

GUEST EDITORIAL NOTE

PROMOTION, PROTECTION AND FULFILLING OF HUMAN RIGHTS AND BUSINESS HALTED: COVID-19 AND THE NEED TO BRACE UP FOR THE NEW NORMAL

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INTRODUCTION

The articles contained in this special issue are papers selected after peer review from the AFRICA IN AN EMERGING ERA – Africa Union (AU) AGENDA 2063 AND POST COVID-19 THREATS conference that held from 12-13 May 2020. The premise of the conference was to investigate the effect of the poor standard of living and respect for human rights in the continent despite Africa's potentials as the continent with the largest land mass and growing population. Particularly with the pandemic of COVID-19, which graced the world in December 2019. Economies, entertainment, education, health and virtually all sectors of the world beat a retreat. Jobs were lost, thousands lost their lives in the fight against the virus and because of extra judicial killings, contracts were suspended, oil prices crashed, and developmental projects are on a halt. While the whole world is prey to COVID-19 pandemic, Africa have been cited by development authorities to be most vulnerable. Experts were quoted in some quarters to predict that the effect of the COVID-19 on Africa would be excruciating. The assumption is premised on the level of poverty, state of health facilities and poor educational infrastructure.

1. CONTRIBUTING AUTHORS' PERSPECTIVES

This section of this Journal would take a peep into the other arguments advanced by other others in this special issue that highlights the numerous and diverse challenges that the pandemic caused with particular focus to the situations in Nigeria and Ethiopia.

1.1 Governance Structure and COVID-19

The implication of a federal system suggests the possibility of different approaches to issues that are majorly included in the concurrent legislative lists in constitutions. In this instance, the

response to COVID-19 is one of such situations that require divergent response mechanism.¹ According to Sambo and Adekilekun, “despite the remarkable multiple institutional designs, constitutional and statutory provisions” all lead to some form of intense conflict on what the best approach could be in managing the pandemic, as clearly shown in the approach on *Almajiri* children which left them more exposed to the negative effects of the pandemic. This conflict finds a leaning in political cultures and leadership style.² While some leader adopted various approaches and techniques in the quest to contain the pandemic, some were slow to proceed, and thus severe damages were already experienced before responses from leaders. This was hugely linked to the distrust that several individuals had on government officials.³ The question therefore that should be resolved is “was there a need for constitutional review to enable the governments to be able to deal with the pandemic? In response to the above question, the Sambo and Adkilekun identify the importance to ensure “effective constitutionalisation of the objectives of federalism in the constitution” to be able to ensure the protection of the rights of individuals. Sadly, it is concluded that the present federal structure has contributed negatively to the states' responses to the fight against Covid-19. The uncoordinated actions of the state and federal government agencies”. Clearly identified is also the need to ensure that power structure is clearly defined to ensure that there are no disruptions in the power structures in the states. For instance, the discrepancy in the various pandemic curfews is a clear example. In several states, domestic violence increased during the pandemic and harsh economic realities.⁴

Another clear disparity is the distribution of economic relief which gave rise to variety of corrupt and sharp practises. In Nigeria for instance, during the pandemic the ENDSARS movement erupted with attacks on warehouse alleged to have been secret stores for COVID-19 relief materials.⁵ Other issues presented in the police brutalities and enforcement procedure for the various lockdown procedures in States.⁶ The clear indication here is that it is practicable that true federalism is factored in the constitutions to clearly define the power sharing models and governance structures so as to allow people to benefit from the government and know whom to hold liable at every point.

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¹ P Adepoju (2020) ‘Politics gets in the way of Nigeria's COVID-19 response’ available <https://www.devex.com/news/politics-gets-in-the-way-of-nigeria-s-covid-19-response-97720> (accessed June 15, 2021).

² *Ibid.*

³ Chatham House (2020) ‘Nigeria’s Political Leaders Need to Win Trust to Tackle COVID-19’ available at <https://www.chathamhouse.org/2020/04/nigerias-political-leaders-need-win-trust-tackle-covid-19> (accessed June 10 2021).

⁴ See generally, Gebrewahd, Gebremeskel Tukue, Gebreamlak Gebremedhn Gebremeskel, and Degenah Bahrey Tadesse. "Intimate partner violence against reproductive age women during COVID-19 pandemic in northern Ethiopia 2020: a community-based cross-sectional study." *Reproductive health* 17, no. 1 (2020): 1-8; Fawole, Olufunmilayo I., Omowumi O. Okedare, and Elizabeth Reed. "Home was not a safe haven: women’s experiences of intimate partner violence during the COVID-19 lockdown in Nigeria." *BMC women's health* 21, no. 1 (2021), at 1-7.

⁵ T Obiezue (2020) ‘Nigerians Justify Massive Looting of COVID-19 Supplies’ available <https://www.voanews.com/covid-19-pandemic/nigerians-justify-massive-looting-covid-19-supplies> (accessed June 10, 2021).

⁶ Coronavirus: Security forces kill more Nigerians than Covid-19 Available at <https://www.bbc.com/news/world-africa-52317196> (accessed June 1, 2021).

1.2 COVID-19 and Vulnerable Groups

The disparity in state response to the pandemic was adequately examined in the article “the impact of Nigeria’s Federal structure on the states’ responses to COVID-19 and the Experience in Ethiopia”.

¹⁰ Coronavirus in Nigeria: The child beggars at the heart of the outbreak available at <https://www.bbc.com/news/world-africa-52617551> (accessed June 15 2021)

1.3 Mobilising Law for Effective Combat of the COVID-19 Virus

Building on the two contexts above, the need to ensure appropriate legal stance to ensure a positive drive of various arms of governance in coping with pandemics of this nature is paramount. The need to examine the impact of COVID-19 on children receives attention by Aimienrovbiye and Otasowie. In extrapolating how the impact of COVID-19 on children through effective enforcement of laws in Nigeria and Ethiopia can be mitigated, the authors identify child labour as a serious global problem which seems to have some stringent hold on Africa. This is traceable to the high level of poverty on the continent. The article recognizes that COVID-19 presents poorly on children directly but underscores the impact that it has indirectly.

For instance, the authors identify the closure of schools as contributing to high level of drop out from schools in Ethiopia, which affects access to education and also harsh economic situation on parents and guardians of children who are unable to work thus forcing children to engage in menial works to contribute to household incomes.

The author's identify common international law treaties that both Ethiopia and Nigeria have ratified alongside national laws that could be relied upon to increase the protection of children from the harsh impact of COVID-19. The United Nations Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC) and International Labour Convention are identified as been very pivotal to achieving this if implemented effectively. Municipally, the Constitution of both Nigeria and Ethiopia; Labour Acts, Revised Family Code are laws that are further identified by the authors.

The authors argue that despite the existence of the above-mentioned laws, "the eradication of child labour in the country has remained a mirage." This situation is identified to be fuelled by lack of political will and non-prosecution of child labor related cases.

The authors conclude that "if sustainable future must be guaranteed, then child labour, a phenomenon which affects the all-round development of the child must be eradicated" stating that the existence of laws without enforcement makes the laws worthless. The need for government to map out better strategies for the enforcement of child labour laws in Nigeria and Ethiopia is a major recommendation advanced by the article.

Clearly, the positive mobilisation of the law would ensure that every individual is protected. Flowing from the above, it becomes imperative to examine the protection of the child in pandemic situations. Consequently, in examining "child protection in a Pandemic" Umeh recalls that "child protection concerns the prevention, protection and fulfilment of all rights that accrue to children". Importantly, to achieve the above obligations, it is key to adopt a multisectoral collaborative approach. This implies ensuring that the education system is well protected. In the case of the pandemic, the sudden migration to e-learning is one that requires governments proactiveness. Additionally, considering job loss and loss of economic livelihood,

children would naturally be subjected to further disadvantage and the implication of this is that states must ensure that no obstacle to the realisation of the rights to education must be allowed to subsist. The importance of ensuring that the health sector is well captured in efforts on which international solidarity could thrive is advanced here as a key to ensuring the protection of rights.¹¹

The danger of the pandemic is further captured succinctly by Umeh when it is reiterated that “For many children in Nigeria and Ethiopia, growing economic vulnerabilities will intensify the likelihood of child labour, child marriage and child trafficking”. The reality of this is clearly shown by statistics that several children were forced into a closed space with violators as they had no where to turn to for help.¹² There is therefore the utmost need to ensure that structures are put in place to alleviate these challenges going forward by making relevant strategies in the policy making and implementation of states.¹³

Finally, to achieve all the above, the importance of the Legal Implication of COVID-19 is important to be put in perspective especially as it affects businesses and livelihood of persons. According to Demamu in examining the Legal implications of COVID-19 on performance of contractual obligations in Ethiopia the need to ensure that individuals are well informed of the implication of existing laws is key as this would enable effective planning and aid implementation of businesses. This can be reflected in the various mode of contractual agreement between individuals and corporations. Some of the identified laws by the author includes legal measures in “the Council of Ministers’ Regulation No. 466/2020, Ministry of Labor and Social Affairs’ COVID-19 Workplace Response Protocol, and Ministry of Finance’s Tax Debt Remittance Directive No 64/2012”. While noting the efforts by the government to ensure that the public are aware of the applicable legal regime and restrictions during the high peak of the pandemic, the author notes that the strategies adopted by the Ethiopian government was not sustainable or implementable. This is advanced because “regional and local governments failed to follow and supervise the implementation of these measures.” Another identified reason is the impact of poverty that led to people daring the restrictions in search of daily living.¹⁴

The effect of this is that businesses experienced increasing “hardships and difficulty to meet contractual obligations being under pressure to perform contractual obligations but at risk of breaching them”. Sadly, despite efforts made by countries like China to mitigate the impact of COVID-19 on the business and contracts of its companies, the Ethiopian “government, however, did not issue any specific directives or take any measure to ease the impacts of the

¹¹ UN expert says global coordination and more equitable sharing of COVID-19 vaccines key to recovery available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26683&LangID=E> (accessed June 1, 2021)

¹² Petrowski, Nicole, Claudia Cappa, Andrea Pereira, Helen Mason, and Rocio Aznar Daban. "Violence against children during COVID-19 Assessing and understanding change in use of helplines." *Child Abuse & Neglect* (2020), at 104757.

¹³ Arantes de Araújo, Liubiana. "The potential impact of the COVID-19 pandemic on child growth and development: a systematic review." (2020).

¹⁴ *Ibid*

pandemic on the performance of contractual obligations, except for the Federal Housing Corporation which has declared a 50% reduction of house rent.”

The article further examines such concepts of a COVID qualifying as a *force majeure* and novation of contractual obligations. Conclusively, the paper identifies that COVID-19 has certainly created an unprecedented situation wherein businesses are facing many challenges resulting in significant losses if not addressed properly.

SUMMARY

Reflecting on both the presentations and papers that are accepted for publication in this special issue bring to the fore a common agreeable stance that the COVID-19 Pandemic hugely impacted on lives globally. Particularly, Africa had a toll perhaps not on the number of fatalities but on the realisation and progress of other development efforts. From education to health, the governance, policy formulation and regulation of business transactions, a big halt occurred in the progress. Vulnerable groups like the *Almajiris*, children and women were all impacted. The need to ensure that law and policies are reappraised to ensure effective responses is another conclusion that resonates through the various articles. The importance of budgetary and security policies is also identified to be key in the quest of curbing and containing the effects of the virus.

Finally, a call for action on both national and AU regional frameworks are identified to hold strong potentials for the recovery of Africa especially Nigeria and Ethiopia going forward.