Journal of Research in Philosophy and History
Vol. 5, No. 4, 2022
www.scholink.org/ojs/index.php/jrph
ISSN 2576-2451 (Print) ISSN 2576-2435 (Online)

Original Paper

Protecting the Deity Called Neoliberalism from Shame: Uganda's 2020 Covid-19 Lockdown and Violations of the Right to Health

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Received: October 2, 2022 Accepted: October 25, 2022 Online Published: November 18, 2022

doi:10.22158/jrph.v5n4p17 URL:http://dx.doi.org/10.22158/jrph.v5n4p17

Abstract

The Covid-19 pandemic struck Uganda like a storm. On 18 March 2020, President Museveni ordered the closure of schools and suspended religious gatherings, public rallies and cultural meetings with effect from 20 March. This was aimed at safeguarding the right to health in general, and the right to life in particular, of all Ugandans. By 30 June 2020, Uganda had not registered a single Covid-19 death and had had less than 1 000 infections. The Covid-19 pandemic, however, created great panic among the leadership of Uganda's neoliberal regime. For three decades, the Ugandan state has deliberately underfunded the health sector, using the neoliberal logic that the market will address the challenges of the health sector. The state has treated economic and social rights as mere aspirations and not as genuine human entitlements. Museveni's regime has rejected pleas from civil society organisations to allocate 15% of the budget to the health sector, as per the Abuja Declaration. The New Public Management philosophy of neoliberalism advocates for public hospitals and health facilities to be run like private-sector enterprises that employ fewer personnel in order to cut the costs of salaries and wage expenses. This article argues that the Ugandan state violated the right to health of Ugandans during the 2020 Covid-19 lockdown. It contends that the ruthless enforcement of the lockdown in Uganda in the wake of the coronavirus pandemic aimed to protect the neoliberal state from embarrassment occasioned by the prioritisation of markets over people's social and economic rights.

Keywords

neoliberalism, deity, Covid-19, lockdown, violation, right, health, Uganda

1. Introduction

Uganda has ratified regional and international human rights instruments that promote and protect the right to health. On 27 March 1986, it ratified the African Charter on Human and Peoples' Rights. Article 16 of this Banjul Charter protects the right to enjoy the best attainable state of physical and mental health. The Maputo Protocol, which Uganda ratified on 22 July 2010, protects women's right to health, including sexual and reproductive rights. The African Charter on the Rights and Welfare of the Child (ACRWC), which Uganda ratified on 17 August 1994, protects children's right to health and health services. Article 14 of the ACRWC guarantees the right of children to the best attainable state of physical, mental and spiritual health. In addition, the International Covenant on Economic Social and Cultural rights (ICESCR), which Uganda ratified on 21 January 1987, protects the right of everyone to enjoy the highest standard of physical and mental health.

According to the normative content of the right to health, as elaborated in General Number 14(11) of the ICESCR, the right to health is inextricably linked with the right to adequate food and nutrition, safe water, adequate sanitation, adequate housing, a healthy working environment, and health-related education and information. The right to health implies the availability, accessibility, acceptability, affordability and the quality of health care (ISER, n.d.). Although Uganda ratified the ICESCR in 1987, it is yet to domesticate the right to health adequately in its municipal law due to the dualistic nature of its legal system. The right to health is perfunctorily protected in the 1995 Constitution, both under the morally binding national objectives and directive principles of state policy, and under article 39, which protects the right to a clean and healthy environment. Under Objective XV(b),

[t]he State shall endeavour to fulfill the fundamental rights of all Ugandans to social justice and economic development and shall, in particular, ensure that-(b) all Ugandans enjoy rights and opportunities and access to education, health services, clean and safe water, work, decent shelter, adequate clothing, food security and pension and retirement benefits.

The Ugandan government's reluctance to render the right to health statutorily justiciable can be attributed to the implementation of the neoliberal Structural Adjustment Programmes (SAPs) that negatively impacted on the health sector. In spite of the fact that Uganda ratified the ICESCR in 1987, it submitted its first periodic report to the Committee on Economic, Social Rights and Cultural Rights only 25 years later. The submission of all pending reports as a single report in 2012 is related to the implementation of austere neoliberal reforms that negatively affected the realisation of the right to health in Uganda (Uganda's Period Report on ESCRs, 2012). It must be emphasised that, although a state like Uganda is a primary duty-bearer in the realisation of human rights, neoliberalism sees state interventions in areas such as health rights implementation as distortions that ought to be curtailed (Heintz, 2018, p. 34).

As of 20 December 2020, Uganda had registered only 238 deaths and 31 384 Covid-19 cases; (MOH, 2020) and as of 1 January 2021, it had registered 35 216 cases and 251 deaths (Anadolu, 2020). The neoliberal state, however, strictly enforced the lockdown in Uganda to prevent an upsurge of Covid-19

infections and deaths. The government seems to have forgotten that the country has had to grapple with hundreds of other infections and diseases, such as HIV/AIDS, diabetes, cancers, heart disease, malaria, typhoid, sickle cell disease and tuberculosis. Although hospitals and health centres remained open because they were declared essential by the government, a number of patients in both rural and urban areas could not access hospitals due to lack of transport. In addition, the enforcement of the curfew from 7:00 pm to 6:30 am made it difficult for patients to access health facilities at night.

The brutal enforcement of presidential directives on Covid-19 by the police, military and local defence units (LDUs) led to gross violations of the right to health, among other human rights. The state used excessive might to enforce Covid-19 guidelines because it was afraid that the weak, neoliberalised health-care system would be overwhelmed by Covid-19 patients. This in turn would have brought a lot of embarrassment to a government that has persistently underfunded the health sector. According to Isaković (2020):

The COVID-19 pandemic has exposed the toxic effects of a system that has for far too long dominated every aspect of our societies. Neoliberalism, as an economic ideology of capitalism, has depleted our public services, turned our education and healthcare into profit-driven businesses, hoarded profits at the expense of undervalued and underpaid workers, favoured profitability of a militarised world over human security and well-being, and aggravated inequalities between people and countries.

2. Method

This paper uses content analysis as a methodology to assess the different texts pertaining to this study. Content analysis is a research methodology used to determine the presence of certain words or concepts within texts or sets of texts. Researchers analyze the presence, meanings and relationships of such words and concepts, then make inferences about the messages within the texts, the writer(s), the audience, and even the culture and time of which these are a part (Lal Das & Bhaskaran, 2008, p. 174). Texts can be defined broadly as books, book chapters, essays, interviews, discussions, policies, newspaper headlines and articles, historical documents, speeches, conversations, advertising, theater, informal conversation, or really any occurrence of communicative language (Prasad, 1994, p. 76).

Content Analysis therefore is the scientific study of content of communication with reference to the meanings, contexts and intentions contained in messages (Prasad, 1994, p. 76). Weber (1990) opines that content analysis as a methodology utilizes a set of procedures to make valid inferences from text. These procedures unveil sender(s) of the message, the message itself, or the audience of message, overt and covert meanings as well as social implications.

According to Stone, content analysis refers to any procedure for assessing the relative extent to which specified references, attitudes, or themes permeate a given message or document (Stone et al., 1966, p. 5). Therefore, it is a "research technique for making inferences by systematically and objectively identifying specified characteristics within text" (Stone et al., 1966, p. 5). Krippendorff opines that

content analysis provides new insights, increases a research's understanding of a particular phenomenon and informs practical action (1980, p. 18).

3. Result

3.1 Neoliberalism and the "Fragilisation" of the Health Sector in Uganda

Olumide Victor Ekanade opines that:

> [o]ver the last 30 years, the logic of market liberalization has increasingly permeated the social and economic facets of political and economic discourse to such an extent that the core values about the responsibilities and obligations of nation-states to their citizens have been strained. The welfarist ethos featuring in the public finance of some European and North American countries for much of the twentieth century included values such as equity and access, which manifested in the subsidization and affordability of social amenities. The welfarist concept, premised on the experience of western European economies, was based on the logic that if a large proportion of the population could not afford clean water, health care, or education for their children, long-term corporate interests of the society would be undermined. State-subsidized provision of these essentials was thus fully embraced because of the understanding of the short and long-term public interest involved (2014, p. 1).

Neoliberalism challenges the realisation of the right to health, and specifically the implementation of the rights-based approach to health (Chapman, 2016, pp. 72-114), especially in developing countries. This is because it subjects the right to health to the dictates of the profit-oriented private sector. The neoliberal ideology is therefore at variance with human rights because markets take precedence over freedoms (O'Connell, 2007, p. 498) and ethical considerations (MacNaughton & Frey, 2018, p. 5). Chapman (2020, p. 332) argues that:

> [n]eoliberalism contends that markets are the appropriate basis for organizing all areas of economic and social life regardless of their deleterious effects on human welfare and dignity. In contrast with a human rights approach, which conceptualizes health to be a social good contributing to human welfare, neoliberal policies consider health service to be an economic commodity. As such, the availability of health services depends on having the resources to pay for them.

In the 1990s, the Ugandan government liberalised the health sector by introducing cost-sharing in public health facilities. This lured poor Ugandans to revert to traditional herbal medicine in order to treat a number of ailments. The neoliberalisation of the health sector in Uganda led to congestion in health facilities, poor sanitation conditions, lack of basic drugs, poor remuneration of health workers, demonisation of health personnel, corruption among health personnel, and the death of patients. Expectant mothers were badly affected by the poor service delivery in government healthy facilities. According to Anti-Corruption Coalition Uganda (ACCU):

> Due to low pay, low provision of opportunities to upgrade, inadequacy of housing and a breakdown in provision of key equipment and commodities, demotivated health workers have in some cases taken bribes and other informal payments to recompose [sic] their lack. Most times health workers seek payments from patients to "support them [to] access" the treatment faster in the line; or seek informal payments for drugs; or help patients to dodge consultation fees … The challenge is not unique to the health sector. It's a generic result of a system that has dissatisfaction of public service and corruption that has woven itself in the fabric of society (ACCU, 2016).

In March 2001, President Museveni abolished cost-sharing in the public sector, and user fees were stopped to ensure access to health services. This was influenced by a report that cost-sharing was leading to unnecessary suffering and even death (Women NGOs on ESCRs in Uganda, 2015). This, however, led to rampant corruption among health workers because they continued to receive meagre salaries from the government. Consequently, the right to health of expectant mothers was violated. For instance:

> Cecilia Nambozo, a teacher at Busamaga Primary School in Mbale Municipality, knew it was time, so she did what was expected—checked into a hospital at 6am so that she could give birth with expert attention at her disposal. But that was not to be, for more than 10 hours after Nambozo checked into Mbale Regional Referral Hospital to bring unto the world a life, she was ignored, neglected and writhing in pain. Her crime? She did not have the Shs 300 000 the hospital medical staff demanded before they could attend to her. And so, she wasted away in September 2011 as her husband, Mr. Richard Wesamoyo, made desperate runs around the village to raise the money (CEHURD, 2011).

The abolition of user fees was mere political rhetoric that did not lead to fundamental changes in the health sector. Patients were still required to pay exorbitant fees for drugs and treatment, which led to the death of pregnant mothers. For example:

> Sylvia Nalubowa delivered a baby at Manyi Health Centre III, a government health care facility in Mityana in 2009. It was then established that she was to have twins and required emergency obstetric care to deliver the second baby and was referred to Mityana Hospital where the attendant (now an emergency case) was first asked to pay for three bottles of rehydrating water, which she did. In the words of the attendant, Rhoda Kukkiriza, "at this time the deceased was in extreme pain and crying for help. I went where she was and whatever came out of her was blood and I had no way to help her". Rhoda Kukkiriza adds that in pain Nalubowa "pledged her kibanja [squatter piece of land], hens and pigs if the nurses had helped her out". These pledges did not however help, Sylvia Nalubowa bled to death(CEHURD, 2011).

3.2 Quality Health Care and the Prism of Affordability

In 2009, Mulago National Referral Hospital was heavily congested. The situation was worse in the women's delivery section where all the beds, floor and the corridors were fully occupied. It was no better in the children's section, where to three to four children occupied a single bed (ISER, 2018). In 2014 the government of Uganda decided to decongest Mulago National Referral Hospital by constructing regional hospitals such as Kiruddu and Kawempe Sub-referral Hospitals. The construction of the two was completed in 2016. In 2013 the government embarked on repairing and refurbishing Mulago National Referral Hospital. A new section was named Mulago Specialised Women and Neonatal Hospital. After its completion in September 2018, state-of-the-art medical services were accessible to the public, but not affordable to the poor.

When this was completed, potential female patients were relieved. However, their hopes were shattered when Dr Jane Aceng, the Minister of Health, announced that patients seeking treatment at the new hospital would have to pay USh 50 000 (14 USD) merely for doctor's consultation fees, and USh 80 000 (22 USD) per day for accommodation, including food, utilities and linen. Other examples of prices include in-vitro fertilisation (IVF) at USh 13 000 000 (3 628 USD); normal delivery at USh 800 000 (224 USD); and caesarian section at USh 2 000 000 (561 USD) (Mafabi, 2020).

The Initiative for Social and Economic Rights (ISER), a local non-governmental organisation (NGO), argues that the prices at Mulago Specialised Women and Neonatal Hospital are not substantially different from those at major private hospitals, where rich or middle-class Ugandans are treated (ISER, 2018, p.4). In fact, some of the prices offered by Mulago Hospital are higher than those at the expensive private hospitals. The NGO discovered that Kampala Hospital charges USh 820 000 (230 USD) for normal delivery and USh 1 635 000 (459 USD) for caesarean section, while Kibuli Hospital charges USh 700 000 (197 USD) for normal delivery and USh 1 600 000 (499 USD) for caesarean section.

According to Audrey Chapman:

> [n]eoliberalism … advocates for privatizing infrastructure, utilities, and social services through selling them to private investors or transferring their management to the private sector. Moreover, the neoliberal outlook does not acknowledge social and economic rights as being legitimate human rights or even genuine entitlements because in their market-based framework no one has a claim on the resources from society necessary to provide adequate food, education, housing, and health care (Chapman, 2019, p. 287).

3.3 The CEHURD Landmark Case and Judicial Protection of Maternal Health Rights

During the 2011 Universal Periodic Review (UPR), Uganda agreed to raise the health-care budget to 15%, which is in line with the Abuja Declaration target. Uganda's health sector remains significantly underfunded, at 8.6% of total government expenditure, and this impacts on access to quality health-care services. Cost remains one of the barriers to accessing health care in Uganda. Households spend 37% of their budget on out-of-pocket costs for health care (The Uganda Coalition on Economic, Social and

Cultural Rights, 2016). The World Health Organization recommends a maximum of 20% out-of-pocket expenditure to avoid household impoverishment. Without national health insurance, Ugandans paying these high costs risk household impoverishment, particularly if they are low-income earners or members of vulnerable groups such as people with disabilities. In 2011, Uganda accepted the recommendation to establish a national health insurance scheme for the poor. The process of enacting a national health insurance law has lasted more than ten years (The Uganda Coalition on Economic, Social and Cultural Rights, 2016).

In 2011, the Center for Health, Human Rights and Development (CEHURD), together with three others—Ben Twinomugisha and the two mothers of the deceased, Inziku Valente and Rhoda Kukiriza—sued the government, seeking a declaration that the absence of essential medicines, well-trained health officers and health supplies for pregnant women in government health centres was a violation of women's constitutional rights (URN, 2021). In what was a landmark case, the CEHURD argued that failing to provide essential maternal health commodities in government health facilities is an infringement of women's rights. The right to life and the right to health are guaranteed under the country's constitution, as well as by international human rights instruments which the government has ratified. These are the ICESCR, the Maputo Protocol, and the International Covenant on the Elimination of all Forms of Discrimination against Women (CEDAW) (Mulumba, 2020).

At the first hearing before the Constitutional Court, government lawyers objected to the case. They argued that the judiciary was not competent to hear a case that required the executive arm of government to allocate resources to the health sector. The Court agreed and dismissed the case. However, CEHURD appealed to the Supreme Court, the highest court of appeal in Uganda. It argued that the justices of the Constitutional Court erred in denying them an opportunity to hear the case based on its merits (Mulumba, 2020). In October 2015, the Supreme Court's seven judges agreed with the applicant, making a unanimous ruling that the Constitutional Court judges had erred in dismissing the case. In their judgment, they held that the case raised key questions that needed constitutional interpretation for the sake of the people of Uganda. They contended that there is nothing the executive or legislature can decide on which may not be subjected to judicial review—especially if it is done in line with the Constitution—and ordered the Constitutional Court to hear the case again (Mulumba, 2020).

In its ruling of 20 August 2020, the Constitutional Court panel—comprising five judges, namely Alfonse Owiny-Dollo, Cheborion Barishaki, Kenneth Kakuru, Egonda Ntende and Christopher Izama Madrama—agreed with the petitioners and awarded USh 70 million to each of the mothers of the deceased as general damages for psychological torture and violation of the deceaseds' rights to life and health. The Court also awarded USh 85 million to each of the families for the loss suffered by the omissions of the medical personnel at Mityana Hospital and Arua Hospital (URN, 2020a).

The judges unanimously noted that the statistics given by the government when dealing with maternal deaths in Uganda do not add up, since the leading causes of maternal deaths in the country remain the same. The judges concluded with several declarations, principally that the failure to provide basic

maternal health services in public health centres violates the rights to health of women and is therefore unconstitutional; also, that the government of Uganda is accountable for the loss of Anguko and Nalubowa since the government could not challenge the allegations of negligence made against it by the petitioners (URN, 2020a).

The court ordered the government to compile and submit to Parliament and the court a full audit report on the status of maternal health in Uganda at the end of each of the following two financial years. The judges also ordered the government, through the Health Minister, to ensure that all staff who provide maternal health-care services in Uganda are fully trained and all health centres fully equipped within the following two financial years. The judges ordered too that, to meet the constitutional obligation of the state to uphold the rights of women and fulfill their reproductive rights, the government should prioritise and provide sufficient funds in the national budget for maternal health care in the following financial budget (URN, 2020a).

According to CEHURD:

> The primary defense argued by Government over the last 8 years of the case has been in Court is that Uganda is too poor to fight maternal mortality effectively. Recent evidence contradicts that claim: the FY2019/20Appropriations Bill contains a 20.9% expansion in the overall budget compared with FY2018/19. The increase is largely for Security (increasing from 6.3% to 9.3% of the budget) and Works and Transport (increasing from 14.6% to 16.2%). The Health budget share shrinks from 7.1% to 6.4%. By contrast, "Classified Expenditure and Assets" increased dramatically from USh s 934 billion in FY2018/19 to USh s 2.582 trillion in FY2019/20—the same size as the entire health budget (CEHURD, 2019).

4. Discussion

4.1 Violating the Right to Health by Unleashing Torture and Death

Article 44(a) of the 1995 Uganda Constitution, as amended in 2005, categorically protects the right of Ugandans to freedom from torture and cruel, inhuman or degrading treatment or punishment. This right is non-derogable, which means that it cannot not be taken away or suspended, even in a state of emergency. The Anti-Torture Act of 2012 makes government officials personally liable for torture. This Act overturned the old legal regime where, when a security agent committed acts of torture, it was the state that was sued instead of the individual. This interpretation of the law led to an attitude of impunity among security personnel.

Torture occurs when someone deliberately causes serious and cruel suffering (physical or mental) to another person. This might be to punish someone, to intimidate them, or to obtain information from them (Equality and Human Rights Commission, n.d.). Inhumane treatment or punishment is treatment which causes intense physical or mental suffering. It includes serious physical assault; psychological interrogation; cruel or barbaric detention conditions or restraints; serious physical or psychological abuse

in a health or care setting; and threatening to torture someone, if the threat is real and immediate (Equality and Human Rights Commission, n.d.). Degrading treatment means treatment that is extremely humiliating and undignified. Whether treatment reaches a level that can be defined as degrading depends on a number of factors. These include the duration of the treatment, its physical or mental effects, and the sex, age, vulnerability and health of the victim. This concept is based on the principle of dignity, which protects the innate value of all human beings (Equality and Human Rights Commission, n.d.).

The right to freedom from torture is directly related to the right to health because torture affects the physical and mental health of persons. Some tortured persons become sick due to bodily injury. Others became incapable of providing for themselves and their families because they have lost limbs or have been paralysed. Therefore, torture is one of the greatest violations of the right to health that there is.

At the end of March 2020, President Museveni first ordered a 14-day curfew from 7:00 pm to 6:30 am across the country. The second curfew, which lasted 21 days, commenced soon after the expiry of the first one, while the third lockdown started on 6 May (Oketch et al., 2020). The lockdown came after the Ministry of Health confirmed the first coronavirus case on 21 March. LDU personnel and other security agencies were noted for rampant human rights abuses during the enforcement of presidential directives. Among other things, they beat up, arbitrarily arrested, and shot at *boda* riders and pregnant women (Oketch et al., 2020).

The neoliberal state in Uganda used the police and military to enforce the curfew and prevent mass gatherings of people. The terror and torture unleashed by the LDU, a wing of the Uganda People's Defence Forces (UPDF), was indicative of the fact that these forces were not created to protect Ugandans, but rather to protect markets and entrench Museveni in power. It must be noted that, in a number of neoliberal states, the fundamental purpose of the police and military is to protect markets and private property rather than people per se. Several people were either killed or maimed (Nkuubi, 2020). Although President Museveni described security personnel who beat up people in order to enforce the presidential directives as "pigs", he kept largely silent as the military and police unleashed torture on the public.

For instance, Nakate, "23, a resident of Busega, Kibumbiro village in Rubaga Division, Kampala, was clobbered on the stomach on March 27 2020 by a group of policemen and village defense unit officials who were conducting a patrol" (The Monitor, 2020a). According to Nakate, "who was seven-months pregnant then, on the fateful night she had moved out of her house to buy a herbal remedy (*emumbwa*), when rain forced her to seek shelter at a common makeshift socialisation facility used by residents. The policemen who were on patrol immediately began beating her together with others (The Monitor, 2020a)." The other people ran away but "Nakate could not learn given her condition. They continued hitting and kicking her despite her pleas for mercy. When the ruthless officers left, Ms Nakate was helped by colleagues to go home first before being rushed to hospital." (The Monitor, 2020a)

Similarly, "Olivia Pita, 18, sustained a deep cut on her forehead after she was beaten by law enforcers in Moyo Town Council. The victim was flogged after being found burning rubbish with her brother at their home in Central II Village." (Oketch et al., 2020) In addition, "on Monday, April 13 2020, over 200 elderly, children, and mothers were arrested, bundled into security trucks, and remanded to Kitalya prison Wakiso until April 23rd." (Oketch et al., 2020). As early as "26th March, 2020, LDUs were captured on camera downtown Kampala beating up mothers selling fruits to be able to feed their children, while on 27th March, 2020, the media reported security personnel shooting and maiming construction workers who were riding a motorcycle from work in Goma Division Mukono Municipality" (Bwengye, 2020).

4.2 The Presidential Ban on Food Distribution as an Infringement on the Right to Health

When giving directives on the distribution of relief food on March 30 2020, President Museveni ordered the police to the arrest those directly handing over food to members of the public. This happened after the President banned public and private transport, suspended non-essential services, and closed non-food markets to prevent the spread of Covid-19. The government declared that food donations had to go through a government-organised task force (Human Rights watch, 2020). The President maintained that persons distributing food were looking for cheap popularity and that their actions would lead to the rapid spread of Covid-19. Francis Zaake, the Member of Parliament (MP) for Mityana Municipality, was arrested by security operatives on April 19 2020 for harbouring intentions to distribute food. Zaake was photographed standing next to small, tied-up green plastic bags containing tokens of food for distribution to his starving constituents during the Covid-19 lockdown (Nyeko, 2020). The MP was tortured in detention following his arrest for allegedly flouting a presidential directive against the distribution of food. Police accused him of violating the social distancing guidelines put in place to curb the spread of coronavirus. Zaake was tortured by police and security operatives attached to the Chieftaincy of Military Intelligence (CMI) (Bwire, 2020).

When Zaake appeared in court on 27 April 2020 to stand trial, Elias Kakooza, the Mityana chief magistrate, ordered him to seek medical attention before his case was heard. Zaake's right to health had been violated. He had been badly beaten and was unable to walk. He appeared in court on a stretcher, could not see properly, and had flesh missing from his chest. In addition, his back and face were seriously bruised (Human Rights Watch, 2020). Zaake lodged a case in court to secure a remedy from the state for violating his human rights. On 9 August 2021, Justice Esta Nambayo ruled that Zaake had been tortured by security officers during his arrest. She further ruled that

> the infliction of pain and injury on Zaake during his detention by the Police infringed on his fundamental human rights to dignity and freedom from torture and cruel, inhuman or degrading treatment or punishment protected under articles 20, 24, 44(a) of the 1995 constitution (Kazibwe, 2020).

She therefore "directed government to pay 75 million shillings to Zaake in compensation for violations of his rights and freedoms (Kazibwe, 2020)". Although "Zaake wanted [the] court to find the said

police officers liable for the torture, the judge has ruled that there was no evidence to show that the named officers individually participated in the acts (URN, 2020c)".

4.3 Transportation of Patients in Wheelbarrows Due to Covid-19 Restrictions

Among other directives, President Museveni banned private and public transport in a bid to curb the spread of Covid-19. For any private vehicle to be allowed to move, the owner had to seek permission from the Resident District Commissioner (RDC) and only in case of an emergency. However, "the masses found seeking permission from RDCs quite hectic. The RDCs were also overwhelmed with numbers of people seeking clearance for an emergency. Their offices had long queues of people waiting to be worked" (Nalunga, 2020). This forced some Ugandans to opt for rudimentary means of transport to health facilities.

Stanley Muganga, "a 56-year-old resident of Makerere Kavule, pushed his sister in a wheelbarrow to Kawempe Referral Hospital for a checkup. Muganga decided to push his sister in a wheelbarrow because he failed to get an ambulance" (Nalunga, 2020). He could not secure a vehicle because "the private operators of ambulance vehicles were charging a lot of money. His sister's regular checkup was overdue and he could not take it anymore. Muganga braved the highway with his sick sister sleeping in the wheelbarrow" (Nalunga, 2020). He "bypassed Police roadblocks along Bombo road, who were gripped with anxiety. His elderly sister looked fragile, helpless and nervous. She seemed exhausted even before they could reach the hospital." (Nalunga, 2020)

More still, "on 10th April, 2020, the social media was awash with photos of a woman with a broken leg in Kirabu Cell in Oli Division being carried on a wheelbarrow to Arua Regional Referral Hospital" (The Monitor, 2020b). This evoked "sad emotions because of the severity of pain the sick were going through to get to health centers following the ban on public and private transport" (The Monitor, 2020b). The relatives of the woman said "they had to hire a wheelbarrow to transport her to hospital after all their distress calls to the district leaders for a permit to drive the patient to the health facility were ignored" (The Monitor, 2020b). In addition, "on 9th April 2020, Ms Doris Okudinia, a nurse at Ediofe Health Centre III in Arua, wheeled a pregnant woman from a lower health facility, about 4kms away, to Arua Regional Referral Hospital" (The Monitor, 2020b). Okudinia stated that "the health centre lacks an ambulance and the medic's effort to secure one failed after several calls to the district did not yield a response" (The Monitor, 2020b). Apparently, "the pregnant mother was anaemic and could not be managed at the lower health centre. After the futile wait for seven hours to secure an ambulance from the district authorities, the nurse ran out of patience and embarked on wheeling the pregnant mother to save her life" (The Monitor, 2020b).

4.4 Maternal Health Accessibility in the Wake of the Covid-19 Lockdown

Human rights are premised on the intrinsic value or worth of all human beings, and lose meaning if their promotion and protection is contingent on external factors such as income and markets (Schrecker, 2011, p. 157). However, the implementation of neoliberalism in Uganda has favoured mothers from rich and middle-class families to the detriment of poor mothers, especially in rural and semi-urban

areas of the country. This greatly jeopardises the health right of expectant mothers in Uganda. For instance, in 2014, Ugandans came to learn of the plight of expectant mothers in a rural setting with the sad story of Jennifer Nabakooza. "On a cold drizzly night at about 11pm in Kakindo Village, Kiboga District, Jennifer who lived with her mother experienced the start of her birth pangs." (Kisembo, 2014) The "ordeal of the 23-year-old started with transport woes to the nearest health centre which was five kilometers away. At around 11:30p.m. the expectant mother tried to look for a boda-boda, but the one that was available had no fuel. So, she had to wait a little longer for the rider to first refuel before coming to pick her up" (Kisembo, 2014).

Finally, "the boda-boda came as it was approaching midnight. Although the pain had increased Jennifer still got onto the motorcycle however, along the way the pain became excruciating and she requested him to stop so that she could get off" (Kisembo, 2014). Jeniffer "was in so much pain and the boda-boda rider helped her to the side of the road. Although it was cold after a drizzle, none the less she started pushing the baby to come out" (Kisembo, 2014). While "she was pushing, the boda-boda rider called the nearest health centre called Mujunza Health Centre II which is about five kilometers on the winding, ragged and muddy dirt road from her home and asked them for help" (Kisembo, 2014). Within "a few minutes after the phone call, the baby was delivered, however, he was still attached to the umbilical cord. It took some minutes before her body partly expelled the placenta" (Kisembo, 2014). She "held up baby to her belly with one hand, and used the other to hold the placenta between her legs. The Village Ambulance dispatched by the health centre arrived past 3 a.m., at the same time Jennifer's old mother had been called in to assist" (Kisembo, 2014).

This story exposed the implications of the neoliberal decimation of health-sector funding in Uganda, and a number of Ugandans wished that this would never happen to any other woman ever again. However, the imposition of a lockdown and transport restrictions by President Museveni brought another expectant mother face to face with Jennefer Nabakooza's experience. Hadija Mudondo, "a resident of Kabwangasi Sub County in Butebo district gave birth to twins along Mbale-Soroti Road in Mbale municipality on the afternoon of May 31st 2020. Mudondo and her little sister had walked on foot for over 15 kilometers from Butebo district to Mbale Regional Referral hospital because of the ban on public transport" (The Independent, 2020a). According to Mudondo, "when she started experiencing labour pains, she asked her young sister to accompany her to Mbale hospital. She explains that they tried to look for transport means to Mbale in vain" (The Independent, 2020b).

Mudondo reiterated that "every Boda cyclist they stopped refused to carry them because they weren't ready to be beaten by security men for defying the presidential ban on public transport" (The Independent, 2020a). Mudondo also stated that "they kept on walking until they reached Namakwekwe in Northern division when the labour pains intensified only to realise that one of the children had already come out" (The Independent, 2020a). Hadijja Naula, "Mudondo's young sister pointed out that they were only rescued by passers and residents who helped her sister to give birth. She blamed the situation on the ban of public transport" (The Independent, 2020a). Farida Gimono, "an onlooker,

opined that Mudondo gave birth while she was even still in her knickers only to realize the baby was dropping. Gimono asked authorities to revise the COVID 19 directives so as to cater for the sick" (The Independent, 2020a). Luckily, "shortly after Mudondo delivered, an ambulance from Tobin General Clinic which was passing stopped and rushed her to the clinic for further management" (The Independent, 2020a).

Following the suffering and death of a number of expectant mothers, a coalition of civil society organisations called on the government to:

> remove the transport ban for all other people who are sick and/or have urgent health needs (such as HIV or TB treatment refills); launch an emergency mobile health service system, wherein two (2) emergency vehicles, fully equipped with fuel and drivers, stationed at each sub-County in all districts, are available to provide free, 24-hour ambulance services during the duration of this crisis (Action for Rural Women's Empowerment, 2020).

The coalition reiterated that RDCs, DHOs and LCs should be required to communicate and prominently display their dispatch numbers so that residents could easily make use of this life-saving service. It further advised that LC1s must be given the mandate and support to identify *boda-bodas* and vehicles that can be used to transport those in need of urgent care when sub-County ambulances are not readily available. According to the civil society coalition, designated legal aid services should have been regarded as essential during the unprecedented lock down period, so that fundamental human rights were not put further at risk (Action for Rural Women's Empowerment, 2020).

4.5 Defilement and Children's Right to Health

Article 24 of the Convention on the Rights of the Child (CRC), which Uganda ratified in 1990, protects the rights of the child to the enjoyment of the highest attainable standard of health. Article 27 of the ACRWC guarantees children's right to freedom from exploitation and sexual abuse. Section (1)(a) of this article imposes an obligation on Uganda to prevent the inducement, coercion or encouragement of a child to engage in any sexual activity. Article 8(A) of the Children Act of 1997 protects children from sexual exploitation, while article 7 of the same law protects children from harmful customary and cultural practices such as child marriage.

These provisions in the above human rights instruments were extensively violated during the 2020 Covid-19 lockdown. On 31 March 2020, non-essential services in Uganda, including schools, were closed to prevent the spread of Covid-19. About 15 million children were sent home, which meant that basic care needs normally met by schools now fell on families. Although lockdown measures helped to contain the spread of Covid-19 in Uganda, reports of child-rights violations increased greatly (USAID, 2020). Unfortunately, government frontline social workers with the mandate to monitor cases of violence against children were classified as non-essential.

This resulted in "the temporary closure of the national child toll-free helpline, 116, which is used to monitor cases of violence against children" (USAID, 2020). The "helpline remained closed for two weeks, making it difficult to monitor new cases, including those potentially associated with COVID-19

stressors, such as loss of income and close-quarters living, among others" (USAID, 2020). Statistics from Uganda Police indicated that "over 21 000 cases of violence against children were registered over a period of five months between March and July 2020. Many of these children were reportedly pregnant" (USAID, 2020).

Although the Ministry of Education and Sports instructed all primary and secondary schools to allow finalists to return to school so as to complete their education (The Independent, 2020b), a number of these children were reportedly pregnant. Finalists returned to school on 15 October 2020 to prepare to sit national examinations early in 2021. However, there were reports from different parts of the country showing a surge of sexual violence against school going children during the six months of school closure. In spite of the fact that "the government has a policy that allows pregnant learners to continue with their studies after delivering, in the past, schools have been quick to chase learners who are discovered to be pregnant" (The Independent, 2020b).

The government seems to have underestimated the mental health challenges of expectant children within the school environment. Rhitah Namukasa, a secondary school teacher in Masaka district who was interviewed by the *Independent* newspaper, opined that "at times expectant mothers have different needs which might not be met in a school environment. She argues that forcing these children to go back to school lands them into discrimination because they can be perceived as rotten mangoes that need to be discarded" (The Independent, 2020b). Edward Kanoonya, the head teacher of Kololo Secondary School, opined that "at times, it's the students who are more scared of being in school. He reiterated that much as government was willing to have the pregnant students come back to school, often it's children who hide and even avoid coming back because they feel ashamed. They would rather go to another school where they are unknown than coming back to continue studying while pregnant among their friends" (The Independent, 2020b).

According to UNICEF, "Uganda has the 16th highest prevalence rate of child marriage in the world and the tenth highest absolute number of child brides globally. 787,000 (40%) of girls in Uganda are married before their 18th birthday and one in 10 is married before the age of 15." (UBOS, 2011) Customary or informal marriages, "where a girl lives with an older man, are more common than registered civil or religious marriages. 11% of currently married 15-19 year-old girls are married to men who have more than one wife" (UBOS, 2011). A 2017 World Bank study "shows that ending child marriage in Uganda could generate USD514 million in earnings and productivity" (World Bank, 2017). Although children seemed to largely escape the worst Covid-19 infections, lockdowns to curb the pandemic increased exposure to a different threat to children's health, namely abuse and violence (Ren, 2020). District leaders in Kitgum expressed worry that by the time schools were allowed to resume in the area, more than half of the female students in the district would either be pregnant or married. According to June statistics that the district Community Development Office presented in a meeting with UNICEF, 1 519 girls under 19 years of age had visited a hospital for antenatal care since the coronavirus pandemic forced schools to shut in March 2020 (Taremwa, 2020).

Despite the district's best efforts to "curb teenage pregnancies and early marriages, the cultural norms and practices of the Acholi and the effects of the long-term war between the government and the Lord's Resistance Army (LRA) have been an impediment to key interventions" (Taremwa, 2020). The coronavirus pandemic "made matters worse by leading to the skyrocketing of the cases of child marriages and teenage pregnancies" (Taremwa, 2020). Furthermore, "2,372 girls were impregnated in Kitgum, Ngora, Kyegegwa, Kasese and Lyantonde districts during the Covid 19 lockdown. These figures were obtained from district health and education departments, and the probation and social welfare departments." (Oketch et al., 2020) At "least 128 school girls were married off, with 48 cases registered in Kyegegwa, 60 in Rakai and 20 cases recorded in Kamira Sub-county, Luweero District. Police records showed that 110 girls were defiled in Kitgum, Kiryandongo, Sembabule, Kayunga, Lyantonde and Ntungamo districts" (Oketch et al., 2020). According to a report from Human Right Focus Uganda (HURIFO), "a total of 4,062 cases of teenage pregnancy were recorded in six out of eight districts in Acholi sub region within five months of the lockdown" (Oketch et al., 2020). Francis Odongyoo, the executive director of HURIFO, revealed that "the above cases of teenage pregnancy were mainly registered from Omoro and Kitgum" (Okema, 2020).

4.6 Self-Immolation as a Consequence of Men's Declining Mental Health

The government of Uganda "spends 9.8% of gross domestic product on healthcare, or US$146 annually per person. Less than 1% of this goes into mental healthcare, compared with 10% in the UK" (Molodynski, Cusack, & Nixon, 2017, p. 98). Uganda's "mental health services have been characterised as inadequate, with little or no community care and in-patient services that are unable to meet demand. Estimates indicate that that 90% of people with mental illness receive no treatment" (Molodynski, Cusack, & Nixon, 2017, p. 98). The implementation of Structural Adjustment Programmes in Uganda worsened mental health funding because neoliberalism emphasises the role of the market in solving socio-economic questions, erodes the role of the state as a guarantor of these rights, and converts rights into individual responsibilities (Twinomugisha, 2020).

Uganda experienced an unprecedented rise in men setting themselves ablaze since March 2020 when the country first went into lockdown. Cases were documented across the country of men ending their lives by setting themselves on fire. This persuaded civil society organisations that had previously prioritized women's rights to devise strategies of focusing on men's mental health during the Covid-19 lockdown (The Monitor, 2020c). Although the lockdown was done in "good faith", it left several Ugandans in financial distress because it caught many of them by surprise.

For instance, in "July 2020, a boda cyclist torched himself to death inside Masaka central police station in protest over his impounded motorbike. Hussein Walugembe, who was operating a motorcycle taxi from around Buddu Shell fuel pump station stage, doused his body with petrol he had carried in a mineral water bottle concealed in his jacket" (URN, 2020b). Walugembe had gone to "the police station to follow up on his motorcycle registration number UEF 145L that was impounded on Monday over flouting curfew guidelines" (URN, 2020b). Walugembe's friend, Agnes Namubiru pointed out

that the deceased told her that "police had asked him for a bribe of Shs 100,000 to release his motorcycle but he failed to raise the money" (URN, 2020b). She stated that "Walugembe committed suicide after going to the police station on the morning of Thursday 2nd July, 2020 to request a traffic officer to assist him recover his motorcycle" (URN, 2020b).

Andrew Mukiibi, "a 28 year resident of Nakulabye Zone 5 in Kampala City, also set himself on fire and died due to challenges suspected to be related to finances. This Nakulabye landlord became one of victim of self-immolation following similar cases in the previous months" (Bagala, 2020). The incident happened "on Thursday August 12 2020 at about 2:30pm. The late Mukiibi, picked a jerrycan full of petrol from his car at around lunch time and went with it in one of the toilets at his rentals where he set himself ablaze." (Bagala, 2020)

Again, "a former LC II chairperson in Sironko, Jackson Taika also set himself ablaze. Taika, a resident of Mafudu parish, Bukulo sub-county in Sironko district died on Saturday morning of August 23rd 2020 after setting himself ablaze using petrol." (URN, 2020e) He "set himself ablaze in his garden a few meters away from his home. Taika had misunderstandings with his two wives and children, which residents suspect could have forced him to take away his life." Muhammad Kawanguzi, the coordinator of crime preventers of Bukulo sub-county, and a neighbour to the deceased, stated that "Taika was seen buying fuel across his home before heading to his garden (URN, 2020e)".

Also, "in July, 2020, a man set his house on fire killing his baby and also injured himself and the wife after suspecting her of having a love affair with another man". In addition, "a vendor in Kazo in Western Uganda also burnt himself and sustained injuries after he was given a traffic express penalty ticket and a taxi driver attempted to burn himself at Kampala Capital City Authority (KCCA) headquarters, but his suicide attempt was foiled by police officers who arrested him (URN, 2020e)".

4.7 Teachers' Right to Health and Right to an Adequate Standard of Living

Neoliberal Structural Adjustment Programmes in Uganda relegated a number of teachers in Uganda to employment in private schools. Since the Ugandan government's decision in 1993 to liberalise the education sector, thousands of schools and institutions have been set up by private investors. In the secondary sub-sector, the number of private schools is estimated at about 4 000. This is more than double the number of government-funded schools (MOES, n.d.). Since the Covid-19 lockdown, 350 000 private teachers have experienced indifferent response from government and from private employers. Some private academic institutions cut off communication with their staff when the lockdown was imposed on the education system. This was because they lacked the financial means to support their staff, as the lockdown had caught them by surprise (Obilan, 2020).

Unlike their counterparts on the government payroll, who continued to receive their salaries during the lockdown, teachers in private schools struggled to make ends meet. Without jobs and regular salary for months, these teachers were pushed to the brink of financial ruin. Alone and ignored by government, "many opted for menial jobs such as brick-making, charcoal burning, hawking, riding boda bodas, taxi driving, working on construction sites and selling meat, fruits and vegetables" (Nakabugo, 2020). Some

teachers were on the verge of losing their property to money lenders who were demanding loan installments. Although several teachers in private schools had accumulated substantial savings with the National Social Security Fund (NSSF), the government was unwilling to release 20% of the savings to the savers so that they could survive the challenges posed by the lockdown. President Museveni expressed scepticism about the 20% payment to NSSF savers, stating that the decision might lead to the crash of the scheme, which had accumulated 13 trillion Uganda shillings (Lumu, 2020; Agaba, (n.d.)). He refused to sign the National Social Security Amendment Bill 2019 into law, and referred it back to Parliament (URN, 2021).

In August 2020, a primary teacher in Kamuli district took his own life due to accumulated debts. Jimmy Buyonga, 32, a teacher at Kasambira Preparatory Primary School in Bugulumbya sub-county in eastern Uganda, hanged himself at the school premises. Rose Namukose, a resident of Bukapere village where the school is located, stated that the school had not paid its teachers since the closure of schools in March 2020 (URN, 2020f). Although President Museveni had promised to inject USh 22 billion into the teacher's Saving and Credit Cooperative Society (SACCO) to assist teachers overcome the challenges posed by the Covid-19 pandemic, the money had not been released as of November 2021 (Kiiza, 2020). The neoliberal state has greatly violated teachers' right to health and an adequate standard of living by denying them the material and financial amenities to enable them to secure these rights.

4.8 Underfunding of the Health Sector in the 2020/2021 Budget

Many Ugandans were hopeful that the budget for the financial year 2020/2021 would allocate a greater share to the health sector, given that the budget was read during the Covid-19 global storm. While presenting a minority report of the Parliament Budget Committee on the Annual Budget Estimates for Financial Year 2020/2021 during a plenary sitting on 22 April 2020, Muhammad Muwanga Kivumbi, the MP for Butambala County, advocated for more funding for health and agriculture. He stated that "the two sectors were extremely critical in the response to Covid-19 pandemic and ensuring food security for several households during the ongoing country-wide lockdown ordered by President Yoweri Museveni to curtail the spread of the Covid-19" (Parliament of Uganda, n.d.).

During the reading of the USh 45.5 trillion budget on 11 July 2020, the Minister of Finance, Matia Kasaija, allocated 6% (2.7 trillion) to the health sector, 13% (5.8 trillion) to works and transport, 10% (4.5 trillion) to security, 8% (3.6 trillion) to education, 9% (4 trillion) to interest payments, and 1.3 trillion to the agricultural sector (The Observer, 2020b). This means that, even this time round, the government failed to meet the Abuja Declaration target of allocating 15% to the health sector. The fact that 34% of the Ugandan budget is financed by foreign donors significantly effects implementation of health priorities since donors might not honour their commitments or might fail to disburse funds on time (ISER, 2021).

Patrick Katabazi, executive director of the Centre for Budget and Tax Policy, was of the opinion that the budget was not in line with the National Development Plan (NDP) and was drawn up before the

Covid-19 pandemic. He faulted government for rushing to present a budget that did not address the impact of Covid-19 on the economy, since parliament had had ample time to revise and adjust it accordingly (Sekanjako, 2020). The allocation of a large share of the budget to works, transport and security is a violation of the right to health of Ugandans. The neoliberal state in Uganda has prioritised entrenching itself in power over health-related rights such as water, food and adequate housing. The upgrade of 144 medical facilities from level II to health centre III status during the Covid-19 partial lockdown did not actually align the facilities with the minimum standards for the right to an adequate standard of living (The Monitor, 2020b).

The Uganda health sector is ailing courtesy of neoliberalism. The health facilities where patients seek relief from their illnesses end up as breeding centres for diseases. Health centres are understaffed, given that medics have a heavy work load, receive very low pay, and a number have opted for greener pastures abroad. In addition, nurses have been denied a daily lunch allowances of USh 15 000 (Wafula, 2020) and a number of medical personnel avoid working in rural areas because of poor working conditions(The Monitor, 2020b). Furthermore, many health facilities lack essential devices such as X-ray machines; in cases where they are available, they are old and continuously breaking down. This endangers the lives of patients, who are forced to wait until they are repaired. In rural areas, some health centres do not have access to electricity and piped water, limiting the ability of these facilities to serve patients (The Monitor, 2020b).

Under these unfortunate conditions, health workers are sometimes forced to deliver babies and conduct other operations using torches and paraffin lamps. The print and electronic media have reported about health facilities countrywide facing water shortages. This is regrettable because health facilities need adequate supplies of water to conduct their daily operations under the requisite sanitary conditions (The Monitor, 2020b). While lambasting the misguided priorities of Uganda's neoliberal state, Kizza Besigye the founder of the Forum for Democratic Change (FDC) party, argued as follows:

> The problems posed by COVID-19, both short and long term, are immense. The pandemic came when Uganda already had serious challenges in the health sector and the economy was itself on a life support. The State of Uganda is under total capture by Mr Museveni and elements of his forces. They use our resources as they please. It's decades of wrong priorities and unaccountable governance that's responsible for the huge challenges that COVID-19 has exposed: a grossly undermanned, underequipped and under-facilitated healthcare system; lack of reserves in Bank of Uganda to cushion people's welfare under lockdown; lack of food reserves; over-dependence on imports. What's the Shs 1.3 trillion "Classified Expenditure" supposed to buy that's more urgent or important than saving the lives and livelihoods of our people? It's not conceivable that Uganda is preparing for a war in the current circumstances. Even if that were the case, healthy people would be needed to fight or support the war (Besigye, 2020).

The underfunding of the health sector in both the 2020/2021 and 2021/2022 financial budgets is responsible for the oxygen crisis and the exorbitant fees charged by private hospitals between April and July 2021. During this time, the price of oxygen cylinders tripled in a number of health facilities, with some filled cylinders sold at USh 3 million (835 USD). Other facilities charged USh 200 000 (56 USD) a day for oxygen supply which they purchased at USh 25 000 (7 USD). The Minister of Health, however, revealed that private providers procure oxygen at a lower price of USh 13 000 (4 USD) per cylinder refill (ISER, 2021). During this period, private hospitals, which many people choose due to the sorry state of public health facilities, charged exorbitant fees and detained the dead bodies of Covid-19 patients for failure to pay. According to ISER,

> Testing costs between 100,000Ush for a rapid test to 300,000Ush for a PCR test … [T]he minimum deposit for a number of facilities is 5 million shillings with sources indicating that private health facilities in Kampala charge between Shs 5 million and Shs 10 million for treating a critically ill Covid-19 patient, with some requiring a deposit of the said sum before admitting the patient in either High Dependency medications and treatment Unit (HDU) or Intensive Care Unit (ICU) and then further charging for administered treatments. … [People] paid 16.5 million for two days in hospital, 78 million for 3 days and up to 200 million (ISER, 2021, p. 1).

5. Conclusion

The Covid-19 pandemic has greatly constrained Uganda's health sector, which had been made fragile by the implementation of neoliberal Structural Adjustment Programmes (SAPs) for almost three decades. The panic by Uganda's neoliberal state to prevent the pandemic from decimating millions of lives despite damage caused by neoliberal reforms, has worsened the violation of the right to health in general and health-related rights in particular. Security agencies killed and maimed people in a bid to enforce presidential guidelines on Covid-19. Although the government anticipated reaping political capital by distributing food to about three million residents in Kampala and Wakiso, the project failed miserably due to corruption. Additionally, a number of people with ailments such as HIV/AIDS, diabetes, malaria, typhoid, high blood pressure and cancers failed to access medical services due to the lockdown on private transport. Expectant mothers also lost lives, while others delivered in squalid and insanitary conditions. Other Ugandans suffered from starvation and mental breakdowns that led to domestic violence and suicides as the neoliberal state shut its eyes. The Covid-19 pandemic has exposed the neoliberal recklessness that is evident in the explicit and implicit neglect of human development and social and economic rights. The pandemic has proved beyond reasonable doubt that the right to health is a backbone of the economy. This implies that its neglect can lead to the crumbling of all other sectors of the economy.

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