



**A human rights approach to protect vulnerable
groups in a pandemic emergency in Africa
Policy Brief**

Key Messages

- In addition to biomedical research, social science research is critical for the development of policies to contain COVID-19 while protecting human rights.
- The direct impact on and consequences of control measures for vulnerable populations must be anticipated.
- COVID-19 offers an opportunity to address long-standing inequities that exacerbate the negative effects of pandemics.
- Population-specific responses require addressing the root causes of vulnerability, including poverty, discrimination and inadequate access to education and health care.
- The most vulnerable populations must be involved in the development of policies.

Background

A human rights approach to public health recognises and supports vulnerable populations, including but not limited to women, children, immigrants and sexual minorities. Vulnerability derives from social structures which distribute power unequally, and in which people cannot access sufficient state services and support. Basic social building blocks, such as class, culture, gender, race, residence and citizenship all have an impact on individuals, their families and communities. Structural inequities result in uneven health risks and outcomes: health policies may either exacerbate or mitigate these inequities. Conversely, health policies may impact human rights both positively and negatively, while the protection or violation of human rights may both affect public health.

The main policy document recommending an integrated response of African countries to Covid-19 focuses on prevention of severe illness and death while minimising social and economic disruption. This has led to the introduction of emergency measures using non-pharmaceutical interventions (NPI). Many governments have also introduced social insurance and labour market policies to mitigate social and economic impacts; while these have provided valuable support to many citizens, they failed to reach some. Our concern is the extent to which the vulnerability of those left out may have been exacerbated through policy measures which resulted in limitations to human rights. In this rapid review, we:

- Describe and analyse the impact of the COVID-19 pandemic on the health and wellbeing of vulnerable populations;
- Identify the impact of COVID-19 NPIs on the human rights of individuals and the conditions of vulnerable populations in Africa, and
- Consider the policy implications of and potential interventions to address these findings in the continued response to COVID-19.

Review Methodology

Social science research and analysis are essential to understand the broad non-biomedical implications of pandemics, and must be integrated into discussions about and design of COVID-19 policy responses and programmes. For this rapid report, we focused on the intersections among NPIs, human rights and health in Africa, concentrating on vulnerable populations including women, children and young people, migrants and refugees, homeless persons, sex

workers, sexual minorities, inmates and persons with medical comorbidities. We used a literature review of primary studies, editorial notes, opinion papers and reviews with both qualitative and quantitative content that contributed to the understanding of impacts of interventions on human rights in Africa. The Scopus database produced the core dataset; these results were supplemented by Epistemonikos and the Cochrane Covid-19 register database of reviews. The net of the above were crosschecked by participants of the expert teleconference and the review team (the authors). DC and LM independently assessed the titles and abstracts of the identified records and resolved disagreements by discussion. The full text of 38 papers were identified by search as potentially relevant by one or both review authors. Most of these were from South Africa; there was no material for the vast majority of African countries.

Studies were classified by vulnerability, underlying conditions, human rights, NPIs and policy proposals. Specific groups, conditions that predicted or co-existed with vulnerability, human rights protected or violated, and policies were included. We also identified policy proposals. Themes were aggregated, interpreted and modified in light of new evidence.

Expert Teleconference

A teleconference, with a plenary session and three extended breakout sessions organised in panel format, was held on 15 June 2021, with panelists from civil society and academia from eight countries in Africa. Participants reached consensus on which groups were especially vulnerable, how existing vulnerabilities are amplified both by COVID and by NPIs, new inequalities that have emerged, and how various stakeholders are relevant to policy responses to COVID-19. Participants emphasised the particularly harsh effects of the pandemic and NPIs on people who already experience social and economic insecurity and are structurally vulnerable.

Policy relevant findings

The impact of NPIs on decreased employment, reduced access to markets and weakened living standards was evident early in the pandemic across major population groups. These include women, children, people who are homeless and/or living in extreme poverty, people living with disabilities, institutionalised populations, and people who are structurally vulnerable, such as informal migrants and refugees who lack the documentation that enables access to services and aid. Even where government mitigation efforts are extensive, they are usually directed to citizens in formal employment or already receiving state support. Those who could not access NPIs from the government were largely dependent on NGOs.

Which populations are especially vulnerable?

Women are at greater risk of infection because they work disproportionately in confined settings and as caregivers, and they experience greater economic pressures than men. Reproductive health services were reduced to redirect resources to addressing the pandemic, and women experienced increased gender-based violence during lockdowns and curfews.

Children and youth, in and out of school, were particularly affected by the pandemic and related NPIs. Vaccines for longstanding disease and other routine services for infants and young children were interrupted in some places; school closures and lack of capacity to support online teaching interrupted education.

Migrants include documented foreigners, undocumented persons, internally displaced persons, persons moving from rural to urban areas, survivors of human trafficking, asylum-seekers and

refugees. The latter group became more vulnerable to xenophobia, discrimination and lack of protection by national laws, and often could not access social assistance programs. Stigma, police harassment and the risk of being deported or imprisoned increased the hesitation to seek health care, including to test for COVID-19. Stringent or inadequate policy measures increased risks of contagion, incarceration, unemployment, and food and housing insecurity.

People living and working in institutions, including prisons and mental health institutions, were also vulnerable because of physical conditions and lack of access to outside support.

Others were vulnerable because of their social structural position and laws that disadvantage them. Already marginalised, some who are already highly disadvantaged by COVID-19 NPIs are ignored in policy development. For example, *sexual minorities*, *sex workers* and *people who use drugs* are excluded from social protection mechanisms in some countries, impeding their access to appropriate health support. In many countries, the access of *older people* to pensions was interrupted; these people could be forced to rely on sources of income restricted by NPIs. Generally, those who experienced poverty, are immigrants, homeless, with limited and/or irregular income and/or hindered access to food, suffered from greater vulnerability and could be denied social justice .

Implementing a human rights approach to COVID-19 policies

Governments across Africa declared states of emergency and introduced disaster laws to curb the spread of COVID-19, restricting a range of activities which at times undermined human rights. Researchers have called for adoption of reasonable measures with the least possible intrusive interventions. They have also re-emphasised the need to address the underlying conditions of social exclusion.

Participants also expressed concern about the use of special powers by governments to control populations, and to claim control of civilian institutions, including hospitals, to contain COVID-19. The increased presence of the military, police and other security personnel to enforce curfews and limit mobility has raised the spectre of potential human rights violations, as documented in Kenya, South Africa, Uganda, Nigeria and elsewhere. These policies influence civilian behaviour, leading to gender-based violence and violence against foreigners.

COVID-19 measures have compounded pre-existing constraints on freedom of opinion and expression, the right to education, the right to work and food security. Social assistance policies can ignore and even criminalise vulnerable groups, and the provision of health, medicines and services for vulnerable populations were often interrupted.

National courts interpret the law and limit the exercise of power. In some cases they have only partially endorsed emergency measures which have limited constitutional rights. The Courts must be consulted before policy is developed and proposed.

Policy Recommendations

1. *Optimise the balance between the containment of COVID-19 and protection of human rights:* Policy responses should seek to balance measures to contain the spread of COVID while avoiding harm to vulnerable people. Governments should abide by international standards such as the Siracusa Principles to minimise the effects of emergency measures on human rights;

2. *Implement population-specific versus uniform responses*: Specific vulnerable groups which are typically not well represented in policy development must be recognised in order to achieve a nuanced policy environment;
3. *Treat the causes instead of the symptoms*: Multiple factors inhibit adequate policy responses and programmes, and must be addressed. These include income inequality, weak health systems, more privatisation of healthcare, gender, racial and other types of discrimination, insufficient data on poverty, discrimination and stigma and exclusion of people living in informal settings or in the informal economy;
4. *Plan more than react*: Strengthen social crisis protection, update legislation, retrain law enforcement officials and civil servants in human rights, design laws to include people regardless of national identity or registration, and anticipate the social, economic and environmental consequences of interventions, and
5. *Co-construct more than instruct*: Containment strategies must be the result of collaboration among different vulnerable groups and stakeholders in order to minimise the unintended impacts on human rights of interventions.

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