

**LGJ****LAWYERS GYAN
JOURNAL**

Online Quarterly Journal

LAWYERS GYAN PRESENTS

LAWYERS GYAN JOURNAL

on Law and Multidisciplinary Issues.**VOLUME 1 - ISSUE 1****AUGUST 2024**

LGJ is a peer-reviewed Online Quarterly Journal. The aim is to promote legal research work, enhance legal academics, and to promote legal writing among law students and young academicians.

EDITED BY:LAWYERS GYAN JOURNAL
EDITORIAL BOARD**Email: journal@lawyersgyan.com**

DISCLAIMER

All Copyrights are reserved with the Authors. However, authors have granted the Journal (Lawyers Gyan Journal), an irrevocable, exclusive, royalty-free and transferable license to publish, reproduce, store, transmit, display and distribute it in the Journal or books or in any form and all other media, retrieval systems and other formats now or hereafter known.

No part of this publication may be reproduced, stored, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior permission of the publisher, except in the case of brief quotations embodied in critical reviews and certain other non-commercial uses permitted by copyright law.

The Editorial Team of Lawyers Gyan Journal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not necessarily reflect the views of the Editorial Team of the Journal. The Editorial Board Members do not guarantee that the material published is 100 percent reliable. You can rely upon it at your own risk. But, however, the Journal and Its Editorial Board Members have taken the proper steps to provide the readers with relevant material. Proper footnotes & references have been given to avoid any copyright or plagiarism issue. Articles published in Volume 1 Issue 1 are the original work of the authors.

To use any information published in the Journal, please take formal permission from the publisher. For permission requests, write to the publisher, subject of the email must be "Permission Required" at the email addresses given below.

Email: journal@lawyersgyan.com, lawyersgyan@gmail.com

[© Lawyers Gyan Journal on Law and Multidisciplinary Issues. Any unauthorized use, circulation or reproduction shall attract suitable action under applicable law. All disputes subject to the exclusive jurisdiction of Courts, Tribunals and Forums at Uttar Pradesh only.]

**“COVID – 19 PANDEMIC: THE IMPERATIVE FOR
STATES TO RETHINK THEIR APPROACH TO
INTERNATIONAL HEALTH RIGHTS”**

Author-

Victor Obinna Chukwuma

LLB, LLM (PUR.)

E-MAIL ADDRESS:

obinnaonwa132@gmail.com

EDITED BY-

Lawyers Gyan Journal

Editorial Board

Lawyers Gyan

TABLE OF CONTENT:**Abstract**

- 1.0 Introduction**
- 2.0 Health and Human Rights**
- 3.0 International Protection of Human Rights**
- 4.0 The Nature of Parties' Obligations in Guaranteeing the Right to Health**
- 5.0 Principles Guiding the Implementation of the Right to Health**
- 6.0 The Ambivalence of States to Health Rights – A Challenge to Global Health**
- 7.0 International Cooperation – A Fundamental Necessity to the Enforcement of Health Rights**
- 8.0 Conclusion**



Lawyers Gyan

Abstract:

It has become clearer, at least with the already witnessed far reaching impact of the Coronavirus pandemic, that health is a subject of both national and international concern. The high level of national and international emergency response to the pandemic is unprecedented and praiseworthy. However, it is incontrovertible that the pandemic has succeeded in evaluating or probing the alertness, readiness and commitment of States as regards their obligations to protect, respect and fulfil the rights to health of their citizens. This paper examines the status of health as a human right and finds inter alia that notwithstanding terminological contestations of scholars, the right to health is clearly recognized in international law and has been expatiated by the United Nations Committee on Economic, Social and Cultural Rights in its Comment No. 14. It is however worrisome that most States do not recognize the right as basic or binding. While the States hinge their stance on the fact that they do not have enough economic resources to guarantee the right, this paper submits that it is rather lack of political will and unchecked neoliberalistic forces that accentuate the growing relegation of governmental responsibilities as it relates to the right to health. This research further finds that beyond national commitment, there is need for increased international cooperation and assistance, going forward. International bodies such as the International Monetary Fund, World Bank and the World Health Organization, etc, are to cooperate with the States especially developing States and ensure that their policies promote universal health care goals. It is hoped that after the containment of the coronavirus pandemic, all countries will intensify individual commitment and international cooperation efforts in pursuing the full realization of the health rights of their citizens.¹

¹ **Victor Obinna Chukwuma Esq.** LLB (Unizik), BL (Nigerian Law School, V.I Lagos), LLM Student (Unilag) Counsel at Adekunle Ojo & Associates, Ikeja, Lagos. The writer can be contacted through his email: obinnaonwa132@gmail.com or his phone number: 07069182735).

1.0 Introduction

The Coronavirus Disease 2019 (COVID-19) is a zoonotic virus currently beleaguering the whole world today with hundreds of thousands confirmed cases and several deaths across the globe. Research is still ongoing as regards the clear cut origin of the virus but existing data show that bats appear to be the reservoir of the virus and that the infection sprang up in China.² It is no doubt that unhealthy consumption of, or some form of contact with the virus carriers must have informed its transmission to humans and the heightening spread. The emphasis of this paper is not to investigate the origin of the pandemic or stigmatize the alleged originating country. Instead, this paper seeks to reflect upon the lessons which the world ought to grasp from the pandemic. It is no doubt that the Coronavirus Pandemic has truly shaken the whole world. Beyond the devastating health issues and indefinite lockdown which the disease has occasioned, the international community has also raised alarm over the tsunami of misinformation and rumours spreading across the world on account of the pandemic.³ Furthermore, aggrieved individuals and groups have also shown their vexation by dubbing the pandemic with name of the country from which it allegedly originated and filing a suit against the country for financial indemnification.⁴ Well, it is no doubt that the principle of international responsibility may come to play in the circumstance, but it needs be emphasized that it must not dislodge the need to look beyond name-shaming, fear-mongering and stigmatization, to more lasting measures that can ensure a collective effort towards global health. This is the fulcrum of this paper – to preach international or universal approach and increased national commitment towards health care.

² See “Report of WHO – China Joint Mission on Corona Virus Disease 2019 (COVID – 19)” 16 – 24 February, 2020, pg. 8 (pp. 1-40)

³ John Zaracostas, “How to Fight an Infodemic” WORLD REPORT, The Lancet, Vol. 395, February 29, 2020, pg. 676

⁴ See Tyler Olson, “Class-action Suit Seeks to Bill China for Coronavirus Fallout: We Want the Court to Make Them Pay” FOX NEWS, 25th March 2020, available at <https://www.foxnews.com/politics/class-action-suit-seeks-to-make-china-pay> accessed on 26th March 2020

2.0 Health and Human Rights

There is, undoubtedly, a nexus between health and human rights in a number of ways. Firstly, health policies and practices can promote and protect or conversely restrict or violate human rights. In *Khosa v. Minister of Social Development*,⁵ for instance, the South African Constitutional Court found a provision of a local law (health policy) which excluded Non-South Africans from receiving certain welfare benefits to be unconstitutional. The court held that the eviction of those permanent residents merely because they were not South African citizens infringed on their rights. Secondly, the nexus is further buttressed by the fact that the violation of human rights may have negative impact on the health of the victim. According to Wendy Austin, human rights violations such as extreme poverty, trafficking in persons and victimization of minorities have grave consequences on the mental and physical health of the victims.⁶

The question to now ask is whether the health of a citizen should be seen as a right? In this connection, it must be noted that “right” is an entitlement and not a commodity so that conceptualizing health as a human right implies that the individual can lay claim to it against others including the government. In this connection, scholars place a degree of caution on the terminology used to express the rights. For instance, Professor Virginia A. Leary argues that although the expression “right to health” appears in many international instruments, it does so only in a shorthand form, and that it will be superficial and absurd to interpret the expression to mean that government, international organizations or individuals must guarantee a person’s good health.⁷ Noting that the expression right to health is to be used only for convenience, the writer suggested other expressions such as “right to health protection.”⁸ Another writer shares the same view and submits that a “right to health” makes little sense as no government can guarantee the health of a citizen.⁹ On her own part, Ruth Roemer advocates for the expression “right to health care.” She however used the words “health care” and “health protection”

⁵ 2004 (6) BCLR 569 (CC)

⁶ Wendy Austin, “Using the Human Rights Paradigm in Health Ethics: The Problems and the Possibilities” *Nursing Ethics*, Vol. 8, No. 3, 2001, pg. 187

⁷ Virginia A. Leary, “The Right to Health in International Human Rights Law” *Health and Health Rights*, Vol. 1, No. 1, (Autumn, 1994) pg. 28 (pp. 24 – 56)

⁸ *Ibid* pg. 31

⁹ Wendy Austin, *supra* note 6, pg. 185

interchangeably throughout her work but made no usage of the expression “right to health.” She submits that from moral, egalitarian and social dimensions, the right to healthcare exists.¹⁰

On the other hand, another scholar, Dr. Sarah Friedman, finds for the expression “right to health” and maintains that it is an umbrella term that implies a variety of practical requirements. To her, the expression is frequently used to challenge abuses of health by invoking social and economic rights. She sees other expressions like the “right to healthcare” as “too narrow” and admits however that the expression “right to health” faces the challenge of international acceptance simply because it is seen as being too demanding and impossible to guarantee.¹¹

It is important to note that none of the authors above denies that the notion of human rights as it relates to health. Virginia A. Leary for instance made copious arguments for the conceptualization of health as a right. She sees rights as “trumps” (that is, something of special importance) and submits that conceptualizing health as a right underscores the importance of health as a social good and not solely a medical, technical, or economic problem.¹² Therefore, notwithstanding the terminological contestations of scholars, there is a degree of consensus that health involves a notion of human rights to a comprehensive range of services such as protective environmental services, prevention and health promotion, therapeutic services, rehabilitative measures, social welfare and long term care, etc, and that these rights deserve adequate national and international commitment.

There is little data against the idea of conceptualizing health as a right. From a legislative perspective, conceptualizing health as a right has been criticized on the basis that it will limit health protection since doing so implies that the rights will be recognized only to the extent of which they are enshrined or codified.¹³ This school maintains that beyond codifying health as a right, effective international mechanisms must be put in place if such rights must be realized. It is submitted that this critique is merely positive and does not in any form deny the notion of health as a right. The criticism merely goes to the form in which the rights are contained – written or unwritten form. Another criticism of conceptualizing health as a right is the relativistic or reservationist approach which argues human values are far from being universal and that the values vary a great deal according to different cultural perspectives. They maintain

¹⁰ See Ruth Roemer, “The Right to Health Care – Gains and Gaps” *AJPH*, Vol. 78, No. 3, 1988, pg. 241

¹¹ Sarah Friedman, “The Right to Health” pp. 1-2 retrieved from <https://www.du.edu/korbel/hrhw/researchdigest/health/right.pdf>. accessed on March 27, 2020

¹² Virginia A. Leary, *supra* note 7, pg. 36

¹³ See Wendy Austin, *supra* note 6, pp. 190-191

there is no such thing as global approach to rights and that each community or people are to determine their rights based on their traditional and local majority values.¹⁴ It is clear that this critique opposes the universalist theory that international human rights have universal applicability and thus become binding on every person irrespective of creed, culture, idiosyncrasies, religion or personal convictions. While the universalists see health as a universal human right, the proponents of cultural relativism debunk the universality of the right to health and maintain that the recognition of health as a right will depend on the cultural values of a particular people or group. With a view to striking a balance between the two sides, some writers have suggested a minimalism approach by which certain basic human rights are to be seen as minimum core which must not be derogated from by every community of the world.¹⁵ The implication is that any other rights outside the list of such certain core rights may not be binding on a community whose cultural values do not agree with the rights. While I am more inclined to submit that the right to health is a universal human right, I must also underscore that enforcing the rights, the cultural values of the people should not be dismissed with a wave of hand. Health is so sacrosanct to life that one wonders which cultural belief or value can reasonably reject, as a western idea, the rights which it embodies. Even from the minimalists' approach, it is submitted that there can hardly be a list of "core rights" which will exclude the right to health.

3.0 International Protection of Health Rights

The argument that health is a universal human right is further bolstered by the fact that health rights are recognized and protected under a number of international instruments. In a declaration issued by the international community in 1978, it was categorically stated that:

"... health, which is a state of complete physical, mental and social wellbeing, and not merely the absence of disease or infirmity, is a fundamental human right and that the attainment of the highest possible level of health is a most important world-wide social goal whose realization requires the action of many other social and economic sectors in addition to the health sector."¹⁶

¹⁴ Ibid

¹⁵ Ayodele V. Atsenuwa Etal, "Criss-Crossing Law and Jurisprudence: Festschrift for Professor Akindele Babatunde Oyeboode" published by the Faculty of Law, University of Lagos, Nigeria, 2018, pg. 48

¹⁶ See the WHO and UNICEF Declaration of Alma Ata adopted at the International Conference on Primary Health Care, September 6 – 12, 1978

Several International Instruments do contain provisions recognizing the right to health. These Instruments include the Universal Declaration of Human Rights (Universal Declaration) of 1948,¹⁷ the Constitution of the World Health Organization,¹⁸ the International Convention on Economic, Social and Economic rights (ICESCR) of 1966,¹⁹ African Charter on Human and Peoples Rights,²⁰ the Convention on the Rights of a Child of 1990,²¹ Convention on the Elimination of All Forms of Racial Discrimination of 1969,²² Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 1979,²³ etc.

Of all the above instruments, this paper will hinge on the International Covenant on Economic, Social and Economic rights. Article 12 of Covenant enjoins States parties to acknowledge the right of everyone to the enjoyment of the very best attainable standard of physical and mental state/ health. In order to comply with this provision, steps which the states parties are to take must be such which will be geared towards (a) reducing the rate of still-birth and infant mortality; (b) improving environmental and industrial hygiene; (c) treating, preventing and controlling epidemic occupational and other diseases and (d) creating conditions which assure all medical service and a focus within the event of sickness. The right to health as contained in the ICESCR has been categorized as a social right.²⁴ From the provision of the ICESCR, it suffices to define the “right to health” as the right of everyone to attain the highest standard of health, at least in international law. The CESCR has done a good job in expatiating the provisions of Article 12 of the Covenant in its General Comment No. 14 on the Right to the Highest Attainable Standard of Health.²⁵ Some of the notable provisions of the Comment include:

- That the right to health does not mean right to be healthy - That the right to health contains both freedoms and entitlements. Freedom include the right to regulate own health and body and to be free from involvement while entitlement

¹⁷ Article 25

¹⁸ See the Preamble to the Constitution of the World Health Organization as adopted by the International Health Conference, New York, 19-22 June, 1946

¹⁹ Article 12

²⁰ Article 16

²¹ Article 24 (1)

²² Article 5 (e) (iv)

²³ Article 12

²⁴ Henry J. Steiner, Philip Alston and Ryan Goodman, “*International Human Rights: Law, Politics, Morals: Texts and Morals*” 3rd Edition (Oxford University Press, Oxford, 2008) pg. 276

²⁵ See the CESCR General Comment No. 14 Adopted at the 22nd Session of the CESCR on 11 August 2000 (contained in Document E/C. 12/2000/4)

include the right to a system of health protection which provides equal opportunity for people to enjoy the very best level of health.²⁶

- That the right to health extends to appropriate health care and also to the important aspects of health such as sanitation, safe water, nutritional food and housing, healthy environmental conditions participation of the people at the community national and international levels in health related decision making.²⁷
- That essential elements of the right to health includes: (a) availability, that is, functioning health and health-care facilities, goods and services, as well as programmes have to be available in sufficient quantity; (b) accessibility, that is, health facilities have to be accessible (affordability and information accessibility) to everyone without any form discrimination; (c) acceptability, that is, health facilities must comply with medical ethics and respect the culture of individuals; and (d) Quality, that is, the goods and services, health facilities, must be medically & scientifically of good quality.²⁸

4.0 The Nature of State Parties' Obligations in Guaranteeing the Right to Health

Just like other rights envisaged under international law, the obligations of States in guaranteeing the right to health is in threefold - to respect (obligation not to violate the right directly by its actions), to protect (obligation to prevent third parties from violating the right) and to fulfill (obligation to take measures necessary to ensure the rights).

The obligation of States to protect the right to health includes inter alia adopting legislative and other measures that ensure equal access to health care and health-related services provided by third parties; controlling the marketing of medical equipment and facilities by third parties,

²⁶ Paragraph 8 thereof

²⁷ Paragraph 11 thereof

²⁸ Paragraph 12 thereof

ensuring that medical professionals meet appropriate standards of education, skills and codes of conduct; adopting measures to protect all vulnerable or marginalized groups of society including women, children, adolescents and old persons, etc.²⁹

The obligation of States to fulfil the right to health includes inter alia according political and legal recognition to the right to health, adopting a national health policy with a detailed plan for realizing the right to health, provision of adequate health care facilities, provision of public health infrastructures especially in rural areas, providing public, private and mixed health insurance system which is affordable to all, promoting medical research and education, etc.³⁰

5.0 Principles Guiding the Implementation of the Right to Health

a. Principle of Non-Discrimination:

Under Article 2 (1) of the ICESCR, States parties agree to guarantee that the rights enunciated in the Covenant, including the right to health, will be exercised without discrimination on the basis of religion, race, sex, colour, language, political, national or social origin, birth, property, or status. The scope of the principle of non-discrimination envisaged under the Covenant is positively wide as it discourages any form of discrimination whatsoever in the implementation of the rights. According to the CESCR, States parties are to ensure that their constitutions, laws, policies do not discriminate on any of the above prohibited grounds and that States parties must adopt measures that attenuate or suppress conditions that perpetuate discrimination.³¹

b. Principle of International Cooperation

Under Article 2 (1) the ICESCR, States parties are required, beyond individual efforts, to also employ international assistance and cooperation in the enforcement of the rights contained in the Covenant. This provision fosters the importance of international cooperation in the protection of human rights. The provision also apparently takes note of developing countries which may not on their own be able to carry out the requirements of the Covenant without some support from the developed countries. Assistance and cooperation are the key words with

²⁹ Paragraph 35 of the CESCR Comment N0. 14

³⁰ Paragraph 36 of the CESCR Comment N0. 14

³¹ See CESCR General Comment No. 20, E/C.12/GC/20, para 8

respect to the ICESCR – the fostering of international cooperation as a by-product contributing to the maintenance of friendly relations among states.³²

c. Principle of Progressive Realization

The principle is embodied in Article 2 (1) of the ICESCR. The article provides that every state party undertakes to take steps to the utmost of its available resources “with a view to achieving progressively the complete realization of the rights recognized within the present covenant”. The implication according to Malcolm N. Shaw, is that “an evolving programme is envisaged depending upon the goodwill and resources of states rather than an immediate binding legal obligation with regard to the rights in question.”³³ It follows that the full realization of the rights envisaged under the Covenant is to be achieved through gradual or progressive efforts by the states parties. However, as rightly pointed out by the UN Committee on Economic, Social and Cultural Rights, the principle of progressive realization does admit of some exceptions to wit that the obligations to take steps as required by the ICESCR and to tackle all forms of discrimination in the enforcement of the rights must be a matter of immediate, urgent action.³⁴ Similarly, there are core obligations as regards the right to health to which the States parties are required to give immediate effect. These include:³⁵

- a. To ensure the right of access to goods and services, health facilities, especially for vulnerable groups;
- b. To ensure access to adequate nutritional food, so that everyone gets freedom from hunger;
- c. To make sure access to sanitation, basic shelter, and a supply of safe water;
- d. To provide essential medicines and medical facilities, as from time to time defined under the WHO Action Programme;
- e. To make sure equitable distribution of health facilities, etc.

³² See Rhona K.M Smith “Textbook on International Human Rights” 7th Edition (Oxford University Press, UK, 2016) pg. 48

³³ Malcolm N. Shaw, “International Law” sixth Edition (Cambridge University Press, UK, 2008) pg. 308

³⁴ See the CESCR Comment No. 3 on the Nature of States Parties’ Obligations, adopted at the 5th session of the CESCR on 14th December, 1990 (contained in Document E/1991/23) paragraph 1

³⁵ See Paragraph 43 of the CESCR Comment N0. 14

6.0 The Ambivalence of States to Health Rights – A Challenge to Global Health

As earlier on noted, the purpose of this research is to call for a sincere national commitment to health rights and to advocate for increased international or universal cooperation towards the right to health care. We have seen that the right to health notwithstanding the terminological contestations of scholars, is an internationally recognized right contained in a number of international instruments, more importantly the International Covenant on Economic, Social and Economic Rights. However, although most nations of the world have ratified the Covenant thereby incurring the health obligations discussed above, the approach of States to the rights is a subject of great concern as most of the States do not accept the rights as binding on them. This poor approach of States is reflected in their recognition of the rights as only directive principles of social policy which are not justiciable per se. The implication is that the rights aren't directly enforceable within the courts, but are intended to function as guidance for state policy. In Nigeria, for instance, where the right to health is only recognized as a directive principle of State policy,³⁶ research shows that there is poor State commitment to the health care of the citizens. This has led to the proliferation of self-medication on the part of the citizens. Accessibility to health care is a huge challenge given the inadequacy of public health facilities, lack of quality health facilities and the high cost of accessing private health institutions.³⁷

The South African Constitution of 1996 is quite unique as it enshrines these rights as basic rights. For instance, in South Africa, while the requirement to provide emergency medical treatment³⁸ impose immediate obligations on the State, other rights such as rights to adequate housing,³⁹ food, water and security,⁴⁰ are subject to the principle of progressive realization which is subject to the available resources of the State and will be breached where the State does not take reasonable steps to realize the rights.

In accordance with the Legislative critique discussed earlier discussed, mere codification of rights does not guarantee their implementation. Although this is true, it is submitted that

³⁶ See section 17 (c) & (d)

³⁷ See Yinka Olomjobi, *Medical and Health Law: The Right to Health* Princeton & Associates Publishing Co Ltd, Ikeja, 2019, pg. 45

³⁸ Section 27 (3)

³⁹ Section 26

⁴⁰ Section 27

codifying rights, especially health rights, in a legal text, is a paramount step towards ensuring their enforcement, and it also indicates some level of national commitment towards pursuing the realization of the rights. Apart from factors such as inadequate resources,⁴¹ neoliberalism,⁴² etc, it is submitted that lack of political will on the part governments inform their ambivalence towards according a binding status to health rights.

Advocating for an increased national commitment to health care, Scot Yoder justifies public regulation of health from paternalistic, social welfare and fairness perspectives. The paternalistic ground hinges on the fact that some individuals, for their own good, need some external authority to impose health habits on them.⁴³ This is true when we consider that some people due to ignorance often eat or come into contact with disease-carrying or health-destroying objects. Such unhealthy lifestyles may lead to the contracting and spread of contagious infections to others. This is the position of the social welfare perspective which hinges on the fact that the public regulation of health serves to protect the health or the public or common good. The fairness ground for public regulation of health, according to Scot Yoder, is that the government must hold people whose wrong health choices involve some level of risks, responsible of their lifestyles.⁴⁴ The implication is that people with bad health habits pose risks to others and there should be some form of legal punishments for them. The sum total of these perspectives is that national governments have a great role to play in ensuring the adequate protection of the right to health.

To improve national commitment to health rights, it is submitted that countries must go beyond recognizing the rights as binding and enforceable, to taking adequate measures towards checkmating the impact of neoliberalism on the rights. Neoliberalism which involves the idea of a free market system with minimal government interventions often oppose social safety nets like public sector health care and education as preventing markets from achieving efficient social equilibria.⁴⁵ Most countries, especially developing States, who already have little or no political will towards pursuing the realization of health rights, seem to hide under neoliberalism to evade their obligations under international law. In such States, health is seen more as a

⁴¹ Virginia A. Leary, supra note 7, pg. 45

⁴² See Evans Tony, "A Human Right to Health?" Third World Quarterly, Vol. 23 No. 2, 2002, pp. 197 - 216

⁴³ Scot Yoder, "Personal Responsibility for Health: Discovery or Decision" Medical Humanities Report Spring, Vol. 19, No. 3, 1998.

⁴⁴ Ibid

⁴⁵ See Paul Farmer, "Reimagining Global Health: An Introduction" University of California Press Ltd, London, 2013, pg. 85

personal responsibility than States' responsibility contrary to the paternalistic, social welfare and fairness arguments canvassed above. The gist is that although neoliberalism has its own advantages, it has exposed most governments to the risk of neglecting or evading their obligations under international law especially as it relates to the right to health. Therefore, national governments must rethink their neoliberalistic approach to health rights. The caveat however is that in emphasizing increased governmental responsibility and intervention in health care matters, it is not hereby implied that government should use unreasonable coercion or violence to meet its health care targets. In India, for instance, given the government's campaign against open defecation, two children were allegedly beaten to death for defecating in the open in central India whereas reports showed that the children did not have a toilet at home and were prevented by the caste discrimination practices from accessing the public facilities in the locality.⁴⁶

7.0 International Cooperation – A Fundamental Necessity to the Enforcement of Health Rights

The importance of global or universal cooperation in the enforcement of health rights cannot be overemphasized. While all nations are to take individualistic measures towards realizing the right to health, the nations must also unite each if the right is to be fully realized. It is incontrovertible that apart from the COVID-19 pandemic, many nations today are confronted with one epidemic disease or the other which requires international efforts to prevent the spread of the disease. Research shows that in 2016, for instance, a devastating yellow fever outbreak, causing 4347 suspected cases with 377 deaths did hit Angola and spread to other African countries. Some Chinese nationals who came to Angola also got infected and unknowingly imported the disease into Asia. Unfortunately, there has been poor national commitment and little international efforts or attention to the outbreak, which has resulted to the rise of the disease in Africa and the spread of fake vaccines.⁴⁷

At least, the COVID -19 pandemic has shown to a great extent how international cooperation impacts the battle against the spread of epidemic diseases. An unprecedented level of global cooperation has been witnessed on account of the pandemic. The wide impact of the pandemic

⁴⁶ See Patralekha Chatterjee, "Modi's Health Reforms: Between Hope and Hype" WORLD REPORT, Lancet, Vol. 394, October 26, 2019, pg. 1496

⁴⁷ See Paul Adepoju, "The Yellow Fever Vaccination Certificate Loophole in Nigeria" WORLD REPORT, The Lancet, Vol. 394, July 20, 2020, pp. 203-204

shows clearly that health is an international concern. As has been discussed above, international cooperation is one of the principles guiding the obligations of States under the international law. The importance of international cooperation goes beyond the fact that it guarantees global health to the fact that its neglect can engender the eruption, growth and escalation of a disease that may wipe out the whole world. In a unique appeal for international cooperation and national commitment to health rights, Joanna Palmer employs the use of real life emotional pictures to inspire the world towards appreciating the overall importance of health. For instance, the scholar displayed the picture of an abandoned tuberculosis sanatorium in Lecce, Italy and submits that instead of abandoning the building, it should be transformed into a center for research and treatment of chronic diseases.⁴⁸ Another picture is a small shop in Nepal which sells amongst other things, a product marked as mouth freshener but which has far reaching opposite effects such as fibrosis and cancer. The truth is that there are many such shops and products all over the world today (especially in Africa) and little or no efforts are made to checkmate them. Similarly, another writer, Paul Farmer, criticizes the neglect of the right to health of the poor and vulnerable persons which he submits is the reason behind the increased cases of tuberculosis deaths in Russian prisons.⁴⁹ He argues that globalization, inequality among other things negatively impact the enjoyment of the right to health⁵⁰ and submits inter alia that global effort through funding is necessary for the prevention and treatment of epidemic diseases.⁵¹

One of the notable impacts of the COVID-19 pandemic is that it has drawn the attention of the world to the importance of international and national health bodies. There are little or no entertainment, commercial or political activities to distract the world from the existence and significance of the World Health Organization. In fact, most entertainment auditoriums are now being converted to health centers. Wealthy and influential figures or institutions are now eager and willing to release huge funds to support the health soldiers. In Canada, for instance, the pandemic has led to the emergence of the “caremonger” movement. The network promotes

⁴⁸ Joanna Palmer, “Highlights 2018: Health Stories in Focus” WORLD REPORT, *The Lancet*, Vol. 392, December 22/29, 2018

⁴⁹ Paul Farmer, “Pathologies of Power: Health, Human Rights, and The New War on the Poor” University of California Press Ltd, London, 2003, pp 213-214

⁵⁰ *Ibid* pg. 225

⁵¹ *Ibid* pg. 237

mutual aid and community solidarity as a strategic response to the coronavirus pandemic.⁵² The pandemic has exposed the fact that international cooperation and response is more pronounced in curative than preventive measures. It is strongly wished that after the pandemic is successfully contained, the world would cooperate more as regards the promotion of preventive health measures. In this connection, all States and international bodies like the International Monetary fund (IMF) and the World Bank must adopt a cooperative approach towards ensuring an efficient universal healthcare system. Beyond monitoring and preventing their citizens from violating the health rights of the citizens of other countries, there should be intensified international cooperation between developed and developing countries in terms of financial assistance and sharing of effective health policies and strategies. There should be free flow of health facilities, goods and services amongst the States. States who are members of international institutions like the IMF and World bank should also pay greater attention to health rights in influencing the policies of the organizations. In the same vein, there should be increased accountability of States to international bodies like the WHO, UNICEF and the UN Committee on Economic Social and Cultural Rights as regards their efforts towards realizing the citizens' health rights and the challenges encountered in enforcing the rights.

8.0 Conclusion

The outbreak of the coronavirus disease is indeed an eye opener for the world today. The pandemic clearly shows that health concerns rank above political, economic and entertainment matters. Many nations are now coming to terms with the need for commitment to health protection. The global community has seen the impact of international cooperation in combating health challenges. This research established that health is a universal human right which has been clearly recognized under international instruments, more importantly, the ICESCR. The researcher however laments the ambivalence of States to health rights and canvasses for increased national commitment and political will towards pursuing the realization of these rights. In final analysis, this paper underscores the overall importance of international cooperation and recommends that, given the universal importance of health, there is need for a synergy amongst the States especially between developed and developing States. It is hoped

⁵² See David Moscrop, "In Canada, an Inspiring Movement Emerges in Response to the Coronavirus" available at <https://www.washingtonpost.com/opinions/2020/03/24/canada-an-inspiring-movement-emerges-response-coronavirus/> accessed on March 27, 2020.

that in the nearest future, the world would be able to boast of a functional universal health care system applicable to all States.

