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Editorial

Welcome to the first issue for 2022 of ESR Review and the second in a special series on the impact of Covid-19 on socio-economic rights. There have been numerous reports that Covid-19 responses adopted by African countries have been fraught with corruption at a time when vulnerable and marginalised people lack the means to access essential commodities, such as food and water, as well as personal protective equipment to protect them from infection by the coronavirus.

Unfortunately, despite the loss of funds that were set aside to cushion vulnerable people from the socio-economic effects of the pandemic, most countries are still using the excuse of 'limited resources' to justify their failure to realise socio-economic rights. This creates an urgent need to plug administrative loopholes that have delayed the realisation of these rights – rights which should be a priority at this time.

The concept of 'maximum available resources' is applied when discussing the duty of states to promote socio-economic rights. It is provided for under article 2(1) of the International Covenant on Economic, Social and Cultural Rights, as well as the socio-economic rights related clauses of most national constitutions. The concept is often employed by states to justify their slow pace of realising socio-economic rights under the pretext of 'limited resources'. Such a justification, however, cannot suffice in the context of Covid-19.

The Committee on Economic, Social and Cultural Rights, the body that monitors the implementation of the covenant, has developed a number of normative frameworks on the interpretation of the concept. Pursuant to its General Comment 3, it is clear that the Committee does not view the concept as a shield that states can use to defend their lack of progress in promoting or fulfilling socio-economic rights. Instead, it interprets the concept as imposing a positive duty on state parties to mobilise sufficient resources for the fulfilment of their obligations.

Moreover, the Committee attaches great importance to good governance in the management of available resources, and has been emphatic about the duty of state parties to avoid the loss of resources through crimes such as corruption. The elaboration provided by the Committee on the nature of the duties generated by the concept of 'available resources' can be helpful in countering the excuses that African countries are using to avoid their obligations during this period. Simply put, the justification of limited resources cannot hold water when it is the consequence of misappropriation of already available funds. Accordingly, relevant stakeholders should ensure the availability of effective accountability measures to guarantee proper implementation of Covid-19-related policies, strategies, programmes and activities.

This issue of ESR Review features a variety of articles on the impact of Covid-19 on socio-economic rights. The first article by Jean Redpath discusses the implications of pre-trial detention on socio-economic rights during the Covid-19 period. The second by Sharon Hofisi examines why burial societies are considered preferable to ineffective burial insurance policies. The third by Ayeranga Godfrey and Tuhairwe Herman assesses the impact of Covid-19 on the right to health of prisoners in Uganda, while the fourth by Brian Chihera and Tanaka Manungo describes how limited access to water in Zimbabwe has increased the risk of contracting Covid-19.

We hope you find this issue a useful reflection on debates on the impact of the Covid-19 on the enjoyment of socio-economic rights by marginalised groups in Africa and beyond. We wish to thank our guest authors and anonymous peer reviewers for their insightful contributions.

On the updates section, we share the COVID-19 guiding notes of the African Committee of Experts on the Rights and Welfare of the Child.

We thank the anonymous peer reviewers and our guest authors for their insightful contributions.

Wilson Macharia
Guest Editor