the closure of over 100 Planned Parenthood clinics with the announcement of the International Planned Parenthood Federation of closures across the world. IPPF warned of a loss of access to contraception and safe abortion for 95% of women across the world.

Since the announcement of the lockdown in Uganda measures set in place have included the restriction of movement and the requirement of special permits from resident district commissioners to allow movement of pregnant women. The needs of women as far as SRHS are concerned were not comprehensively considered creating more vulnerability.

The realization of these rights relies on access to information, medical facilities and services. Failure to prioritize SRHS exposes them to unplanned pregnancies, unsafe abortions and an increase in potential maternal complications. In particular, COVID-19 has seen an increase in teenage pregnancies with teenage girls being out of school. Many remain constrained and live with perpetrators of Sexual and Gender Based violence (SGBV). Further, there are Ugandan women who have witnessed significant delay in receiving the special permits to travel to hospital. The delays in grant of permission, the restriction of public transport and inaccessibility of ambulance services has seen many women succumb to maternal and obstetric complications.

Uganda also saw a rise in SGBV prevalence with over 3000 women and 200 children recording victimization between the end of March and April 2020. Although the situation appears to return to normal, schools remain closed leaving teenage girls exposed to perpetrators and poverty resulting in lack of funds to access SRHS services such as emergency pills. There was a lack of legal protection as legal services were not essential, women lacked funds to access legal services and police stations and courts were also out of reach with all the restrictions.

COVID-19 also saw pregnant women succumb to avoidable maternal mortality due to fears that they were COVID positive. This is in spite of the Ugandan Constitution's clear position on the protection and promotion of Sexual and Reproductive Health rights.

Question and Answer

1. How best can health workers hold their governments accountable?

Civil society: labour organizations play a crucial role with their convening and advocacy power to pursue and keep governments accountable through actions such as litigation and representative public engagement.

Strategic litigation: a tool that has been employed by civil and human rights organizations in different countries especially in social and economic rights questions which generally are considered non-justiciable due to the protection of the 'progressive realization' provision in many constitutions. Strategic litigation has been used to fast track and create change around achieving and protecting the milestones of progressive realization and creating the necessary momentum for forward movement, a crucial need in the right to health and more so during the COVID pandemic period.

National Human Rights Commissions: these are independent bodies set up by national constitutions which exist as a watchdog for government implementation of human rights. There is an opportunity here for them to support strategic litigation and the labour societies in protection of the right to health. It is a good time to strengthen and empower them in this pandemic period.

2. What is the role of human rights institutions e.g. African Commission of Human and Peoples' Rights and how can Governments work with them to realize their obligations under the charter?

Monitoring: there is a need for the Commission to strengthen its monitoring tools and mechanisms across the continent to keep governments accountable to their charter obligations especially with unique situations such as COVID.

Standard setting to fast track implementation: there is an opportunity for the Commission to lead governments in COVID response by setting benchmarks and standards of response and procedure in health response across the continent.

Leading information dissemination: there is an opportunity for the Commission to lead the continent in contextualizing and interpreting the information published by the World Health Organization (WHO) with an African context and perspective in mind. In addition, scrutinizing and supporting responses to COVID 19 e.g. vaccine efforts.

Resource mobilization: there is an opportunity for the Commission to convene continental perspective on resources needed and strategic acquisition and deployment of resources. A command centre: the Commission has an opportunity to set up a central unit to monitor, address and respond to arising issues in support of governments during this pandemic.

3. What is the role of litigation in the protection and promotion of Sexual and Reproductive Health Rights?

Institutional rights protection: litigation has been used to hold regulators, legislation, companies and individuals responsible for violations of SRH rights across the world and increasingly in Africa.

Changing attitudes: litigation has supported the separation of sexuality and other SRH issues from overwhelm by moralistic defenses to discrimination in African societies where there are already very strong moral positions such as the value of a woman's sexual and marital status, sexual orientation and identification. The outcomes of litigation have served to shed a more positive light on these topics and contributed to a change in attitudes in society.

Raising awareness in communities: the outcomes of litigation are widely reported and this enhances the trickle down of information to communities and affects perspective on a community level.

Impact

Registered

441



Attended

132



Attendance %

30%



Unique Viewers

132



Duration

147



Countries

15



