

Press release

For immediate release

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CONSTITUTIONAL COURT FAILS UGANDANS IN ITS RULING ON LUBOWA PUBLIC PRIVATE PARTNERSHIP (PPP) HOSPITAL CASE

In 2019, the Initiative for Social and Economic Rights (ISER) filed Petition No. 7 of 2019 before the Constitutional Court challenging the approval of Lubowa International Specialised PPP Hospital Uganda (ISHU). The case argued that the agreements entered into contravened the constitutional requirement for parliamentary approval before borrowing or guaranteeing a loan and the right to participation. Hearings on the case were concluded in 2022.

Five years later, amidst [Uganda's rising debt burden](#) and dysfunctional public health systems [with barely any progress on Lubowa Specialised PPP Hospital](#), the Court handed down its [judgement](#).

The Court noted that the government accepted that this was a loan and “that it was expected that payments would be made over a period of 5 years, making it a multi-year commitment.”

In a disconcerting precedent, the Constitutional Court observed the Public Finance Management Act does not require “approval of the terms of the loan to be laid before Parliament before the instrument under which the loan is obtained is executed.”

“It is a dangerous precedent to hold that any agreement that commits the public to multi-year financial obligation be executed without seeking Parliamentary approval! The Constitution expressly mandates prior parliamentary approval before the government can enter into agreements of this nature,” expressed **Allana Kembabazi, the Programs Manager, ISER**. *“The judgement sets a worrying precedent as it gives leeway to government to continue borrowing huge sums in the name of its citizens without their approval through their elected representatives”*

This undermines what the Constitution envisioned, requiring Government to lay loan agreements and Parliamentary approval before Government.

“It is regrettable that the Constitutional Court did not recognise the Parliament’s oversight role,” remarked **Elizabeth Atori, the Legal Officer, ISER** *“PPP projects have implications on the public purse and they must be publicly accountable and have public participation.”*

At the heart of this challenge to the Lubowa Hospital PPP, is whether this would deliver the right to health for Ugandans. As ISER’s research has shown, [Lubowa Hospital PPP will not deliver healthcare for Ugandans.](#)”

“Court should have been more mindful of the implications of diverting Uganda’s limited resources to funding for-profit private health providers that are often out of reach for majority people particularly the poor and vulnerable thereby exacerbating health disparities and slowing progress on the 2030 agenda commitment of realising universal health for all” observed **Labila Sumayah Musoke, Program Officer Right to Health, ISER.** *“Five years later, about half of the money has been disbursed with nothing to show. Why not invest in public health services?”*

ISER’s research on Lubowa PPP Hospital uncovered the financial liabilities Uganda faces with a lack of rigorous penalties for the private actor's failure to deliver, something that has come to the fore as the project stalls at foundation level and fails to meet critical milestones, yet the government continues to issue promissory notes. The Office of the Auditor General 2023 report found payments totalling shs 286 billion to the contractors of the hospital was based on unsupported milestone completion certificates, faulting Ministry of Finance for continuing to finance Lubowa Hospital PPP project in contravention of Parliament budgetary committee recommendations. The chairperson of the budget Committee finding the lack of progress had asked Parliament [to reallocate the Lubowa Hospital Budget.](#)

All efforts to demand accountability have failed. [Government](#) officials and [Members of Parliament have been repeatedly blocked from accessing Lubowa Hospital PPP site as they seek to ascertain progress.](#) Even with an introductory letter from the Minister of Health, no legislator has gained access to the project site.

Vital public health institutions like the Uganda Cancer Institute, Uganda Heart Institute have been chronically underfinanced.

“The Court has failed Ugandans today. Future generations will pick up the tab for Lubowa PPP Hospital which will not solve Uganda’s health challenges. ISER will continue seeking justice.” **Allana Kembabazi, ISER.**

For more information, please contact us at: info@iser-uganda.org.

- [Court Judgement](#)
- ISER Policy Brief - [A False Promise!: The Lubowa International Specialized Public Private Partnership \(PPP\) Hospital Will Not Deliver Universal Health in Uganda](#)