

# The Human Rights Response to the Global Impact of the COVID-19 Virus on Socio-economic Rights in South Africa

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**ABSTRACT** The domestication of international human rights law, especially the constitutional status given to Socio-economic rights in the Constitution 1996, seeks to eliminate decades of historical legacy of inequalities where issues of poverty, health, social security continue to be a challenge to the ordinary citizenry. However, the impact of human rights, which are highly regarded as a progressive tool in infusing the 'rights lens' in addressing the various challenges faced by the general populace has been left 'swinging in the pendulum' particularly in South Africa due to the advent of the novel COVID-19. This has deepened the social and structural inequalities that have a detrimental effect on the healthcare system and social security, particularly for women and children. Using desk review, the argument is linked to principles of accountability and is limited to the importance of human rights as a central response to the pandemic.

## INTRODUCTION

The COVID-19 virus has become not only a 'health catastrophe but far more than that, it became an economic crisis, a social crisis and a human crisis that has gone fast to become a human rights crisis' (WHO 2020a) (Author's emphasis).

The outbreak of the COVID-19 virus in December 2019 in Wuhan, China, with its dire consequences on all aspects of human lives has left the centrality of human rights as an instrument of addressing socio-political challenges in the lurch. The manner in which the global community minimises the impact of the pandemic on citizenry, needs an urgent response from the international community. Moreover how such response would be transmitted at domestic levels became a key determinant of the ability and readiness of various countries in dealing with emergency situations due to COVID-19 pandemic. The response to the virus requires short term and long term approaches that will deal with it in the immediate and post-impact on citizenry, especially the latter's enjoyment of their human rights. As such, the United Nations set the tone for countries to immediately respond to the impact of the virus on the enjoyment of human rights, especially socio-economic rights, saying:

*Without urgent socio-economic responses, global suffering will escalate, jeopardising lives*

*and livelihoods for years to come. Immediate development responses in this crisis must be undertaken with an eye to the future. Development trajectories in the long-term will be affected by the choices countries make now and the support they receive (UN 2020).*

In South Africa, the domestication of international human rights law, especially the constitutional status given to socio-economic rights in the Constitution 1996, seeks to eliminate decades of historical legacy of inequalities where issues of poverty, health and social security continue to be a challenge to the ordinary citizenry. The challenge is exacerbated by the advent of the novel COVID-19 virus that saw the deepening of social and structural inequalities that have and continue to exhibit a detrimental effect on the healthcare system, social security, markets and societies respectively. With the scourge of the virus in various countries, South Africa included, respective healthcare facilities and social security systems became a subject of scrutiny as the pandemic 'exacerbated and deepened the pre-existing social and structural inequalities in the delivery of socio-economic rights' (UN 2020). These rights, though included in many international, regional and national instruments became a major casualty of the COVID-19 virus because it exposed the deeply entrenched difficulties that the most vulnerable people, especially the poor, wom-

en and children living in informal settlements, were hard-hit by its devastating effects. As a result, the UN's commitment of 'leaving no one behind' as entrenched in the 2030 Agenda for Sustainable Development as is the case with the Africa's pledge in the 2063 Agenda with the qualification on 'Africa we want' hang in the balance in a majority of African countries. This is due to the rapid spread of the virus, which continues to have a disruptive and destructive effect on a majority of people (UN 2020).

Human rights, which are highly regarded as a progressive tool in infusing the 'rights lens' in addressing various challenges faced by the general populace has been left 'swinging in the pendulum'. Calls have been made since the advent of COVID-19 for rights-oriented reforms that are meant to curtail the looming catastrophe imposed by the virus on the already vulnerable and marginalised groups who do not have access to quality health care services as well as social security. The International Labour Organisation (ILO)'s 2017-2019 world social protection report paints a stark and shocking picture of the state of social protection policies and services in sub-Saharan Africa (ILO 2017). As compared to developed countries such as Australia, United States of America and United Kingdom, it has not been easy in sub-Saharan Africa to put upfront financial support towards socio economic programmes and in those countries that have done so, it has been very meagre and insufficient (Baldwin-Ragaven 2020).

With the impact of the virus on African countries, they responded to the global impact of the virus through various measures such as the lockdown systems in an attempt to flatten the curve (WHO 2020b). On the other hand, these countries are under extreme pressure from various bodies, institutions and general citizenry to put measures in place that address their socio-political challenges in curbing the spread of the virus (Mboera et al. 2020). South Africa, highly recognised for its enjoyment of human rights, is no exception to the distressing impact of the pandemic. South Africa's response to the global impact of the virus received a backlash from almost all corners of the country with questions raised, debates and opinions on the government's approaches in curbing the scourge of the pandemic. These questions and debates went on to become legal challenges in courts of law in a quest

for the implementation of the less restrictive means of responding to the pandemic. For instance, the following questions and debates were tabled by through electronic media and scholarly work namely :

- ◆ Why were evictions continuing to take place during the pandemic?
- ◆ Why was police brutality and abuse on the rise and what action was being taken?
- ◆ What measures have been taken to protect persons living in informal settlements during COVID-19?
- ◆ What measures have been taken by authorities to ensure that migrant and domestic workers continue to have access to secure housing during the pandemic and in its aftermath?
- ◆ Which measures have been identified to have limiting effect on socio economic rights since the advent of COVID19 ?
- ◆ How has the State ensured fair and equitable access to social safety net measures?
- ◆ What measures have been taken to protecting individuals from human rights violations and abuse during or after the COVID-19 pandemic?
- ◆ What measures have been taken to prevent gender-based violence? (Oliver 2020; Dartnall 2020; Potter 2020).

The crux of the matter in these questions is the government's responsibility in striking a balance in the preservation of human lives vis-à-vis livelihoods in the light of the internationally and constitutionally protected rights. It also means that political, economic, social and cultural differences should not be used as an excuse for the denial or violation of human rights (Mubangizi 2006).

The questions and debates followed the passage of regulations as highlighted in the Government Gazette that were adopted pursuant to the declaration of the national disaster on 26 March 2020 because of the COVID-19 virus under the Disaster Management Act 57 of 2002. The regulations restricted movement of people, limited socio-economic involvement that had a significant effect on people's rights, especially the poor and vulnerable communities. The declaration further saw the wave of the military approach of the enforcement agencies in ensuring compliance with the adopted protocols. The restrictions were perti-

nent to people's enjoyment of their human rights, which in light of the COVID-19, the provisioning of quality health care services and social security systems came under close microscope (Ebrahim 2020). There is documentary evidence that South Africa is known for having challenges of a large vulnerable population living in overcrowded conditions and COVID-19 is now a litmus test on how the country has displayed lethargic tendencies towards redress of the most basic human rights (Baldwin-Ravagen 2020:35). A recent report by Statistics South Africa (Stats SA) on income inequality, illuminates that the poorest sixty percent of South African households relies more on social grants to attain overall household income (Statistics SA 2019). Therefore buying hygiene products from the meagre social grant as well as practice hygienic living conditions is a luxury for a majority. Therefore, these statistics show that the livelihood of the vulnerable and deprivation of socio-economic rights subsists (Ngang 2014) and the lives of most South Africans are increasingly affected by the various forms of social security due to COVID-19. This has particularly affected people that reside in informal settlements, squatter camps and townships whereby overcrowding and non-social distancing is the order of the day in these communities. This is regardless of the fact that the constitutional protection of socio-economic rights as captured in the South African Bill of Rights is generally seen as one of the most progressive in the world (Mubangizi 2006:2).

As such, South Africa has found itself in a double-barrelled situation of attempting to live up to its obligation of curbing the spread of COVID-19 and simultaneously fulfilling the right to social security and health care as mandated by the Constitution on socio-economic rights (Africa 2020). Thus, the purpose of the right of access to social assistance for those unable to support themselves and their dependents is to ensure that the necessities of life are accessible to all (Moyo 2016:5). For instance, different initiatives such as food parcels, supply of water and sanitation, housing and the provisioning of social security grants have been adopted as part of the socio-economic response to COVID-19. In addition, R500 billion to provide parcels for the needy and a Solidarity Fund to the tune of R2 billion was set

up to provide support for the poor and vulnerable (Corruption Watch 2020).

However, the assistance rendered remains dubious as social security services remain dismal including the health facilities (Renhazo 2020:8). In addition, a majority of people are excluded from the formal social security framework, as they are not in formal employment. For example, the latest Quarterly Labour Force Survey found that close to 3 million people were working in the informal sector, or around eighteen percent of total employment (Rogan and Skinner 2019). As a result, such individuals do not often qualify for social assistance, unless they fit the requirements for one of the narrow categories of social grants (old-age, child support, disability). As such, Brockerhoff (2013) advances that despite the adoption of the Constitution, the same social security architecture exists today in a subtle manner as during the epoch of apartheid era despite the inclusion of millions of black Africans into the system (Brockerhoff 2013). Thus, the pandemic has further exposed the structural fault lines that undermine social cohesion and the imperfect realities of South Africa that are fraught with social catastrophes and injustices (Baldwin-Ragaven 2020: 34). Unfortunately, these continue to subject mostly, the black population to total withdrawal and discrimination in accessing basic socio-economic services. Moreover, the pandemic illuminates the dearth of frameworks centred on human rights, which may be adopted to monitor and address the inequitable gender, health, and social effects of COVID-19, which have "a direct effect on the key values of human rights law, human dignity, equality and freedom" (Moyo 2016: 17).

### Objectives of the Study

With this background, this article examines the centrality of the theoretical framework on human rights in the fulfilment of socio-economic rights with reference to the intersection of the rights of access to health care and social security in the light of the COVID-19 pandemic in South Africa. The article argues that the framework is a point of departure and foundation to the fulfilment of socio-economic rights of the most vulnerable, especially women and children. The argument is linked to principles of accountability

and is limited to the importance of human rights as a central response to the pandemic.

### METHODOLOGY

This study was carried out as a desk study to address the phenomenon under research as outlined in the reference list, which provides a detailed information of source that were reviewed. A review of related literature was utilised from journal articles to collate current and topical data. Electronic media was also consulted to answer the objectives of the study. In addition, a wide range of additional sources of information from the websites were utilised. International, regional and national frameworks also anchored this review. This study focused mostly on extant literature written in 2020 to ensure a detailed assessment of the human rights response to the global impact of the COVID-19 virus on socio-economic rights in South Africa.

### The Socio-economic Rights Framework and Its Reference to the COVID-19 Virus

This section sets out the theoretical framework on the protection of socio-economic rights, which is of direct relevance and fundamental importance in minimising the risk of COVID-19 virus on the enjoyment of the aforesaid rights, especially, the right to social security and access to health care, which will be highlighted interchangeably. The section is also not meant to exhaust the socio-economic legal instruments but to identify a few that will contextualise the argument being made.

The protection of socio-economic rights is traceable from the United Nation's Universal Declaration of Human Rights, which was adopted on 10<sup>th</sup> December 1948. Though the UDHR does not have a binding status on countries other than a persuasive obligation on states to provide for the protection of these rights, which in the context of social security, the duty is well articulated as envisaged in article 22, which provides that:

*Everyone, as a member of society, has the right to social security and is entitled to realisation, through national effort and international co-operation and in accordance with the organisation and resources of each State, of*

*the economic, social and cultural rights indispensable for his dignity and the free development of his personality.*

The above provision is directly linked to article 25(1) of the Universal Declaration Of Human Rights (UDHR), which links social security to health care and provides that:

*Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.*

The aforesaid articles are reinforced by Article 9 of the International Convention of Economic, Social and Cultural Rights, which was adopted in 1966 and provides that the States Parties to the present Covenant recognise the right of everyone to social security, including social insurance. A strong emphasis on the protection of socio-economics' social security rights is also entrenched in article 11(e) of the Convention on the Elimination of Discrimination Against Women, which was adopted in 1979 and provides that:

*The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave.*

The regional protection of these rights is entrenched in the African Charter on Human and People's Rights (1986), which further envisages the interrelationship that exists between civil, political, and socio-economic rights. The Charter provides that '[these rights] in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights'. At the domestic front in South Africa, the international and regional protection of these rights is localised in Section 27(1) of the Constitution, which also entrenches the intersectionality of health and social security, as it provides that everyone has the right to have access to:

*Health care, food, water, social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.*

The above is supported by the Committee on the Economic, Social and Cultural Rights, General Comment 19 that, accessibility by all persons that should be covered by the social security system, especially individuals belonging to the most disadvantaged and marginalised groups, without discrimination on any of the grounds prohibited. Social security services must be affordable, and should have physical access.

According to WHO (2017), the above elements are also linked to those of the right to health care as they entail:

*Good quality of health facilities, goods and services that must be scientifically and medically appropriate and of good quality, which requires amongst other things, health professionals, scientifically approved and unexpired drugs and hospital equipment, adequate sanitations and safe drinking water.*

Drawing from these elements Stein (2013) is of the view it is the state's obligations to protect its citizenry in a three-fold dimension of respect, protect and fulfilment of socio-economic rights. The application of these dimensions is of critical importance especially on the obligations imposed by the scourge of COVID-19. Further to this, it is deduced that a high level of sensitivity is required of the States to give recognition while addressing the socio-political challenges, which are of fundamental importance to the citizenry. Therefore, states are expected to establish effective social and health care systems that are grounded in the lens of human rights to address, especially the risks associated with COVID-19 (WHO 2020c).

With the dawn of COVID-19 that has affected not only the identified rights in this article but also the entire system of rights, it is acknowledged that the debates and arguments about the importance of the application of socio-economic rights appears to be 'out of flavour' and 'exhausted' in South Africa. This is because the scourge of COVID-19 has made it to come back under the spotlight considering the challenges that have been faced by the government in the implementation of the lockdown regulations. It sets the tone for forging of synergies and the lessons to be drawn on the manner in which South Africa is expected to respond to the pandemic through the rights-lens. However, there appears to be a misplacement of the 'rights-concept' in the socio-economic COVID-19 delivery in South Africa as

reported in national media (Sibanda 2020). This has been worsened by lack of accountability in the response to COVID-19 while attempting to protect and promote socio-economic rights of citizenry.

## RESULTS AND DISCUSSION

### Accountability 'Flew Out of the Rights Lens Window'?

The various instruments, domestically and internationally capture the content of the principles of accountability. Both the right to social security and access to health, are a cluster of rights that fall within the category of socio-economic rights. Considering the framing of these rights with internal qualifications, lack of immediate and direct enjoyment coupled with slow pace of implementing these rights is an indication that they should be reinforced by principles of accountability by those in the realm of providing for their delivery. Accountability is of critical importance and remains a bedrock of striking a difficult balance between minimising the scourge of the virus and upholding people's human rights. Accountability is also characterised by 'three indispensable and interlinked rights of truth, justice and an effective remedy and reparation (Pillay 2020). These rights foreground a number of principles of a formal and procedural character on how the governor and the governed implement strategies in holding each other accountable in the era of COVID-19. For example, the Constitution and many other instruments are explicit on processes to be followed in enforcing accountability but in reality, they still have to see their day. The Constitution captures the content of the principle of accountability, as it requires 'all branches, spheres and any other institution when contracting for goods of services to do so in accordance with a system, which is fair, equitable, transparent, competitive and cost-effective'. This obligation is of direct relevance to the rights-lens in the light of the COVID-19 pandemic.

Notwithstanding the commitment to ensure adherence to the fundamental principles of human rights, all stakeholders, branches, spheres and ordinary citizens are distressed by the level of corruption of high ranking and closely connected individuals to those in government. To an

extent, the governing party is embarrassed by its own members holding senior positions in government who are allegedly, looting state resources meant to minimise the scourge of the COVID-19 virus (Madia 2020). According to Sowetan Live on the 9<sup>th</sup> of August 2020 it was reported that, contracts are awarded to non-qualifying companies for the provision of COVID-19 material to well-known and strategically placed individuals holding high powered positions of authority. Officials in close proximity to the President, who is on a drive for a corrupt-free government and administration, are implicated in huge contracts of COVID-19 awards, which further cement the microscopic scrutiny of the systems of governance that have been slow on the promises on socio-economic delivery (Meyer 2020).

The wave of the alleged corruption pursuant to the COVID-19 pandemic requires an immediate response that will ensure the putting of measures in place that enable the evolution of the principles of accountability (Corruption Watch 2020). In the context of socio-economic delivery, especially in the light of COVID-19's right to social security and access to health care, accountability requires monitoring and oversight by duty-bearers to ensure transparency. Moreover, access to information that will empower the ordinary citizenry to become more vested with national information flow on strategies put in place towards the realisation of their fundamental rights cannot be understated (Yamin 2008). The significance of framing socio-economic delivery in light of the rights-lens does not entail a 'mere moral' obligation of duty bearers but holding them to account on the manner in which they discharge their responsibilities (Yamin 2008).

The anarchy and chaos in South Africa concerning the administration of the COVID-19 socio-economic and health care assistance has highlighted high levels of lack of trustworthiness and credibility. The alleged irregularities in the awarding of contracts for the provision of COVID-19 material and equipment and the involvement of high profile people connected to government officials and political parties is an amiss to the fundamental principles of accountability. The irregularities cast a dark cloud on accountability, which according to Richard and Fallon, who developed principles on the rule of law, ensures:

- ◆ Compliance with legal rules, standards and principles that will guide the duty bearers in the conduct of their obligations
- ◆ Efficacy wherein people are ruled and in turn obey the law
- ◆ Stability in order to facilitate planning and coordinated action over time
- ◆ Supremacy of legal authority, which binds everyone without distinction
- ◆ Instrumentalist of impartial justice in the enforcement of the law (Richard and Fallon 1997).

With these principles appearing attractive and good on paper, is clear that is not the case in South Africa, especially, with the information that has come from the media reports about the manner in which those privileged, have extended their fingers into state resources cookie jar. The alleged abuse of state resources undermines the efforts to curb the spread of the virus, which has dire consequences on the fulfilment of socio-economic rights of the most vulnerable people. The government's responsibility of ensuring social protection and quality health care to all without distinction raises a question on the significance of the rights-lens as a point of departure in minimising the risk associated with COVID-19 on socio-economic rights. Government's efforts in minimising the scourge of the virus is like trying to 'catch soap in bath water', which is slipping through the fingers. As a result, the World Health Organisation (WHO) extended an arm to assist South Africa by providing 43 senior experts across the globe in fighting the pandemic (Grobler 2020). The assistance though well received by the South African government (SA Coronavirus 2020) however, with what seems to be a lack of an effective system of ensuring an oversight concerning measures on accountability, the international assistance is also likely to remain at arm's length for the intended beneficiaries. This contention is borne by the ills that bedevil the social and health care systems. This has in the process led to the question on how does the rights lens and its direct linkage to accountability centralise its meaningful and effective implementation of the social security rights and health care rights systems without distinction in the spate of COVID-19? The intention is not to answer the question raised but to further probe the implications of address-

ing the socio-health rights ills generated by the COVID-19 virus.

### **The Rights-lens and the Effects of COVID-19 in an Unequal Society**

The inclusion of socio-economic rights as justiciable rights, which include but are not limited to the right to housing, health care, food, water, social security, children's socio-economic rights (Moyo 2016) including South Africa's Constitution was not a 'mere-wish-list' but intended to eliminate a build-up of obdurate snags of socio-economic injustices (Mohlapiamaswi and Mola-po 2014), which have in the process affected the social welfare of millions of South Africans. This has also been compounded by the protracted apartheid era, which enforced systematic violation of norms of social and economic justice (Heyns and Brand 2009). Accordingly, Ngang suggests that knowledge of why socio-economic rights gained constitutional recognition and what they aim to achieve is vital for determining the appropriate strategies to ensure their enforcement (Ngang 2014). It is worth reiterating that COVID-19 acts as a reminder of the pledge made by the state on the seminal bills of rights, which represent a collective commitment to ensure that the conditions of the most vulnerable in South Africa do not continue to reflect the apartheid era (Heyns and Brand 2009).

However, it is evident that COVID-19 has exposed the persisting social rights and health care inequalities in the respective societies. The deep social and structural inequalities have a direct impact on the provision of social assistance and health care services. Conradie traces the current gross inequalities to the 'legacy of imperialism, colonialism and by apartheid as one particularly crude phase within that history' (Conradie 2018). Without a focus on this history, it is worth reiterating Conradie's analysis of its impact that it was 'characterised by gross violations of human rights', which are today evident in the provision of social security and quality health care especially since the advent of COVID-19. The devastating effects of COVID-19 shows what has been experienced by South Africa since the publishing of the 2011 Diagnostic Report, which acknowledged that:

- ◆ Too few South Africans work

- ◆ The quality of school education for most black people is sub-standard
- ◆ Poorly located and inadequate infrastructure limits social inclusion and faster economic growth
- ◆ Spatial challenges continue to marginalise the poor
- ◆ South Africa's growth path is highly resource-intensive and hence unsustainable
- ◆ The ailing public health system confronts a massive disease burden
- ◆ The performance of the public service is uneven
- ◆ Corruption undermines state legitimacy and service delivery
- ◆ South Africa remains a divided society

The elements are intertwined with the right to access health care and the right to social security and are indicative of the slow pace within which the government implements socio-economic rights. They further show that government has been caught off-guard by the COVID-19 pandemic in addressing the existing inequalities on the provisioning of quality health care and social assistance. The health care system is already plagued by numerous factors such as but not limited to:

- ◆ Complex, quadruple burden of diseases
- ◆ Serious concerns about the quality of public health care
- ◆ An ineffective and inefficient health system
- ◆ Ineffective operational management at the coalface
- ◆ Spiralling private health care costs (Alexander 2015).

It is the case with the social security system that is characterised by:

- ◆ Fragmented, administrative bottlenecks and implementation inefficiencies
- ◆ Significant levels of social fragmentation, unacceptable levels of social alienation and the breakdown of social institutions
- ◆ Poor social welfare services and ineffective policing reinforce the sense of powerlessness in poor communities
- ◆ The distribution of and access to both public and private social welfare services remains skewed along racial and income lines, with the wealthy having access to relatively effective private services

- ♦ An increase on the demand for social welfare services and care (Alexander 2015).

The COVID-19 has laid bare and exposed the inequalities that compromise the fulfilment of the right of access to health care and right to social security. According to a report on South Africa's implementation of 2030 Sustainable Development in 2019, these identified and existing challenges reinforced by the wave of COVID-19, are a pathway for a direct or indirect curtailment of the efforts to achieve the 2030 Agenda aspirations on the provision of quality health care and social security. It is a known truth that the severity of COVID-19, which exacerbates the deeply rooted inequalities, has a greater disproportion on women than men.

### **Women as the Forgotten Priority of Socio-economic Rights During COVID-19**

A large number of women with social and health care responsibilities are under extreme pressure and likely to have their many fundamental human rights such as dignity including the right to life compromised. Women are the first line of defence in both the social and health care responses not only to COVID-19 but in all emerging viruses, which have a catastrophic effect on the social and health care systems (Pheto 2020). There is therefore, great potential for women to endure the worst of the socio-economic consequences of the viruses.

For instance, women in the health care industry have already died in South Africa (Huisman 2020) due to numerous factors such as the non-provision of the Personnel Protective Equipment (PPE's) in numerous health care facilities in the country. It can again, not be denied that women constitute a large number in the provisioning of social security in ensuring the sustenance of their lives and livelihoods by engaging in informal trading. Their informal trading has further subjected them to high levels of vulnerability because of their limited access to PPE's when engaging in their trade. Women are generally large in numbers, economically weak and further stigmatised as a 'vulnerable' group that is subject to all forms of abuse as opposed to men.

With the social and health care responsibilities resting upon a majority of women, the application of a gendered-eye, which is also biased

against women within the context of the rights-lens, could limit the devastating effects of COVID-19. However, this has not been the case as there has been a massive decline in access to sexual and reproductive services in clinics and public hospitals and this has had a direct impact on women. Mlambo-Ngcuka shares the same sentiments that COVID-19 has moved beyond the confines of health care and social security systems to:

*Challenging fundamental aspects of the ways in which we have previously arranged our social and economic structures. Women earn less, save less, hold less secure jobs, and are more likely to be employed in the informal economy, with less access to social protections* (UN 2020).

The speed at which COVID-19 has permeated the health care and social security systems has come in a different dimension and also in the form of gender-based violence for women (Egwu 2020). The outbreak of COVID-19 has seen a rise in brutality of women in various forms. Though women's suffering might not be linked to the virus per se, the fact that they are subjected to extreme violence during the period within which everyone is called upon to play the part in minimising the scourge of the virus is of concern. The adoption of the lockdown system in restricting the freedom of movement for everyone has in the process increased the rate at which women are brutally murdered, raped and sexually abused, which is an affront to their fundamental rights. The murder of pregnant Tshegofatso Pule, aged 28, who was found hanged from a tree, Naledi Phangindawo, aged 25, who was stabbed and Sanele Mfaba who was also found dumped by a tree in Soweto resulted in the President calling it a 'dark and shameful' week experienced by South Africans in all walks of life (Harrisberg 2020). Three other women accused of witchcraft were shot dead and one critically injured in Embihli village in Sterkspruit, Eastern Cape (Fuzile 2020). This is beyond comprehension and the mentioned cases of brutality of women herein do not even qualify to be classified as a 'tip of an iceberg'. Following the bravery of the Women of 1956 in fighting the unjust laws of the apartheid system, South Africa's reflection of the strides taken since the attainment of democracy on 9 August of each year, on measures and strategies to adopt in order to eliminate all forms of violence against women sounds more like 'doll drums' in deaf ears.

The brutality with which the women were killed agitated not only South Africans but also the international community. Does this mean the government's response to COVID-19 was narrowly focused on minimising the loss of lives due to the virus and its overburden of the health care system without factoring women living at home with violent partners? Does it also mean the continued manifestation of women's unequal position in society should be deepened by their dependence on violent partners for sustenance of their livelihoods and social security at the expense of their fundamental human rights? Without answering the question raised, the impact of COVID-19 has put families in financial hardships that are acute against women while, subjecting them to a stressful environment that generates intimate partner violence (UN Women 2020). COVID-19 has put the spotlight on the state's minimal response to the impact of violence on women, which compromises their fundamental rights. The broader frame of rights, which is equally applicable in the context of COVID-19, requires states to adopt legislative and other measures, which are appropriate to ensure the protection of women from all forms of violence.

To make matters worse, COVID-19 has entrenched the existing patterns of violence against women, which has devastating implications on their right to social security and access to health care. It is without doubt that the imposition of the lockdown restrictions was not designed to curtail the enjoyment of human rights. However, even with the justified and reasonable limitations of human rights, violence against women during COVID-19 leaves much to be desired. Does it mean the assumption made herein on human rights as a point of departure in addressing all socio-economic ills has made a U-Turn in flattening the scourge of the pandemic, which has seen the re-emergence of the unlimited proportion of the violation of human rights especially of women?

### CONCLUSION

Though the Constitution entrenches socio-economic rights as justifiable rights, this article highlights the immediate impacts of the COVID-19 pandemic and how it has left the centrality of human rights as an instrument of addressing socio-political challenges in the lurch despite these

rights being included in many international, regional and national instruments. The authors have highlighted how the state needs to come up with short term and long term approaches that will deal with immediate and post-impact of COVID-19 on citizenry, especially the latter's enjoyment of their human rights. COVID-19 has no doubt deepened the social and structural inequalities that have had an unfavourable effect on the healthcare system, social security, markets and societies. These traversing injustices mean women and children have been particularly hard hit and have been left to reconcile with incompatible demands of perilous jobs to meet their needs further exposing them to COVID-19, as well increased isolation, which has in the process intensified gender-based violence. Thus, the article shows that the state has in some instances failed to adequately comply with its socio-economic rights obligations to the plight of the poor. The paper further argues that the overcrowded living conditions of a majority of South Africans during COVID-19 is now a litmus test on how the country has displayed lethargic tendencies towards redress of most basic human rights. The study further highlights how lack of accountability has become an opportunity for mass corruption and failure in upholding people's human rights especially after high levels corruption by high ranking and closely connected individuals to those in government at the expense of the ordinary citizen.

### RECOMMENDATIONS

There is need to avoid side-stepping patterns of abuse of power in the context of various national COVID-19 responses, and secondly, COVID-19 should not be used as a mechanism of denial of socio-economic rights to avoid obstructing redress of gross human rights abuses and violations especially against women and children. An effective and adaptive response of promotion and protection of socio-economic rights during COVID-19 pandemic remain critical. This requires deliberate integration of key components of social responsibility frameworks, which are embedded in human rights.

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