Right to Health in Nigeria: Post Covid-19

By:

Emo Idornigie-Pearce

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Introduction

In 2015, the United Nations agreed on a comprehensive programme of action themed, 2030 Agenda for Sustainable Development, this agenda is aimed to pursue the three linked goals of sustainable development: economic prosperity, social equity and environmental sustainability.[1] The achievement of these goals are vital everywhere in the world because they are at the core of human existence. Access to healthcare, housing, education, food, jobs and social security promotes inherent human dignity and ensures improved livelihoods. Undeniably, it has the effect of transforming lives and improving Socio Economic Rights (SERs).The promotion and protection of these rights provide for the foundations of an adequate quality of life. Access to socio-economic rights is one of the most imperative group of rights for people given the high levels of poverty, unemployment, housing, challenging healthcare systems, amongst others.[2] As the coronavirus disease 2019 (COVID-19) pandemic is revealing how brittle our Country can be, it is time the giant of Africa follows

the progressive path by restructuring gaps which makes the Country vulnerable. It is important to ensure that any attempt to tackle the short- and long-term effects of the crisis needs to be a long lasting solution. The current global crisis reinforces the pre-existing challenge for the right to health to evolve to meet the health challenges of our time.

Right to health in Nigeria

The right to health has been neglected by legislators and policy makers forgetting that it is a legal obligation of States.[3] It is argued that protecting public health in a general sense is not enough. Rather, what is required is protecting *the right to health* – and a rights-based response for all persons without discrimination.[4] The obligation of States to respect, protect and fulfil the right to health, requires both the actual direct provision of enough fully equipped and staff, health facilities and the goods and services necessary or required. To this end, in a global pandemic, public healthcare facilities that are inadequate to provide screening, testing and treatment will not comply with these obligations, furthermore, the overcrowded public health facilities in Nigeria, would increase the chances of transmission of COVID-19. These conditions will almost certainly result in violations of the right to health. In that connection, assessing whether State responses to COVID-19 are human rights compliant also involves an assessment as to whether they respect, protect and fulfil the right to health, not to mention the right to life.

Clearly, the outbreak and subsequent declaration of COVID-19 as a global pandemic by the World Health Organisation (WHO)[5] has brought about a drastic change around the world limiting the healthcare systems to its knees. But more importantly, it brought to the forefront the increasing need for the effective actualisation of socio-economic rights. The general existing standard, expressed in the International Covenant on Economic, Social and Cultural Rights (ICESCR), is that States must realize the right to health, not only within *existing resources* but 'to the maximum of its available resources'.[6] In this regard, a State is duty bound to use all resources it has at its disposal effectively; and enlarge its pool of resources through the support of international co-operation (of other States) and assistance, as well as contributions of companies, groups and individuals. Worthy of note is that,

‘resources’ in this context are not restricted*to* financial resources. It encompasses natural resources, human resources (such as medical personnel’s, health and social care workers), technological resources (which include equipment’s for screening and testing), and informational resources (including information about COVID-19 and its spread).With resources, states should take measures to ensure that private and public resources work together towards the most effective possible response to COVID-19.

It is clear that the right to health has a major potential to further improve the state of health on the African continent. Although there is clear evidence that states are taking measures to implement this right, some serious gaps remain. [7] In order to reach its full potential, combined efforts of individuals, civil society, religious and political leaders, the African states, the human rights monitoring bodies, the AU and the international community are required to work towards attaining this goal by proposing strategies and effective action plans to make health facilities, services and goods, including essential medicines easily accessible and most importantly meeting international standard. This can be achieved with the use of national health indicators and monitoring mechanisms. Everyone has the right to the highest attainable standard of health, which is vital to all aspects of a person’s life and well-being.

Limitations and core obligations

Both the African Commission on Human and Peoples’ Rights (ACHPR) and the UN Committee on Economic, Social and Cultural Rights (CESCR) have rightly noted that the enjoyment of the right to health is crucial and indispensable for the exercise of all other fundamental human rights and to live a life in dignity. [8]

Given the human rights obligations pertaining to the right to health outlined above, it is reasonable to insist that the ‘public health’ objectives that emergency measures and restrictions are undertaken to cure must be specifically aimed at realizing the right to health. The concept of ‘progressive realisation’ has created the common fallacy that the right to health can be achieved in the long term, an idea often expressed in the context of socio-economic rights in general. However, state parties also have immediate

obligations regarding the right to health. These obligations include the state's duty prescribed by article 2(2) ICESCR to guarantee the exercise of the Covenant rights without discrimination of any kind.

The concept of 'progressive realisation to the maximum of the available resources', which is applied to the right to health both at the international (in the ICESCR) and the regional level (by the ACHPR), takes into account both causes. The 'progressiveness' reflects the fact that most African states are still 'developing' countries, and cannot realise this right all at once. However, at the same time, this concept obliges states to use their maximum available resources to realise this right, to take concrete and targeted steps in this regard, and to immediately fulfil certain minimum obligations, including the obligation to eliminate discrimination in the enjoyment of this right.

As States formulate their responses to the Covid-19 pandemic, they must keep at the forefront the core purpose of protecting public health and realizing the right of everyone to the highest attainable standard of health.

Post COVID-19

I am compelled to highlight that one size does not fit all, and special considerations need to be taken into account as we develop the COVID-19 response globally. It is imperative that the Nigerian Government must ensure that the right to health and indeed its protection is in line with the African Charter on Human and Peoples' Rights and International Human Rights Law. Adequate funds and planning for healthcare infrastructure must be a top priority to meet international standards.

The Nigerian government response after this pandemic should fundamentally shape key right to health questions, including how we understand government responsibilities towards health and well-being, and the practical meaning of an entitlement to the highest attainable standard of physical and mental health and to living conditions conducive to their health and wellbeing. One condition for this human rights-based approach to be effective, is for states to know the content of the right to health and their obligations that come along with it.

Currently, the Federal Government has released funds to support the Nigeria Centre for Disease Control (NCDC), and has promised additional funds – but the amount falls well short of the estimated figure needed to tackle the coronavirus disease in Nigeria[9].

Conclusion

From a human rights perspective, 'a new normal' like COVID-19 should generate tremendous change. It is important that, in the midst of this crisis, we keep an eye on the future and begin to forge a better Nigeria that works for our vulnerable and marginalised citizens. Although we are uncertain of how the post- COVID-19 world will look like, our aim is to come out of it stronger and united.

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[1] Available at: www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E

[2] Available at https://worldpoverty.io/map.Nigeria with a population of over 200million people, has over 100million of her people living in poverty because of lack of basic social amenities. See Igbokwe-Ibeto Chinyeaka Justine & Akhakpe Ighodalo & Oteh, Chukwuemeka Okpo, 2012. "Poverty and Sustainable Socio-Economic Development in Africa: The Nigerian Experience," Asian Economic and Financial Review, Asian Economic and Social Society, vol. 2(2), pages 367-381, June.

[3] See Right to Health. Available at: https://www.ohchr.org/Documents/Publications/Factsheet31.pdf. See also ICESCR

[4] See Human Rights and Health. Available at: https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health.The right to health is accorded recognition by several international treaties to which Nigeria is a party. Whereas Public health focuses on communicable and non-communicable diseases and other health problems that are of public health importance in the country. For further reading, see Muhammad, F.,Abdulkareem, J., & Chowdhury, A. (2017). Major Public Health Problems in Nigeria: A review. *South East Asia Journal of Public Health*, *7*(1), 6-11. Available at:

file:///C:/Users/ep349/Downloads/34672-Article%20Text-123984-2-10-20171231%20(1).pdf. Accessed 9 June 2020

[5] On the 11th of March 2020,the Director General of WHO declared COVID 19 a global pandemic .See https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020 Available at:file:///C:/Users/ep349/Downloads/34672-Article%20Text-123984-2-10-20171231%20(1).pdf.:Accessed 9 June 2020

[6]See International Covenant on Economic, Social and Cultural Rights 1966.Available at: https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf

[7]See The Sustainable Goals Report 2019. Available at: https://unstats.un.org/sdgs/report/2019/The-Sustainable-Development-Goals-Report-2019.pdf

[8] Available at: https://www.refworld.org/pdfid/4538838d0.pdf

[9] The Nigerian government approved a 10 billion Naira grant (about $27 million) to fight the spread of COVID-19 in the country. The President also released a 5 billion Naira (about $13 million) special intervention fund to the Nigeria Centre for Disease Control (NCDC). Wealthy Nigerians and organizations, including banks also donated billions of Naira to help fund medical centres and provide essential materials necessary to curtail the spread of coronavirus in the country. Available at: https://edition.cnn.com/2020/03/27/africa/coronavirus-nigeria-fund/index.html

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