

Oral Statement made by the Initiative for Social and Economic Rights (ISER) to the 61st Session of the African Commission on Human and Peoples' Rights

1 November 2017 –15 November 2017, Banjul –Islamic Republic of Gambia

Chairperson, ISER's statement addresses how Economic and Social rights have fared during the thirty years of the Commission.

Progress on Economic and Social Rights

ISER welcomes the African Commission's efforts to promote and protect Economic, Social and Cultural Rights on the continent. The involvement of the Commission in the ongoing African Union efforts to develop a Protocol to the African Charter on the rights of citizens to social protection and social security is commendable as it will enhance the protection of vulnerable groups including women, older persons, children and persons with disabilities.

As we celebrate 30 years of the Commission, African states should promote and protect Economic and Social rights and not regard them as mere development goals. African States continue to lag behind in realization of Economic and Social rights, particularly for vulnerable groups.

The African Commission should also take advantage of the African Union Ten Year Action Plan on Human Rights and the movement around the Sustainable Development Goals to mainstream Economic and Social rights.

Private Actors require adequate regulatory framework

The realization of Economic and Social rights has been further hindered by the increasing proliferation of unregulated non state actors as a result of liberalization policies and calls for private sector led growth. Governments' increasing reliance on these non state actors to provide social services like health and education coupled with declining state investment in health and education poses challenges for the realization of Economic Social rights. For example, it is 16 years since Heads of States of African Union countries met and pledged to allocate at least 15% of their annual budget to improve the health sector but less than 10 countries have complied. Average annual public expenditure on health in the region is 10%. The situation is exacerbated by the fact that the growing private sector involvement in health and education has not been matched by appropriate regulatory, supervision and monitoring frameworks, resulting in discrimination.

Realising this, the UN Committee on Economic, Social and Cultural Rights this year (2017) issued a General Comment on Economic, Social and Cultural Rights in the Context of Business Activities. The African Commission should also provide interpretative guidance to States in this regard.

Monitoring Implementation

Where the Commission has addressed Economic and Social rights, implementation still remains a challenge and the Commission has not systematically followed up on the status of implementation of these recommendations. In 2015, Uganda received a number of recommendations on of the health sector including to increase the health sector budget to 15% of the total budget in line with the Abuja declaration, expedite the passing of the National Health Insurance Scheme and review the HIV and AIDS Prevention and Control Act (2014). None of these recommendations have been implemented. Uganda's funding for health has retrogressed from 8.9% in 2016 to 6.4% in 2017. Uganda also received recommendations about increasing investment in public education and regulating private actors in education but there isn't much progress. In the 2017/2018 budget for education is 8.5%.

To address this, the Commission should take a more proactive role in monitoring the implementation of Economic and Social rights at country level including by working with national human rights institutions to ensure they follow up on recommendations and domestication of the rights is in the Charter. Countries should be encouraged to have frameworks for implementation in line with the Nairobi 2010 Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights, which require States to take comprehensive, coordinated, and transparent measures containing clear goals, indicators and benchmarks for measuring progress on the implementation of Economic, Social and Cultural Rights. The Commission should not tire in calling upon states to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP ICESCR).

States often do not report on the progress on recommendations received following the periodic review and on the progress of implementation of decisions made by the African Commission. States in their reports to the Commission should be mandated to report both on recommendations and on decisions. States should also be encouraged to provide mid term reports on progress rather than waiting until the next session where the country is reviewed given the irregularity of state reporting. For recommendations emanating from communications, states should report within 90 days of being notified of these recommendations –progress and obstacles experienced in implementing them and the Commission should submit activity reports to the AU Executive Council as required by the 2006 Resolution on the Importance of the Implementation of the Recommendations of the African Commission on Human and Peoples' Rights.

We are concerned about the prioritisation of the promotional mandate of the Commission at the expense of the protective mandate. We urge the Commission to engage with relevant stakeholders to find long-term solutions to this development.

Thank you.