

# COVID-19 AND ECONOMIC SOCIAL RIGHTS IN UGANDA

## UPR 2021



**ISER**

Facilitating Social Justice

INITIATIVE FOR SOCIAL AND ECONOMIC RIGHTS



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## ABSTRACT

1. Uganda is in the second wave of a pandemic as we compile the report. While Uganda received recommendations on Economic Social Rights in 2016, whose progress civil society has jointly addressed in a joint submission, there are issues raised by the Covid 19 pandemic which underscore the need for the government to pay heightened attention to economic social rights.
2. Part II of this report describes the methodology. Part III describes Uganda's normative framework on economic, social and cultural rights. Part IV discusses the realisation of economic, social rights within the country with a particular focus on Covid 19 which exposed pre existing fault line. As we write this report, Uganda is undergoing a devastating second wave of Covid 19 and given the scale of human rights crisis brought by the UPR, it is imperative the UPR process also responds to Covid 19 with recommendations to ensure a more equitable recovery.
3. This report finds that Uganda received recommendations on economic social rights, which it is yet to fully implement and that the Covid 19 pandemic has further reinforced why swift attention must be paid to addressing this. Despite heightened attention to health during the pandemic, the public health sector is inadequately financed alongside with no regulation of private actors in health resulting in Ugandans failing to access health services. The government is yet to ensure equitable roll out of Covid 19 vaccination, jeopardizing the health of Ugandans. Education is in crisis and like the 2016 recommendations noted, there are lower retention rates and higher drop out rates, particularly for girls. The failure to ensure access to education and the lack of strong measures to enable sustained safe reopening coupled with the impact of the pandemic on livelihoods and poverty has resulted in an increase in child labour, which disproportionately affects females. The need for social protection, which has been inadequately implemented over the years, is more acute given the economic impact of lockdowns that have decimated livelihoods and left many destitute. The failure to regulate private actors in social services and the overall uncoordinated piecemeal framework on business and human rights has left Ugandans to be exploited and profits safeguarded over human rights. The country's development agenda which has focused on obtaining middle income status pays inadequate attention to poverty and rising inequality which makes development gains precarious. Citizen participation that should highlight these gaps remains inadequate and further stifled by the Covid 19 pandemic where the majority of decisions are made top down with little accountability to the populace. Financing economic social rights remains inadequate and the country's increasing debt burden, which doubled over the last year puts public services like health and education at risk as debt repayment increasingly takes up a larger section of the national budget. The failure to ensure accountability for these funds, corruption, illicit financial flows undermine realization of economic social rights.
4. The report commends the intersectoral collaboration exhibited in the UPR follow up process with government sitting with civil society, national human rights institutions, members of Parliament coordinated by ISER, Equal Opportunities Commission, Ministry of Gender, Labour and Social Development, Ministry of Foreign Affairs and national human rights institutions following the 2016 UPR review to develop an ESCR Implementation matrix

incorporating SDG and national indicators to track progress and setting baselines and targets (see annexure) and to the internal national mid-term review of progress, which while not submitted as a report enabled collaborative assessment of government's progress (see annexure). This report, however, urges government to double down on implementation and to address new gaps raised by Covid 19. It also urges greater consultation and collaboration, noting with concern the failure to be consulted on the government's report to the UPR.

**KEY WORDS: PUBLIC SERVICES HEALTH EDUCATION COVID VACCINES BUSINESS AND HUMAN RIGHTS ACCESS TO JUSTICE PARTICIPATION DEBT FINANCING ILLICIT FINANCIAL FLOWS TAX SUSTAINABLE DEVELOPMENT GOALS**

## **PART II METHODOLOGY**

5. This report was compiled following research conducted by ISER both desk and field.<sup>1</sup>

## **PART III LEGAL AND POLICY FRAMEWORK**

6. Despite its ratification of key treaties on economic social and cultural rights and its obligation to domesticate Economic Social Rights both in the Constitution and enabling legislative framework, Uganda is yet to adequately do so for a number of Economic Social Rights. There is no overarching legislation on the right to health. The Public Health Act (1935), which the country is currently using to manage the pandemic is outdated.

**7. RECOMMENDATION: Domesticate economic social rights in Constitution and pass enabling legislation on economic social rights.**

## **PART IV ECONOMIC SOCIAL RIGHTS AND COVID 19**

### **Weak Public Health Systems**

8. Chronic underfinancing and lack of stewardship has resulted in weak public health systems. The ongoing pandemic has spotlighted the need to strengthen the public health system. Medical workers in health facilities treating patients with symptoms of Covid19 have faced enormous challenges including basics like delayed payment of allowances. The country still has a shortage of ICU beds with the government hastily procuring 108 beds when the pandemic hit, to supplement the existing 55 ICU units to serve over 45 million Ugandans.

**9. RECOMMENDATION: Increase the budget for health care to 15% in line with the Abudja Declaration. Prioritise and steward the public health system. Enact a National Health Insurance Scheme that extends coverage to the informal sector, low income households and individuals, people with disabilities, the elderly and other vulnerable groups.**

### **Covid 19 Vaccines and Testing and Treatment**

10. Vaccine nationalism by wealthier countries has resulted in adequate access to Covid vaccines for countries like Uganda. The government however has also failed to prioritise equitable roll

out of Covid 19 vaccines. This coupled with the multiple variants and insufficient testing due to the prohibitive cost has contributed to a surge in cases and accordingly increased demand for oxygen and ICU beds resulting in unnecessary loss of lives.

- 11. RECOMMENDATION: Ensure equitable roll out of Covid 19 vaccines paying attention to ensuring barriers faced by vulnerable groups like older persons, people with pre existing conditions, healthworkers are addressed. Ensure widespread free testing for Covid 19. Increase number of ICU beds and equip public health facilities with oxygen and other supplies to ensure they can handle future surges of Covid 19.**

### **Weak Public Education Systems**

- 12.** Uganda received recommendations on education. Despite an increase in enrolment, the survival rate is still low. For instance, there has been an increase in enrolment from 8.84 million pupils in FY2017/18 to 10.76 million (representing a 22% increment) and maintained gender parity with both girls and boys at par with a 50:50 in Primary in FY2019/20 as well as 1.37million in FY2017/18 to 1.99million for secondary, representing a 45% increment in FY2019/20 (MoES, 2020). However, in 2017, the primary survival rate stood at 56%, which is considerably below compared to other countries within the region such as Kenya, which is close to 100%, Ethiopia at 72%, or Rwanda at 68% (World Bank, 2018). The recent data indicates that 13.3% of the children aged 6 – 12 years are out of school (UNHS, 2016/17). Covid 19 made this worse with children, particularly from poor backgrounds out of school for more than a year.
- 13. RECOMMENDATION: Finance and Equip Public Education System focusing on increasing capitation grants and teacher to pupil ratio.**

### **Inadequate Social Protection failing to cushion impact**

- 14.** Despite launching the National Social Protection Policy for Uganda (2015) to provide a wider framework for social protection implementation in Uganda, government is yet to equitably roll out social protection. There is a patchwork of social protection programs like the Social Assistance Grants for Empowerment (SAGE) that go to older persons. These programs are limited in scope and leave out vulnerable people. SAGE, for example only covers older persons over the age of 80 years, which is
- 15.** The program has been consistently underfunded. The budget requirement to cover the 358,420 beneficiaries under the SCG program for FY 2021/22 is UGX.147.6b. However, the MGLSD ministerial policy statement for FY 2021/22 indicates an allocation of UGX. 62.88b, reflecting a funding gap of gap of UGX.84.72b.
- 16.** The implementation of lockdown measures in response to COVID-19 increased the risk and vulnerabilities to people who do not ordinarily seek social protection and this resulted in

demands for food assistance, access to health care, and access to National Social Security Fund (NSS) savings. As a result of pandemic restrictions, food insecure people rose by 44% with approximately 23% percent of those living in poverty in urban areas in the country losing their income. The government attempted to provide food and cash transfers but lack of data on where the vulnerable are and the limited scope of this program resulted in many vulnerable persons excluded. The insistence on National ID as a form of identification to benefit from social protection programs where millions are excluded from possessing national ID further perpetuates exclusion.

**17. RECOMMENDATIONS: Implement the National Social Protection Policy. Strengthen data collection on vulnerability and update National Single Registry Data base. Refrain from using digital national ID as sole form of ID to benefit from social protection or public services until every Ugandan has received a National ID.**

**Declining investment in public services.**

18. During the last UPR, Uganda received recommendations on financing economic social rights like health, education. These recommendations are yet to be met. The country's health budget has hovered between 7-9% over the last five years with the government initially attempting to cut the health budget in the middle of the pandemic. Critical areas of the health sector like COVID-19 Vaccination, blood mobilization, national ambulance services among others remain unfunded priorities. Declining State investment in these essential public services and increased marketization of public services through arrangements like public private partnerships and a blind belief in market solutions endangers accessibility of quality public services to all.

**19. RECOMMENDATIONS: Prioritise and robustly financing public services like public health, public education systems. Quality public social services must be delivered by government. State money should not fund for profit entities delivering public services. Ensure public social service delivery for all persons regardless of social status; that are in line with international human rights law are accessible available, acceptable and of the highest possible quality; non-discriminatory, including all prohibited grounds; accountable and participatory. Refrain from commercialising and privatising essential public social services like health through Public Private Partnerships or commercial private involvement in social service delivery and instead devote maximum available resources to ensure quality social public services.**

**Rising Debt and the Failure to Curb Illicit Financial Flows**

20. The country's tax revenue to GDP ratio which stands at 13.1% remains relatively low. The domestic revenues for the FY 2021/22 are projected at UGX. 21.6 trillion. The FY2021/22 budget is expected to decrease by 9 percent to 41.219 trillion from 45.493 trillion in FY

2020/21. The country's rising debt risks undermining the enjoyment of economic social rights. The country's debt stock rose from US\$ 12.55 billion in June 2019 to US\$15.27 by June 2020, representing 48.3% percent of the country's GDP in nominal terms. This debt is expected to grow to 49.9% of the GDP by end of June 2021 and peaking to 54.1% in FY 2022/23.

- 21. RECOMMENDATION: Develop a comprehensive and structural response towards IFFs, engaging all the key stake holders and work towards determining the scale, impact and nature of illicit financial flows. Disclose public debt burden and refrain from unnecessary loans.**

### **Increase in Poverty and Inequality**

22. Despite receiving recommendations on Sustainable Development Goals and poverty, poverty eradication targets continue to be missed despite government efforts. The percentage of people living below the poverty line (1.00 USD USD per day) was 21.4% in FY2017/18 compared to the NDPII target of 14.2%. Moreover, there are wide regional disparities with Bukedi (47%), Busoga (42%), Bugisu (40.7%) and Teso (40.5%) experiencing reversals compared to the previous poverty levels. The COVID-19 pandemic has exacerbated poverty in the country. In April 2020, the Ministry of Finance, Planning and economic Development estimates showed that an additional 2.6 million Ugandans could be pushed into poverty due to loss of livelihoods as a result of COVID-19 pandemic. By June 2020, 17% (2.55 million) of working Ugandans had lost employment and likely to descend into poverty due to the pandemic. This was in addition to 8.3 million Ugandans who lived in abject poverty before the pandemic. The second national lockdown is likely to have far-reaching effects of epic proportions that the country has not seen in the recent past. The government's limited social protection forced many Ugandans to resort to negative coping mechanisms such as child labour, sexual exploitation so as to earn to meet basic needs as ISER's research reveals.

- 23. RECOMMENDATION: Prioritise curbing inequality through financing public services and social protection and ensure addressing inequality is top priority in National Development Plan Implementation.**

### **Failure to Regulate Private Sector in Social Services**

24. Amidst chronic underfinancing and weakening of public social services, there has been gradual privatization and commercialization of public social services. The private sector is increasingly relied upon to deliver public social services like health care and education, organized in procedures ranging from purely private to public private partnerships (PPPs). There has been

a massive and unprecedented increase of private providers of these services – in Uganda. In health, 55% of the health facilities in Uganda are private or community owned with a push for public private partnerships by Government and International Finance Institutions despite evidence PPPs in health do not achieve equity in health and fail to reach the poorest. The Impact of under financing and weakening public health services has been felt most acutely during the second wave of the Covid 19 pandemic with an oxygen crisis and private sector profiteering off the pandemic, charging exorbitant prices resulting in people failing to access healthcare, basics like oxygen and unnecessary deaths. The proliferation of unregulated private actors in education is driving up the cost of education.

- 25. RECOMMENDATION. The government should put in place a strong regulatory framework for private actors in health and education among other social services.**

### **Business and Human Rights**

26. Despite receiving a recommendation on minimum wage, it is yet to be implemented. Uganda's out dated minimum wage does not enable workers to earn a decent living. The minimum wage has not been adjusted since 1984 and stands at UGX 6,000 (USD 2) per month. Uganda embarked on developing national action plan on business and human rights in line with the 2016 recommendations but the failure to enact it has resulted in an enforcement gap detrimentally impacting human rights in the context of business activities.
- 27. RECOMMENDATION: Sign the Minimum Wage Bill into law and enact and enforce a minimum wage that provides all workers and their families with an adequate standard of living. Pass and implement the National Action Plan on Business and Human Rights. Strengthen the legal framework for free, prior and informed consent. Ensure companies exploiting natural resources seek the free, prior and informed consent of these communities.**

### **Access to Justice**

28. Significant impediments exist hindering access to justice for ESR violations, especially for vulnerable and marginalized groups like children, women, Persons with disabilities, the poor and those living in rural or hard to reach areas. These particularly include lack of legal aid, long periods waiting for judgment and being unable to access remedy because certain economic social rights are not well enshrined in law.

**RECOMMENDATION; Address barriers to access to justice particularly weak legal framework for economic social rights, case backlog. Pass the Legal Aid Bill.**



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## END NOTES

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<sup>i</sup> Late last year, a senior gynaecologist and consultant at Mulago National Hospital died of COVID-19 after failing to get ICU bed.

<https://www.monitor.co.ug/uganda/news/national/senior-doctor-dies-of-covid-after-failing-to-get-icu-bed-3244326>

<sup>i</sup> Initiative for Social and Economic Rights (2021), How Did We Get Here? Uganda's Medical Oxygen Crisis.

<sup>i</sup> Initiative for Social and Economic Rights (ISER) (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/publications/reports/488-chased-away-and-left-to-die>

<sup>i</sup> Initiative for Social and Economic Rights (ISER) et al. (2021) I Must Work To Eat: Covid 19, Poverty and Child Labour in Ghana, Nepal and Uganda, <https://iser-uganda.org/publications/reports/486-i-must-work-to-eat-covid-19,-poverty,-and-child-labor-in-ghana,-nepal,-and-uganda>

<sup>i</sup> Initiative for Social and Economic Rights (2019) Meaningful Access to Justice For Economic and Social Rights, <https://www.iser-uganda.org/publications/reports/412-meaningful-access-to-justice-for-economic-and-social-rights> (last accessed 15 July 2021).

<sup>i</sup> Initiative for Social and Economic Rights (2021), How Did We Get Here? Uganda's Medical Oxygen Crisis.

<sup>i</sup> Ministry of Health, *National Health Facility Master List* (2018)

<http://library.health.go.ug/publications/health-facility-inventory/national-health-facility-master-facility-list-2018> ; Initiative for Social and Economic Rights (ISER) *Achieving Equity in Health, Are Public Private Partnerships the Solution?* (April 2019), <https://www.iser-uganda.org/publications/reports/397-achieving-equity-in-health-are-public-private-partnerships-the-solution>