



INITIATIVE FOR SOCIAL AND ECONOMIC RIGHTS

INITIATIVE FOR SOCIAL AND ECONOMIC RIGHTS (ISER) ORAL STATEMENT
TO THE 77TH ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND
PEOPLES RIGHTS

20th October to 9th November 2023, Arusha, Tanzania.

This statement is made on behalf of the Initiative for Social and Economic Rights (ISER) (Observer Number 490) that works holistically on social economic rights and hosts the Coalition on Public Services in Africa and the Uganda Consortium on Corporate Accountability.

ISER commends the African Commission for its landmark General Comment 7, *State Obligations Under the African Charter on Human and Peoples Rights in the Context of Private Provision of Social Services*; which built on Resolutions 420,434 reinforcing the centrality of the State in providing public services and regulating private actors providing social services. The poly crises: Covid 19 pandemic, Russia/Ukraine war, rising cost of living crisis, and climate change underscore why African governments must pay greater attention to socio-economic rights, particularly strengthen public services delivery in key sectors like healthcare, education, water and social protection etc.

States must implement this General Comment and regulate private actors providing social services.

Market driven systems, privatization and decreased financing threaten to further undermine quality public services.

In Africa, people struggle to access quality public services and there is chronic underfinancing of public services. No African state has met the 15% Abuja declaration for health and this limited financing detrimentally impacts the state of public health facilities. The dire state of public services in Africa was exposed during the Covid 19 pandemic with many public services limited in access and of poor quality, lacking basics. An unregulated private sector in health has resulted in exorbitant charging, detentions of patients and even dead bodies.ⁱ Education has been in crisis. Underfunded public education systems coupled with limited regulation of the private schools and unjustified fees hikes have excluded many children from school especially girls. Adolescent mothers in particular, whose numbers rose during covid 19, have been left out of school.

The right to social security and protection remains underfinanced, excludes most Africans who work in the informal sector. The World Bank's approach to targeting has reinforced the use of national id as a pre requisite to access social protection which has excluded many.ⁱⁱ Most African countries have not ratified the Optional Protocol to the African Charter on Human and Peoples Rights on the Rights of Citizens to Social Protection and Social Security nor implement the social protection floors despite Covid 19 underscoring centrality of social protection.

Africa's rising debt burden threatens the future availability of public services as debt repayment increasingly will take lion share of budget funds.

Africa is facing its highest debt burden in a decade with the World Bank. Its rising Debt-to-GNI ratio which has risen by nearly 20 percentage points in a decade to 44 indicates debt much higher than income which poses repayment challenges.ⁱⁱⁱ African states are spending more on repaying debt than they spend on public services like health, education, social protection.

African states can and must ensure they finance public services through progressive taxation.

States must make the wealthy and corporations pay their fair share of tax instead of further imposing regressive taxes.^{iv}

To effectively implement progressive taxation, reforming the international financial architecture including a proposal by African Ministers of Finance for a UN Convention for Tax to replace the OECD are key. The fact that global tax rules are decided by a few countries through the OECD rather than the UN system means there is no effective representation from the global south in developing global tax rules. A global convention on taxation with effective enforcement body advanced through the UN system would enable better representation.

Africa is still failing to harness its abundant natural resources to finance quality public services. Illicit financial flows continue unabated. An estimated 33.9% of Africa's trade is lost through trade misinvoicing, money that could fund public services.^v Special Drawing Rights could also fund public services.^{vi}

As noted in the **Africa Manifesto to Reclaim Public Services**,^{vii} with poverty and inequality rising, it is especially important to invest in quality public services. Public services are critical to tackling the ongoing climate and ecological crisis and can build communities resilience to climate change.

States should not relinquish their human rights obligations to the private sector. They must finance and steward these services.

We commend African countries that have national action plans on business and human rights, especially Uganda's National Action Plan for business and human right which uniquely speaks to regulating private actors in social services.

Recommendations

ISER calls on the African Commission to urge states to:

- Ratify the Optional Protocol to the African Charter on Human and Peoples Rights on the Rights of Citizens to Social Protection and Social Security and implement it.
- Increase Funding to Public Services from domestic resource mobilization;
- Leverage Progressive Taxation including discontinuing tax holidays to expand fiscal space for public services;
- Curb illicit financial flows and use money to fund public services;

- Regulate Private Actors Providing Social Services and implement General Comment 7 State Obligations Under the African Charter on Human and Peoples Rights in the Context of Private Provision of Social Services;
- Desist from austerity measures that undermine public services such as wage and hiring freezes and invest in a well paid workforce which is integral to delivering quality public servants

ⁱ Initiative for Social and Economic Rights (ISER), Profiteering Off A Pandemic: Private Sector and Health Services in Uganda During Covid, https://iser-uganda.org/wp-content/uploads/2022/03/Profiteering_off_a_pandemic.pdf (last accessed 21 October 2023); ISER (2022) When Patient Becomes Prisoner: Detention in Health Facilities in Uganda, https://iser-uganda.org/wp-content/uploads/2022/07/When_Patient_Becomes_Prisoner.pdf (last accessed 21 October 2023).

ⁱⁱ ISER, Centre for Human Rights and Global Justice NYU (2021) Chased Away and Left to Die: How a National Security Approach to Uganda's National Digital ID has led to wholesale exclusion of Women and Older Persons, https://iser-uganda.org/wp-content/uploads/2022/07/Chased_Away_and_Left_to_Die.pdf (last accessed 21 October 2023).

ⁱⁱⁱ "World Bank. 2021. International Debt Statistics 2022. Washington, DC: World Bank. © World Bank. <https://openknowledge.worldbank.org/handle/10986/36289> License: CC BY 3.0 IGO."

^{iv} ISER (2022) Leveraging Progressive Taxation to Fund Public Services in Uganda, <https://iser-uganda.org/wp-content/uploads/2022/10/Leveraging-Progressive-Taxation-to-Fund-Public-Services.pdf> (last available 21 October 2023)

^v Hiding in Plain Sight-Trade Misinvoicing and the Impact of Revenue loss in Ghana, Kenya, Mozambique and Uganda 2001-2011; ISER(2022) Curb Illicit Financial Flows to Fund Quality Public Social Services in Uganda, https://iser-uganda.org/wp-content/uploads/2022/07/Curb_Illicit_Financial_Flows.pdf (last accessed 21 October 2022)

^{vi} ISER (2021) Funding public services remains the best use for Uganda's new Special Drawing Rights allocation, https://www.iseruganda.org/images/downloads/Funding_public_services_remains_the_best_use_for_Ugandas_new_Special_Drawing_Rights_allocation.pdf (last accessed 21 October 2023)

^{vii} The Africa We Want: Reclaim Public Services in Africa, <https://iser-uganda.org/wp-content/uploads/2023/10/The-Africa-we-want-manifesto-Final.pdf> (last accessed 21 October 2023)