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From crisis to opportunity: A path to quality and affordable healthcare in the South African Healthcare System

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Abstract: The South African healthcare system has been plagued by challenges that impede access to affordable and quality healthcare. To count the few, the racial fragmentation imposed by apartheid policies, the two-tier healthcare system, which exacerbates inequality between the affluent and the underprivileged, and, most recently, COVID-19, which exposed the vulnerability of citizens under the current system.

This paper aims to provide a comprehensive critique of the South African National Health Insurance Act 60 of 2023 and assess its feasibility in delivering affordable and quality healthcare. The issue of access to quality healthcare has been highly contentious and has sparked debates across all sectors of society. The Medical Aid schemes want further clarity on the implementation of the National Health Insurance Act. Whereas the poor aspire to access such quality and affordable healthcare. Wherefore, the paper aims to provide clarity on several crucial issues, such as the constitutionality of the Act, the pooling of funds, and the convincing roadmap towards the implementation of the NHI scheme. By addressing these aspects, the paper seeks to contribute to a comprehensive understanding of the NHI's impact on society at large.

This paper employs the theories of social exclusion and social justice to show that there is unequal treatment of citizens regarding access to healthcare, and to further advocate for the inclusion of the downtrodden masses into the flourishing healthcare system. It is argued that access to healthcare is a right and not a privilege, regardless of one's financial status. In the current two-tier system, it is an injustice for South Africa to witness such inequality. It is submitted that the National Health Insurance Act presents a marvelous opportunity to improve the quality of life and to free the potential of each person.

The study finds that the introduction of the National Health Insurance Act seeks to achieve the aspirations of the Constitution, and therefore, it should be supported across the spectrum. Moreover, the Act seeks to achieve the United Nations Sustainable Development Goals (SDG), particularly goals 3,8, which envisage Universal Health Coverage. This paper finds that there is disconcerting conduct from the medical aid schemes, which tend to contest the eligibility of the NHI Act.

It is submitted that there is an urgent need for the spirit of cooperation. It becomes the collective responsibility of both the government and the private healthcare sector to collaborate and foster the implementation of the NHI scheme to achieve universal health coverage. Internal resistance and court battles delay the implementation of the NHI Act and continue to inhibit access to quality healthcare.

Keywords: Access**,** healthcare, equality, implementation, National Health Insurance, South Africa

Introduction

This paper starts off with a retrospective situation analysis of the healthcare climate in South Africa and elicits the need for a restructured healthcare system. The healthcare system in South Africa has always been easily accessible to the elites and less accessible to the poor. (South African Health Minister, 16 November 2023). This has also been exacerbated by discriminatory laws, income inequality, and geographic setup.

Noteworthy, the government has taken bold strides towards correcting those historical injustices to make sure that the vulnerable and the poor get access to healthcare. That said, it has come to light that the quality of healthcare service received by the elites from the private sector is much better than the services offered in the public sector. Hence, there is inequality in the healthcare system depending on the financial status. (Mudzweada, A., et al. 2025). This paper argues that financial status shouldn't be a determinant for access to healthcare. But rather, services should be provided according to the needs of the patients on an equal footing.

This research paper will further interrogate the constitutionality of the Universal Health Coverage offered by the National Health Insurance Act in its current form. For instance, certain provisions have been a subject of dispute because of the services that the NHI scheme seeks to offer, which would close the doors for private medical schemes. Furthermore, this research will look at the revenues to establish the affordability and sustainability of access to healthcare. Thereafter conclusion and recommendations will be provided.

Background

South Africa is one of the international countries that flocked into Russia in 1978 at Alma-Ata to attend the conference on Primary Healthcare (PHC) organised by the World Health Organisation (WHO). A number of profound declarations emerged from the conference. (World Health Organisation, Alma-Ata 1978). Amongst others, the declarations envisaged the attainment of the highest level of health.

These declarations gave countries of the international community an immediate task to develop and implement a Primary Healthcare-driven system in their respective countries. The rationale is to achieve Universal Health Coverage (UHC) through a PHC-driven system. The Universal Health Coverage (UHC) means that all people have access to the full range of quality health services according to their needs without financial hardship. It covers the full continuum of essential health services, from health promotion to prevention, treatment, rehabilitation, and palliative care across the life course.

The United Nations adopted UHC to easily achieve Sustainable Development Goals. It is this commitment that propels South Africa to initiate a robust implementation of Universal healthcare coverage. Wherefore, South Africa has proposed the introduction and implementation of the National Insurance Act in order to achieve the SDGs. In a nutshell, NHI seeks to give credence to South Africa's international obligations.

Literature Review

South Africa's historical landscape of access to healthcare

This section seeks to highlight some of the historical challenges that give rise to the problems that the healthcare system faces to date.

The South African history regarding access to healthcare dates to 1919. (Public Health Act 36 of 1919). This was necessitated by the increase in epidemics and other communicable diseases that killed young and vulnerable citizens. In response to that, the government adopted the Public Health Act in order to ameliorate the deaths. The Public Health Act introduced the three-tier healthcare system. However, the Act did not do any good since it introduced a dysfunctional, fragmented, and disjointed healthcare system that discriminates against people according to their race. (Ngwena, 2003). There was poor cooperation and synchronization between the three-tier healthcare systems. The system had at its best, neglected the health needs of the vulnerable citizens and, at worst, disfranchised them from accessing healthcare.

In 1944, the Glucksman Commission of Enquiry was established to address the deteriorating healthcare system. (Gluckman Commission Report of the National Health Services Commission,1944). The commission executed its task with diligence; however, the recommendations of the commission were never implemented, as they faced the dominance of apartheid from the year 1948. In this period, apartheid worsened the situation since the government introduced the homelands policies that created *Bantustans.* Moreover, the tricameral Parliament of 1983 introduced the ethnic-centered health departments.

Fast-forward, the democratic government took over in 1994 and introduced a policy that sought to transform the entire healthcare sector. The so-called Reconstruction and Development Programme (RDP). (Reconstruction and Development Programme,1994). As a result of the RDP programme, the White Paper for the Transformation of the Health System was introduced to transform the health landscape in South Africa. All these developments led to the adoption of the current National Act, which has proven not to be adequate and enough for the transformation of the healthcare sector. (National Health Act, 61 of 2003). Contemporaneous studies show that there is a crisis in the current two-tier system. It exacerbates inequality between the affluent and the vulnerable. (Du Toit, 2017).

In an attempt to address the highlighted issues, the National Health Insurance Bill, 2019, was introduced in Parliament (hereinafter referred to as the NHI Act, as it was recently passed into law on 15 May 2024). The Act seeks to provide universal access to quality health care services in South Africa in accordance with section 27 of the Constitution of the Republic of South Africa, 1996.

Contemporaneous studies on the state of the NHI readiness

Mudzweada et al. have conducted a study on the prospects of a successful implementation of the NHI scheme. Their study stressed the importance of comprehensive training for healthcare professionals and addressed challenges like workforce shortages, infrastructure deficits, emphasizing their impact on NHI's success. (Mudzweada, A., et al. 2025). On a similar vein, the Social Health Protection Network (P4H) has conducted a study in terms of which they looked at risks and challenges towards a successful implementation of the NHI. This report identifies seven major risks associated with NHI implementation, including escalating costs, workforce shortages, and potential disruptions to the private sector, and offers recommendations for mitigating these challenges. (P4N, 2025).

Mokwena and Naidoo conducted a survey on decision-makers and stakeholders about the health workforce's readiness. The survey study highlighted that the current policies and strategies cannot address issues of performance improvement, retention, and unequal distribution in rural and urban areas, as well as shortages of health workers. The conclusion is that commitment to NHI needs to be matched with service delivery capabilities, which rely heavily on the personnel. Without it, the plan may not be able to accomplish its objectives. (Mokoena, S. V., & Naidoo, P., 2025).

Building from the above literature, this study is informed by the criticisms and fundamental issues around the constitutionality of the NHI Act. Hence, the paper seeks to contribute to the body of knowledge by offering some innovative ideas towards building a capable and responsive healthcare system in South Africa. In so doing, the study articulates on the constitutionality of the NHI Act and its feasibility towards achieving universal health coverage.

Brief overview of Universal Health Coverage at an international level.

This section seeks to explore the trends from the other countries of the international community to establish the trends in terms of complying with the 1978 Alma mater declarations, as well as the United Nations Sustainable Development Goals. By invoking this exploration, it is hoped that South Africa can glean profound lessons from those jurisdictions and perhaps positive impact on South Africa’s quest to implement the NHI scheme.

The literature demonstrates that both developed and developing countries have started navigating their way towards a successful implementation of the NHI scheme. This is in pursuit of complying with the World Health Organisation declarations. This conference resolved that countries should prioritise primary healthcare. (WHO Alma-Ata, 1978). Profound lessons are discernible from high-income countries such as Canada, Germany, and the United Kingdom. On a similar vein, low- and middle-income countries have also started the elementary stages of rolling out universal healthcare coverage to the people. Amongst others, Brazil, Thailand, and Rwanda. It is important to stress that financial sustainability continues to be an inhibiting factor that impedes the attainment of a comprehensive, effective, and efficient universal health coverage.

Mokoena and Naidoo examined the successful Universal Health Coverage (UHC) models from other nations. They identified key factors such as stakeholder collaboration, governance, and financing mechanisms that could inform South Africa's NHI implementation. (Mokoena, S.V., & Naidoo, P., 2024).

Theoretical Framework

This paper uses the theories of social exclusion and social justice. According to Khan, social exclusion is a process whereby certain groups are disadvantaged and discriminated against based on their ethnicity, race, religion, sexual orientation, etc. (Khan, S et al, 2015). The rationale behind employing these theories is to show that there is social exclusion of the poor from accessing quality healthcare. Therefore, there is a need for redress, and that is how the theory of social justice features in. This research paper propagates for the inclusion of the poor in the universal

healthcare coverage to achieve substantive equality. Social exclusion is a result of "marketized inequality" in South Africa's private healthcare system, where historical and structural injustices interact with the commodification of healthcare to deny the impoverished access to medical care and dignity.

Ideally, the notion of social exclusion suggests rethinking health as a public good as opposed to a commodity. (WHO, 2008). It supports systemic reforms like the National Health Insurance (NHI) to bridge the divide between the public and private sectors. It highlights that addressing the economic, spatial, and ideological foundations of healthcare disparity is essential to overcoming social exclusion.

On a similar vein, a socially just healthcare system in South Africa prioritises human dignity, participation, and health equity as non-negotiable principles, actively transforms structural barriers to access, and redistributes resources in favour of those that have been historically marginalised for years.

By generously borrowing social justice approaches, the paper submits that, in order to achieve equitable access to quality healthcare, access to healthcare should be understood as a fundamental human right, not a privilege. This theory is rooted in principles of fairness, equality, and redress. This theory recognises that overcoming healthcare disparities requires deliberate structural transformation to address both historical and contemporary injustices. In the next section, the paper addresses the objectives of the study.

Objectives of the Paper

The primary objectives of this paper are discussed below.

(a) To critically demonstrate the inequalities in the current two-tier healthcare system.

(b) To assess the feasibility of the NHI's implementation and its sustainability.

(c) To establish the extent to which South Africa's approach to healthcare aligns with Sustainable Development Goals on access to healthcare.

Methodology

This paper employs a qualitative research and literature review approach to reach the research objectives. The literature comprises academic sources, legislative framework, government documents, and ongoing debates about the practicability and sustainability of the NHI in South Africa. The study started off by invoking the legal historical method, thereby exploring the developments in terms of law reform from colonial South Africa until the current democratic dispensation. (Rabindra, P., 2019). Documentation analysis was employed to analyse data.

To enhance the trustworthiness of the data and the overall credibility of the research findings, this study draws on Lincoln and Guba's naturalistic model of inquiry (Lincoln & Guba, 1985). This approach emphasises understanding phenomena as they occur naturally, without imposing predetermined theoretical frameworks or manipulating outcomes. Consistent with this method, the study makes use of both primary and secondary sources. The Constitution serves as the central normative instrument against which all analysis is measured, particularly its foundational values of human dignity, equality, and freedom, as well as its imperatives regarding access to healthcare. Secondary sources are examined within the constitutional framework, ensuring that the analysis remains aligned with constitutional principles rather than adopting a rationalistic approach that may introduce researcher bias.

Importantly, as a doctrinal study, this research does not employ a traditional population sample. Instead, data were derived from scholarly literature, judicial decisions, government publications, legislation, and constitutional provisions, consistent with the methodological contours of doctrinal legal research. The next section constitutes the problem statement as it identifies the problem in the current healthcare system.

Challenges in the current two-tier healthcare system

The overarching concern is that the current dichotomous healthcare system, which consists of the public sector and the private sector, perpetuates the disparities in access to quality of care. The Public sector is under-resourced and receives the subsidy through taxation and caters to an overwhelming population of approximately 84%. (Van Der Heever, AM, 2016). Whereas a well-resourced private health sector serves around 16% of the population with access to private health insurance. (The Presidency, South Africa, 2019). Healthcare in South Africa is characterised by the inequalities that continue to perpetuate the injustices of the past. (Burger, R, Christian, C, 2020). Hence, there is a need for a turnaround strategy in the form of universal health coverage that would easily achieve equality in healthcare services.

In addition to the issues of inequality, the outbreak of COVID-19 has exposed the vulnerability of citizens under the current healthcare system. During COVID-19, South African healthcare facilities experienced overcrowding, a shortage of frontline workers, scarcity of resources, including beds and rooms to quarantine patients. Sadly, many people met with their untimely demise at the hands of the state. Some of the patients contracted the virus because of the congestion in the quarantine rooms. In a nutshell, healthcare facilities struggled to accommodate desperate patients.

The main issue revolves around the affordability and accessibility of quality healthcare, as well as resource constraints. Hence, this paper claims that the current system perpetuates inequality regarding access to healthcare. Therefore, seeks to intervene by proposing the implementation of Universal Health Coverage (UHC). It is hoped that the NHI will transform the current health sector by changing the way health services are provided, purchased, and financed for the benefit of the vulnerable masses.

The Constitutionality of the NHI Act

Several issues have been raised by different stakeholders, especially the medical aid schemes. An overarching concern is the relationship between the NHI Fund and medical schemes or private health insurance. There is strong resistance from the private medical aid schemes, such as the Board of Healthcare Funders (BFH) and the South African Private Practitioners Forum (SAPPF). They contend that the Act is unconstitutional on the basis that it fails to provide clear guidance regarding the relationship between the NHI Fund and existing medical schemes or private health insurance. Particular concern is raised about the scope of healthcare services that will fall under the NHI Fund. In terms of section 33 of the NHI Act, the state is mandated to assume responsibility for all primary healthcare services as part of the nationwide implementation of the NHI scheme. Consequently, primary healthcare services currently offered by medical schemes will be absorbed by the state, and medical schemes will thereafter be limited to providing only specialised services that fall outside the ambit of the NHI package.

Accordingly, the issue of lack of meaningful public participation has been raised by the medical aid schemes in an effort to derail the implementation of the NHI. It is submitted that the Act is Constitutional. It derives its mandate from the Constitution. Section 27 of the Constitution provides that socio-economic rights like the right to healthcare should be realised progressively. (The Constitution: section 27 (2)). This paper submits that it is high time for the implementation of universal health coverage (UHC). We submit that NHI is a progressive legislation that needs to be implemented for the early detection of serious diseases.

Moreover, the NHI Act derives its mandate from the Alma-Ata declarations. There was a huge conference by the World Health Organisation on Primary Health Care. (Alma-Ata Conference on Primary Healthcare, 1978). The conference *inter alia* resolved that there should be prioritization of primary healthcare services. The United Nations' sustainable development goals also seek to achieve universal health coverage. (UN, Sustainable Development Goals, 3,8). It is of seminal importance to delve into the pertinent issue of the feasibility and sustainability of the NHI scheme. The next section will address the aspect of funding and sustainability of the proposed NHI scheme.

The Feasibility of the NHI Scheme for Implementation and Sustainability

There are concerns that the NHI may lead to a crisis in the public health care sector, including the levelling down of the quality of services. This is precise because the public sector is not resilient enough to respond to the demands of the entire nation.

One of the private health sector organisations that is firmly against the implementation of the NHI scheme in its current state, the Health Funders Association (HFA), predicts that the NHI is both operationally unworkable and fiscally glaring; it is not feasible. The HFA computed an economic model using Genesis analytics, which commissioned a ridiculous tax increase. In their computation, they are estimating that personal income tax would need to skyrocket from approximately 21% to 46% to cover costs for a sustainable universal Health coverage. (Genesis Analytics report on SA's feasibility of NHI, 2025). Additionally, they raise serious concerns about where the funds will come from for a sustainable healthcare system.

Moreover, they criticised reliance on Value Added Tax (VAT) increases, income tax, and payroll taxes. The economic model suggests that full implementation costs may exceed current combined public plus private health expenditures, with a contingency of approximately R500 billion per annum. They suggest that this will lead to a collapse of the NHI scheme.

In the year 2013, the former Minister of Finance appointed the Davis Tax Committee (DTC) to assess the viability of funding the NHI. (Davis Tax Committee, 2017). A revenue gap of almost R71.9 billion, which is dependent on real

growth of 3.5% of GDP, was one of the major concerns mentioned in the committee report. (*Board of Healthcare Funders of Southern Africa NPC v President of the Republic of South Africa and Anothe*r, 2025. Para 13).

The report stressed that if the growth rate is 2%, the shortfall would be R108 billion or more. (Davis Tax Committee, 2017). Furthermore, there was uncertainty and a lack of common understanding of how the NHI will be implemented and operate, given the magnitude of the proposed reform. It was stressed that the lack of an implementation roadmap made it difficult to estimate the potential economic benefits and costs. The DTC concluded that the proposed NHI in its current format is unlikely to be sustainable unless there is sustained economic growth.

The paper presents a counter-narrative to what has been stressed above. The paper contends that the NHI is practically feasible as it will be implemented in phases. The NHI Act sets out different revenue sources for the pooling of funds. The proposed funding for the NHI and its components will come from direct and indirect taxes. General taxes, including medical scheme tax credits, will be reallocated to the Fund, payroll tax on employees and employers, and a surcharge on personal income tax. Other tax sources will gradually be introduced, such as value-added tax (VAT). The National Department of Health, however, contends that the main sources of funding for the NHI will come from the transfer of the health portion of the PES and health-related grants.

Strengths and opportunities of the NHI

The NHI is the most progressive healthcare system that may turn things around on the status quo of the current healthcare system, which depends on the wherewithal of a person in order to receive satisfactory health services.

Most importantly, the Act seeks to ensure that everyone, regardless of financial background, has access to healthcare. It encourages equity by closing the disparity between people who can afford private healthcare and those who are reliant on public assistance. (WHO, 2021).

It seeks to reduce inequality in access to healthcare and improve the quality of health services, as well as reduce the burden of disease, such as epidemics and other non-communicable diseases. Additionally, the NHI seeks to strengthen the health system at the entry point (that is primary care level). Overall, the NHI has the potential to improve health outcomes and life expectancy. Arguably, the early detection of serious diseases can lower mortality rates, particularly among vulnerable groups.

Key Findings and Discussions

It is discernible from the study that under the current system, there are still historical trends of racialized economic inequality with an adverse impact on the quality of healthcare. According to Du Toit, quality is considered a crucial component of the right to healthcare as espoused in General Comment 14. (Du Toit, 2017). Black and marginalised people are forced to use the public healthcare system, whereas the privileged (mostly white) populations have disproportionate access to private treatment. Private healthcare institutions are often characterised by superior quality of care, shorter waiting periods, and greater resource availability. Consequently, the dual health system's entrenchment of a "two-tiered structure" reinforces the perception that access to high-quality healthcare constitutes a privilege afforded to some, rather than a universal right guaranteed to all. The study uncovers obstacles as a result of resistance from the private sector that continues to cling to the current problematic system. This is simple because they are the beneficiaries of the medical aid funds. They don't want to relinquish the opportunity. This is evidence from persistent conduct to challenge the constitutionality of the NHI Act. In two Court applications, they challenge the constitutionality of the NHI Act, pointing out the President's assent to the Act as an unconstitutional action. In another recent application, they challenged public participation as an issue, arguing that it was not meaningful. We argue that this is an act of opportunism and desperation because the NHI Act went through all the Parliamentary legislative processes, got approved by Parliament, and ultimately was referred to the President for assent. (The Constitution, sections 79 and 84).

Mkhwanazi (2024) similarly contends that the successful implementation of the National Health Insurance (NHI) in South Africa necessitates the substantive involvement of a diverse range of stakeholders, each possessing distinct interests, concerns, and spheres of influence. Amongst other concerns, the private sector raises the issue of job losses when the NHI is successfully implemented. They are also skeptical about regression in the sense that NHI might result in a reduction in terms of health choice and quality. (section 33 of the NHI Act, 2023). We submit that it is not the role of the private sector, but it is rather the prerogative of the cabinet to determine the exact contents and contours of service delivery efficiently. The courts may intervene to determine the reasonableness of the measures taken by the cabinet.

Moreover, the study reveals financial sustainability predicaments. What is important more than anything here is the government's political will to implement the NHI scheme. The treasury needs to commit to the budget adjustments, re-allocations, budget cuts, and priorities primary healthcare for the smooth implementation of the NHI.

It is the standing point of this paper that even though there are some grey areas on the sustainability of the NHI, objectively, the Act remains a fundamental legislation necessary to transform the healthcare sector as aspired by the Constitution.

Conclusion

The paper concludes that the NHI is a progressive healthcare initiative that will turn things around and ensure universal health coverage to almost everyone, regardless of the geographical setup and economic status.

The theoretical framework that underpins the study ensures that the study accomplishes its objectives by driving the study towards credible research findings. Additionally, relying on the primary sources such as government reports, legal framework and the Constitution ensured that the study produces reliable and valid findings.

The study uncovers that there is tension between the private sector and the government. The private sector is sitting comfortably with the current two-tier system since they are the sole beneficiary. The proposed reforms seek to remove the feeding through so that medical aid schemes are no longer beneficiaries. It can be deduced that the reluctance of the private healthcare sector to buy into the implementation of the NHI may further delay the successful implementation of the scheme. Wherefore, there is an urgent need for the government to pursue the private sector so that there will be strong collaboration between the public and the private healthcare sectors.

Regarding the feasibility of the NHI scheme, the study concludes that increasing direct taxation on corporate tax and personal income tax is the only viable means of funding the NHI. (Department of Health National Health Insurance Policy Document, 2017). On a similar vein, indirect taxes could collect funds through the value-added tax. We submit that solidarity is very important for the successful implementation of the NHI. Sustainability can be effectively managed if pooling of funds is drawn from the entire population.

Recommendations

The study recommends robust engagements between the private sector and government. The government should take the private sector into confidence that there will be collaboration in delivering UHC. It is the very same medical aid scheme that will form the contracting units where the government will purchase medication. Moreover, the government should be firm that the NHI is for the benefit of the majority of the population, not just a quarter that continues to enjoy the monopolization of healthcare services, while the overwhelming majority is in desperate need of such healthcare services. Change is inevitable; the majority of the population has been marginalized for a very long period, as alluded to in the historical context herein.

It is recommended that the government work tirelessly to curb the high unemployment rate by creating more job opportunities so that it may successfully rely on recouping general taxation from citizens. It won't be feasible to rely on taxation in a struggling economy. Additionally, it is further recommended that the government should adopt a progressive taxation model that ensures wealthier individuals contribute more.

A clear solution towards the successful implementation of the NHI is that the government should establish continuous, transparent dialogue platforms between the affected departments, private healthcare providers, insurers, and patient advocacy groups.

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