



Research Article

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Panoramas of Regulating the Right to Reproductive Health: A Remedy to Socio-Economic Challenges in South Africa

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Abstract

Like many other countries, South Africa has over the years recorded an expeditious population growth, statistically, during this era, socio-economic stability diminished, which led to a regression in human wellbeing development. The latter ensued due to the decline in the adequate incursion to basic services, such as quality health care, education, safe cleaning water, and housing. Amongst others, uncontrolled population growth exacerbated the already dire socio-economic challenges the country is faced with. This paper aims to demonstrate that unregulated population growth hinders the progress of socio-economic development, admonishes societal stability, and in general, sabotages the survival of humanity. Therefore, this paper indicts the possibility of enacting legal instruments that will control the population in a form of regulating or limiting the right to reproductive health as captured or envisaged in the Constitution of the Republic of South Africa. It is therefore submitted that the South African government must implore or consider drafting policies and legislations that aim at aligning the state resources and the population. Finally, the excursion of this paper will highlight challenges that prosper as a result of population growth within the area of education, poverty, unemployment, and social security.

Keywords: Overpopulation, Right to Reproductive Health, Socio-Economic Rights, Human Wellbeing, Social Transformation

1. Introduction

Post-1994, South Africa became a Constitutional state. The Constitution of the Republic of South Africa, 1996 (hereinafter, The Constitution, 1996), became the supreme law of the Republic. This is captured in terms of s 2 of The Constitution. The section asserts that any law or conduct that violates the Constitution is invalid (The Constitution, 1996:s 2). The Bill of Rights entrenches a comprehensive set of human rights. In particular, s 27(1)(a) provides that 'everyone has the right to health care services, including reproductive health care (The Constitution, 1996: s 27(1)). The inference drawn from section 27(1)(a) is that everyone who enjoys the privilege of this section is at liberty to procreate anyhow and without limitations. Consequently, this results in exacerbating the already existing socio-economic challenges that the country is already failing to effectively address. This is more so since there is a *lacuna* in the South Africa Legal Framework as there is no specific legislation that seeks to optimally regulate the population. The South African government has yet to enact such

laws and in their absence, it becomes difficult for the state to manage the population in a manner that is aligned with the available state resources.

Like other countries, South Africa is inundated with a multiplicity of socio-economic challenges, and *inter alia* these challenges are unemployment, poverty, inequalities, moral decay, racial tensions, slow economic growth, and diminishing socio-economic opportunities in general. All these factors have an inherent bearing on the well-being and livelihood of citizens, a question that can best be addressed by ascertaining the interaction between people's socio-economic circumstances and the phenomenon of overpopulation. This indicts the need to understand the impact of overpopulation on the well-being and livelihood of a people, and prospects towards attaining social peace and societal stability.

2. Conceptual Interpretation

2.1 Overpopulation

Morris G, allude that over-population occurs where the number of people in a particular place and time, results in discomfort, unhappiness, and inadequate access to health services (Priory Press, 1973). Simply put, overpopulation is when the presence of people is not aligned with the presence of both natural and state resources for their wellbeing.

2.2 Reproductive health

According to the World Health Organisation Reproductive health is when individuals are able to wholly exercise the right to reproductive health. In other words, reproductive health means individuals being able to freely decide for themselves as to when and with whom they want to engage in sexual activities with. Further, it extends to also having access to state institutions for reproductive health treatment. (WHO, 1995) In the framework of this paper, this submits that individuals have the ultimate right as to how to exercise the right to reproductive health without any restrictions from the state.

2.3 Socio-economic rights

Khoza submits that socio-economic rights are rights that entitle the bearers of rights to have access to basic state-funded services which are essential for all to live a dignified livelihood.. (Khoza, 2007:9).

2.4 Social transformation

Castle S opines that the term social transformation commonly infers to the cultural and societal changes that occur as a response to economic growth, war, or political cataclysms" (Castle, 2001:15). In the context of this paper, Social transformation would suggest access to various resources and opportunities to acclimatize with the socio-economic need as they continuously unfold.

3. Problem Description

It has become conventional that overpopulation, as a worldwide phenomenon, threatens the ability of humans to survive, and sustain peace and co-existence. Unregulated population bears a direct negative impact on socio-economic development. In some other countries like China, laws and policies have been enacted to control the population. However, in South Africa, the state has yet to enact laws aimed at regulating population growth. Due to the absence of such laws, the South African population will aggressively upsurge. Consequently, this will affect the prospects of better livelihood

and well-being to the people of South Africa. Statistics South Africa reported that the current population of South Africa is estimated at 60,14 million (Statistic South Africa, 2021:vi & 17). This poses a greater challenge for the state when it comes to providing adequate social services to its citizens, especially the indigent people who largely depend on the state to provide social assistance. Owing to the absence of legal instruments aimed at controlling population growth, the state becomes burdened and as a matter of fact, its capacity to deliver per its transformative vision will be impaired, which implies the inability to fulfill ideals of fundamental socio-economic rights such as adequate health services, quality education, proper housing, and other basic services. Therefore, this paper presents a problem facing South Africa, that unregulated population growth and eventual overpopulation threatens the country's constitutional ambitions of redressing the imbalances of the past from a socio-economic perspective. It illustrates how poverty and inequalities stand as immense inhibitors of transformation, and that these challenges are being worsened by unregulated population growth.

4. Research Question

This paper ponders the prospects of how limiting the right to reproductive health may provide a workable solution or at least mitigate the effects of inequalities and material disadvantages inherited from the past. It questions the relationship between the phenomenon of overpopulation and challenges associated or arising out of the inability on the part of the majority of citizens to realise and enjoy socio-economic rights. Thus, it questions the impact of overpopulation on the realisation of second-generation rights. The paper will further strive to explore the question of whether the state can draft legislation to limit the right to reproductive health, which will seek to better resolve the socio-economic challenges as a progressive mechanism towards the progressive realization of socio-economic rights.

5. Research Methodology

The research methodology to be employed in respect of the paper is qualitative. The research is based on an extensive literature study on the subject of limiting the right to reproductive health utilizing library materials which include but are not limited to legislation, textbooks, academic journals, regulations, charters, and declarations.

6. Purpose of the Study

The paper aims to analyse how the notion of limiting the right to reproductive health may be employed as a complementary method through which to effectively address the socio-economic challenges in South Africa.

7. Significance of the Study

This paper will elucidate how limiting the right to reproductive health can vigorously succor the state to progressively realize socio-economic rights. Further, demonstrate mechanisms that may be employed to advance and improve access to basic social services such as health care and education. It shall educate the populace on how limiting reproductive rights will enhance their quality of life. Lastly, the paper seeks to inspire thoughts that the extent of population growth should correspond with the ability of the state to provide essential social services.

8. Literature Review

According to Brandon, population determines the standard of living for the people, he argues that when the population is high the standard of living will be low and when the population is low the standard of living will be high and as a result of that, population control measures must be employed. The first measure he delineates is preventive checks, which refers to an intentional reduction of fertility and the second is positive checks, which refer to malnutrition, diseases, and famine (Brandon, 2007:2). This sentiment was also captured in Laxenburg Declaration on Population and Sustainable Development (hereinafter, the Laxenburg Declaration), (LDPSD, 2011:1) that population is among the factors that inherently impede sustainable development. The Declaration further states that for countries to overcome socio-economic challenges, such countries must acknowledge the fact that population is at the centre of concern for sustainable development. The Laxenburg Declaration clearly illustrates that the state of any country that has socio-economic challenges cannot find a solution to those challenges if it fails to acknowledge and neglect the fact that human beings are the culprits in this issue.

The United Nations, Population and Development in Africa discussion document, inscribes that the problem of overpopulation is not simply a problem of the numbers, it is also a problem of welfare and development. The population has a serious consequence for the wellbeing of humanity worldwide. The United Nations further assert that overpopulation in many African countries detracts, among other things, the realization of development.(UNPDA, 1994:1). Lastly, it was noted that the high birth rate results in increased population size which has led to increased dependency and burden on the government. This on its own accentuates the problems inter alia of unemployment, crime and poverty within our societies and communities(UNPDA, 1994:2).

On the other hand, Soukeyna asserts that the upsurge or diminution of pollution must be informed by each country's carrying capacity. Inter alia, countries such as Sweden, China, and Singapore are amongst those that aim at ensuring that their population is determined by their carrying capacity (Soukeyna, 2006:2). Succinctly, Soukeyna articulates that the population of each country must not exceed the state's capacity and resources.

Brown, Gardner, and Halweil synchronously contend that population growth has exceeded sustainable limits on environmental fronts, availability of water, and unemployment. Further, they allude that population growth exacerbates the existing challenges and as such difficult to manage. (Brown, Gardner and Halwei, 2000:2). Jim Mars captured the utterance made by Prince Phillip of England, the Duke of Edinburgh, wherein he alluded that, "human population growth is probably the single most serious long-term threat to survival and further the world is in for major disaster if population growth is not curbed not just for the natural world but also for the human world". Prince Phillip further asserts that the more population increase the more we will consume which will eventually lead to fighting and wars. Lastly, he remarked that we have no alternative but to control population growth voluntarily, if we don't, he submit that it involuntarily be controlled by an increase in disease, starvation, and wars (Mars, 2016:1).

Rust expressed his stance by arguing that it is morally acceptable for developing countries to employ population controls, irrespective of what controls are chosen. He reinforced the latter by remarking that "just as war is at the time needed to protect the certain protectable interest of a country (i.e. world war two), population control is needed in much the same way"(Rust, 2010:70). Rust reiterates that slower population growth would help in solving socio-economic challenges since fewer human-being will translate into less competition for resources. Rust demonstrates an irrefutable direct link on how socio-economic challenges ensue as a result of over-population. He further provides mechanisms that can be employed to address over-population. The first mechanism is termed coercive population control, this mechanism empowers the government to impose upon its subjects population control methods, such as abortion. The second mechanism is the passive population control mechanism, this takes place where foreign aid stops assisting underdeveloped countries (Rust, 2010:71)

Ahlburg, Kelly, and Manson concurrently opined that population growth may in some instances be positive in that when young people grow older they will have contributed to the household and eventually to the economy. Nevertheless, the negative impact of population growth will inter alia lead to environmental degradation, which consequently upsurges the scarcity of resources. Further, population growth also impairs the attainment of children's education and health services. This will in turn likely reduce their productivity as adults (Ahlburg, Kelly, and Manson, 1996:1).

The Millennium Development Goals Report (MDGR) etches that lack of family planning and unwanted pregnancies directly make it harder for families to afford inter alia schooling and health care for their children (MDGR, 2008:27). The report further contends that these outcomes are owed to the decline in usage and access to contraceptives in many countries (MDGR, 2008:27).

Finally, Gable adulated and concurred with the millennium report. He opines that approximately 200 million women worldwide want to delay and avoid pregnancy. However, due to inaccessibility to contraceptives women find it difficult to delay and avoid those pregnancies (Gable, 201:964-965).

9. Legislative and Judicial Approach

In terms of the Constitution, s 2 provides that the Constitution is the supreme law of the land; laws or conducts inconsistent with it are void, and the obligations imposed by it must be duly fulfilled (The Constitution, 1996:s2). This entails that all laws of the Republic must be in line with the Constitution for those laws to be recognised as valid and binding. In other words, laws endorsed must give effect to the constitutional provisions such as section 10 of the right to human dignity (The Constitution, 1996:s10), section 11 of the right to life (The Constitution, 1996:s11), s 26 of the right to housing (The Constitution, 1996:s26), s 27 of the right to health care, food, water and social security (The Constitution, 1996:s27). Further, s 38 affirms that rights in the Bill of Rights are enforceable (The Constitution, 1996:s38). It, therefore, suggest that failure by the state to reasonably realise the rights in the Bill of Rights, enforcement can ensue.

Dignity is a fundamental right in itself. The Universal Declaration of Human Rights of 1948 (UDHR) envisaged human dignity in its preamble that inscribes, "Whereas recognition of the inherent dignity and the equal and inalienable rights of all members of the human family are the foundation of freedom, justice and peace in the world" (UNHR, 1948). In the absence of population control, and the presence of limited resources, certain rights afforded by the Constitution will not be progressively realised and that undermines the right to dignity of the affected individuals.

Section 27 of the Constitution provides that:

1. Everyone has the right to have access to
 - a. health care services, including reproductive health care;
 - b. sufficient food and water; and social security, including, if they are unable to support themselves and
 - c. their dependents, appropriate social assistance.
2. The state must take reasonable legislative and other measures, within its available resources, to achieve the realization of each of these rights (The Constitution, 1996:27).

Section 27 imposes duties on the government to ensure that everyone is afforded access to health care services, food, water, and social assistance. The section further requires the state to enact legislative measures that advance the realisation of the provision captured in s 27 (1) (a), (b) and (c) respectively. It, therefore, suggests that the state is burdened or obligated to provide and fulfill the rights in the Bill of Rights. Statics South Africa provides that the current population is estimated at 60,14 million (Statistic South Africa, 2021:1). Against this backdrop, consider the challenges the state encounter when providing adequate social services to its citizens, especially the indigent and unemployed people who largely depend on the state to provide social assistance.

In the case of *The Government of the Republic of South Africa and Others v Grootboom and Others* it was expressed that "millions of people are currently living in appalling conditions and more

are confronted with inordinate poverty. Further, there is inadequate access to social security service, there is a great level of unemployment, and lack of access to clean water among others” (Grootboom, 2000:25). However, the court appreciates that these conditions already existed when the Constitution was adopted. Additionally, this utterance complements the fact that the state with limited resources is not in a position to cater to everyone's socio-economic rights, consequently population control must be considered as one of the remedies to socio-economic challenges.

In the case of Treatment Action Campaign v Minister of Health the Constitutional court made the following utterance in relation to the Bill of Rights, that “s 26(1) refers to the right to have access to housing. S 26(2), deals with the state’s obligation in that regard, requires it to take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right. The reference to this right is a reference to the s 26(1) right. Similar language is used in s 27 which deals with health care services, including reproductive health care, sufficient food and water, and social security, including, if persons are unable to support themselves and their dependents, appropriate social assistance. Subsection (1) refers to the right everyone has to have “access” to these services; and subsection (2) requires the state to take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these right. The rights requiring progressive realisation are those referred to in sections 27(1)(a), (b) and (c)” (Treatment Action Campaign, 2000:25).

In *Soobramoney v Minister of Health, KwaZulu-Natal* it was submitted that it is unequivocal from the inference drawn from the provision of s 26 and s 27 that an obligation is imposed on the government to afford its citizen adequate access to housing, health care, food, water, and social security. Simultaneously, the court also noted that the realisation of the provision of s 26 and 27 of the Constitution depends on the availability of government resources. (*Soobramoney v Minister of Health, KwaZulu-Natal*, 1997:36).

In other words, the courts in the above cases are simply reiterating that the state has a positive obligation to ensure that rights captured in terms of s 26 and s 27 in the context of this case, must be progressively realised by the state. However, the courts also caution that the realisation of such rights is upon the state's available resources. Implying that in the absence of the resources, the state cannot be excepted to realise such rights.

Additionally, s 28 of the Constitution provides that the state must take measures to ensure that children are well protected, provided with adequate health care, shelter and provided with nutritious food. Further, that the child’s best interest is of utmost importance. All these provisions to be realized requires resources, and with state limited resources and unregulated population which is ponderous on the state resources, it is rather difficult for the state to realise these rights (*The Constitution*, 1996:28). Therefore, the paper submits that a viable alternative solution to be employed is simply to legislatively regulate the population.

The Local Government: Municipal Systems Act 32 of 2000 (hereinafter, referred to as Municipal Systems Act) provides a legislative approach to the numerous constitutional obligations of local government. S 4(2) of the Municipal Systems Act enumerates the responsibilities of municipal councils, which inter alia is to exercise the legislative and executive authority at the municipal sphere. Particularly, section 4(2)(f) (Municipal Systems Act, 2000:4) that provides as follows:

S 4 (2) inscribe that the municipal council, through its municipality’s financial and administrative capacity and having regard to practical considerations, must give members within its jurisdiction equitable access to the services to which they are entitled (Municipal Systems Act, 2000: 4(2)).

In essence, the Municipal System Act places responsibilities on the municipality which represents the government to ensure that it provides basic services to people within its area of jurisdiction. The provisions of the Act further articulate that people are entitled to those services. By implication, the latter is not a privilege but rather a right, which consequently has legal effect. Accordingly, Statistics South Africa illustrates that the number of unemployed people is increasing, (Statistic South Africa, 2021:17) which then suggests that those who cannot afford will then

depend on the government to provide free basic services. Withal, the financial and Fiscal report also subscribe to this notion. It is testified in the report that, population density hurts the municipal expenditure (Financial and Fiscal Commission, 2012-2013:129), suggesting that when population increase that leads to strain on municipal infrastructure and services.

9.1 *Social Assistance Act 13 of 2004*

Social Assistance Act 13 of 2004, places a duty on the state to administrate the social assistance and payment of social grants to deserving recipients (Social Assistance Act, 2004:3). The Act further inscribes that the minister must outsource money from parliament to provide for child support, care dependency grant, foster child grant, disability grant, an older person's grant, war veteran's grant and grant in aid (Social Assistance Act, 2004:4). It can be deduced from the provisions of the Act that it places a duty on the government to provide basic services to its people, although not all but those who cannot afford and falls under the specified classes or categories above. Since it is clear that the population in South Africa is growing at a rapid pace as captured in terms of Statistics South Africa (Statistic South Africa, 2021:17), and the rapid rise in unemployment, poor service delivery, and corruption among other factors. Therefore, for people who cannot afford to pay for basic services, the government must subsidise them with the limited resources within its disposal. Here and now, the adequate mechanism that the government can employ will be to regulate the population as to ensure the available resources synchronise with the population.

9.2 *The Choice of Termination of Pregnancy Act 92 of 1996*

The preamble of the Act state that "the Act repeals the restrictive inaccessible provisions of the previous Act, and promotes reproductive rights and extend freedom of choice, by affording every woman the right to choose whether to have an early, safe and legal termination of pregnancy" (The Choice of Termination of Pregnancy, 1996). In sum, the Act recognizes that women have the absolute right in respect of their bodies. Therefore, the paper submits that the Act can be utilised as a foundation for formulating population regulation legislation. Already the Act allows women to limit their reproduction through abortion (The Choice of Termination of Pregnancy, 1996:2). It is submitted that further provision can be incorporated in this Act to formally regulate the population. In acquiescing, the case of Christian Lawyers Association v Minister of Health, the Choice of Termination of Pregnancy Act came under court scrutiny. The high court had to decide on the constitutionality of the Choice on Termination of Pregnancy Act. The Act allowed abortion in South Africa. The Christian Lawyers Association argued that the Act is not in line with the Constitution, in effect, it violates the right to life, as encapsulate in s11 of the Bill of Rights of the Constitution. The government in its response argued that Constitutional rights don't apply to fetuses as such, there was no case to answer to. The court accepts the government's argument and the case was dismissed (Christian Lawyers Association, 1998:3&5). Although not directly linked to the topic at hand. It is inferred that to some extent this case deal with population regulation mechanism in a form of abortion.

In the case of Joseph and Others v City of Johannesburg and Others, the court had to decide whether it was legal for the city of Johannesburg Municipality to terminate the electricity of Mr. Leon Joseph. Further, if such termination is in contravention with the Constitution. In the submission, the applicant (Leon Joseph) alluded that his rights in terms of the Constitution were materially and adversely affected by the City of Johannesburg (Joseph v City of Johannesburg, 2009:25). The applicant relied on s 26: the right to housing and section (The Constitution, 1996:26) and s10: the right to dignity respectively of the Constitution (The Constitution, 1996:10). He additionally, relied on the Housing Act 107 of 1997 that reinforced that it is the duty of the government in particular local government to ensure access to adequate housing which is coupled by services, inter alia, electrical services (Housing Act, 1997:9(1)(a)iii).

The court in its judgement ordered that the termination of electricity supply by the City to Mr. Leon Joseph Ennerdale Mansion is declared to be unlawful. This judgment, therefore, infers that since housing is a Constitutional right, the government must realise it together with the services coupled with it (Joseph v City of Johannesburg, 2009:78).

10. South African Realities

The 1994 election gave South African people hope that the dawn of democracy will usher in political and socio-economic changes to better the lives of historically excluded individuals who were denied civil rights under the apartheid regime. 1994 brought about the start of a new journey to undo and reverse the apartheid legacy and to construct a new country based on the democratic principles as encapsulated in the Constitution (Daily Maverick, 29 April 2013). However, 27 years post-democracy, South African people still experience socio-economic challenges such as poor service delivery, poverty, corruption, high unemployment, the increase in dependents on state social security and many other challenges.

11. Discussion

11.1 Unemployment

Statistics South Africa illustrates that the government has not lived to its promised ideal which was captured in the African National Congress manifesto, rather the population of South Africa as of 19 July 2021 stood at 60,14 million (Statistic South Africa, 2021:17). In the 60,14 million, it was recorded that unemployment had reached an all-time high of 32,6 since the inception Quarterly Labour Force Survey (QLFS) in 2008 (Statistics South Africa, 2021:1). Bluntly put, South Africa has in recent years, continued to document startling records of unemployment rates.

11.2 Poverty

In terms of the data released by Statistics South Africa (SSA), poverty is on the rise in South Africa. The data illustrate that poverty trends have increased from 53,2% in 2011 to 55,5% in 2015. These figures translate into 30,4 million South African people living in poverty (Statistic South Africa, 2018). Currently, the report illustrates that over 49,2 of the adult population are living below the upper-bound poverty line (UBPL) (Statistic South Africa, 2019). This is against the backdrop that, Stats SA reports that these high levels of poverty are due to, inter alia, high consumer prices, continuing high level of unemployment, the greater dependency of South African people on credit which in turn pulls more people into poverty. Ultimately, the majority of young people will grow up in poverty which threatens healthy childhood development. Unfortunately, this is the reality of over 13 million children in South Africa (Statistics South Africa, 2018).

11.3 Education

According to Lehohla, insufficient progress has been made with regard to enrolment and participation in education, especially among black Africans. In respect of the transition from grade 12 to tertiary, there is a deterioration in that transition in recent years for both black African and coloureds (Lehohla, 2016:10). Against this backdrop, inference can be drawn that the gap will continue to expand between the have and the have nots.

11.4 Social Security

Makale alludes that, there are a lot of areas in South African that are underdeveloped due to the majority of people in those areas being poor. As result, those people rely and depend solely on government social grants. She avers that the number of people who rely on social grants has increased from 2003 to 2013. In 2003 the number of people who depended on the social grant was 12.7 % and in 2013 the number increased to 30.2 %. As a result of the increase in population, which led to a decline in access to basic service delivery, it became difficult and strenuous for government to accommodate more people with less financial resources (Makale,2015:11). She further expresses that municipalities that show negative access to basic services delivery are a result of inter alia, high population growth. She concludes by asserting that “the eMalahleni population has more than doubled since 1990, from 56 349 to 123 663 and that municipality had high access to service delivery as compared to other municipality in 1996 when the population was lower”(Makele, 2015:15). It can be inferred that Thandi Makale’s remarks imply that an increase in population growth is among the factors that hinder effective services delivery in South Africa.

12. Recommendations

The South African government needs to formulate a policy that will strive to regulate the country’s population. The formulation of such a policy will be imperative and necessary for the well-being of South African people. It is evident from this study that the unregulated population and rapid population growth impede the country’s social and economic development. Therefore, this study makes the following recommendations:

- South African must enact long-term population control policy that seeks to control and regulate population growth and sanctions to be imposed, failure to comply
- The state must also invest in population control measures such as the access and availability of contraception in public health care facilities.
- The state must invest in sex education programs to educate both children and adults about the risks that ensue due to uncontrolled and unregulated population growth, such programs should not only be limited to schools but as well as on national radio stations and television.
- The South African government must refrain from having a multiplicity of immigration legislation that contradicts one another, they ought to have clear and comprehensive legislation on immigration that is strictly implemented since unregulated immigration also contributes to unregulated population growth.
- The government must consider initiating and funding family planning programs.
- Lastly, the South African government must stop appearing to be content with overpopulation, which manifests in various ways such as the unlimited provision of free social assistance through social grants.

13. Conclusion

South African people have for many years been oppressed due to apartheid laws. The majority of South African have been denied access to participate in the economy of the country. As a result of the oppression of South African people from apartheid laws, many South African believed that post-apartheid South African will overcome their socio-economic challenges. However, many South African to date, are still confronted by socio-economic challenges, they still lack access to basic services, such as access to adequate housing, clean fresh drinking water, quality education, and quality health care. These socio-economic challenges faced by South African people are sometimes communicated through strikes and marches across the country, marches such as the fees must fall movement, wherein the students of higher learning marched to compel the government to provide

free quality education for all. The Vhowani strike, wherein the Vhowani residents marched to their local municipality demanding that the municipality provide them with adequate services such as water and proper roads within their areas. On the other hand, the Grootboom case exemplified that there are still people who lack access to proper housing. The Mazibuko case demonstrates that they are South Africans who post-democracy still don't have access to safe clean drinking water. These are examples that demonstrate that even postapartheid and in the state of Constitutional dispensation there are South Africans who still do not have access to basic services. Therefore, the aim and objective of this study were to examine the feasibility of limiting the right to reproductive health or the right to procreate with the view of assisting the South African government to at least design policies that fundamentally seek to regulate and stabilize the population growth in South Africa.

References

- Alburg D. S., Kelly, A. C. & Mason, K. O. (eds), (1996). *The Impact of population growth on well-being in developing countries*: Berlin; Springer, P1.
- Brandon, L. (2007). The effects of population growth on economic performance in China and India. *Brussel journals of international studies*. Vol 4, No. 1, pp.1-8.
- Brown, L. R., Gardner G and Halweil B, (2000). *Beyond Malthus nineteen dimensions of the population challenge*, at p 2.
- Lehola, P. J. (2016). *Education series volume 3: educational enrollment and achievement*, Report No:92-01-01.
- Makale Thandi Service Delivery in South African Rural Municipality. (LLM Dissertation 2015 Stellenbosch).
- Makale Thandi Service Delivery in South African Rural Municipality. (LLM Dissertation 2015 Stellenbosch).
- Mars, J., (2016). How corporate owners are killing us, p 1. <https://books.google.co.za/books?id=BcecBAAAQB-AJ&printsec=frontcover&dq=how+corporate+owners+are+killing+us&hl=en&sa=X&ved=0ahUKewiNpaql9YXVAhWJBsAKHRkWCroQ6AEIjAA#v=onepage&q=how%20corporate%20owners%20are%20killing%20us&f=false> accessed July 13, 2017.
- Munusamy R. For better, for Worse: SA 1994-2013. *Daily Maverick* 29 April 2013
- Rust, D. L. (2010). The Ethics of controlling population growth in the developing world, at p 71.
- Population Reference Bureau PRB. What is overpopulation? *Popul Educ Interchange*. 1988 Dec;17(4):1-2. PMID: 12281798.
- Soukenya, G. (2006). To what extent can government control Birth Rate. *Kingston School, Barcelona*. April 9th 2006, at p 1. accessed 12 July 2017.
- The Laxenburg Declaration on Population and Sustainable Development. Statement of the global expert panel" (October 2011).
- The Universal Declaration on Human Rights, 10 December 1948 < <http://www.un.org/en/universal-declaration-human-rights/> > (Accessed at 03 September 2017).
- United Nation, (2008). *The Millennium Development Goal Report*. New York: United Nations.
- United Nation, Population and development in Africa, prepared by Organization of African, Unity (OAU) and Economic commission for Africa (ECA), at para 1.
- The government of the Republic of South Africa and Others v Grootboom and Others (CCT11/00) [2000] ZACC 19,2001 (1) SA 46,2000 (11) BCLR 1169 (4 October 2000).
- Joseph and Others v City of Johannesburg and Others (CCT 43/09) [2009] ZACC 30; 2010 (3) BCLR 212 (CC); 2010 (4) SA 55 (CC) (9 October 2009).
- Mazibuko and Others v City of Johannesburg and Others (CCT 39/09) [2009] ZACC 28,2010 (3) BCLR 239 (CC), 2010 (4) SA 1(CC) (8 October 2009).
- Minister of Health and Others v Treatment Action Campaign and Others (No 1) (CCT9/02) [2002] ZACC 16; 2002 (5) SA 703; 2002 (10) BCLR 1075 (5 July 2002).
- The Constitution of the Republic of South Africa, 1996.
- The Housing Act 107 of 1997.
- The Social Assistance Act 13 of 2004.
- The Choice of Termination of Pregnancy Act 92 of 1996.
- The Local Government: Municipal Systems Act 32 of 2000.