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ENSURING RIGHTS MAKE REAL CHANGE



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**ESR Review**

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Apart from the immediate threat of homelessness, gentrification initiated by the private sector will lead to rising property values in the area, with increasing rentals forcing out low-income households. If there is no intervention, Woodstock and Salt River will become areas where the affluent live, similar to Sea Point and Green Point, and low-income households will be forced to the periphery of the city.

Martha Sithole Hungwe

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## From the editor:

Every year, 20 February is marked and celebrated as the World Social Justice Day. Social justice, equality and equity as fundamental values of all societies, were reaffirmed by the 2017 World Social Justice Day.

The 2017 theme was 'Preventing conflict and sustaining peace through decent work.' While there is no consensus on the definition of social justice, it has been understood broadly as 'the explicit recognition of structural inequalities in the world (along class, race, gender, institutional and other lines) and therefore the need for proactive, structural programs to counteract these inequalities.'

António Guterres, the new United Nations Secretary-General, and significantly, on his first day in office, pledged to make 2017 a year for peace. While the United Nations' central mission is to maintain international peace and security, this was an acknowledgement by the UN, that social justice is an underlying principle for peaceful and prosperous coexistence within and among nations. Social justice advocates increasingly incorporate the ideas of sustainability into their agendas, while proponents of sustainability frequently emphasize the importance of adding social justice to their efforts.

In South Africa, the Constitution incorporates principles and values of social justice and calls upon South Africans to 'recognise the injustices of the past, ... heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights...' This means that the purpose of democratic transformation in South Africa is to ultimately create a society based on social justice. Social justice can only be realised when we remove barriers that people face such as gender, age, race, ethnicity, religion, culture or disability. In other words, social justice can only truly exist when the quality of life of all individuals has improved to a point whereby the potential of each person is unlocked. We are therefore challenged to embrace the values of social justice in order to advance human rights and sustainability.

This is the first issue of the ESR Review in 2017. It includes two articles that discuss socio-economic rights. The first feature, by Martha Sithole Hungwe, highlights the factors behind urban land justice and inequality in Cape Town. With the use of maps, the article illustrates that more than 20 years since the beginning of democracy in South Africa, it remains one of the world's most unequal

and segregated cities. This article reflects on the Reclaim the City Campaign, which advocates for state-subsidised, affordable housing development in the inner city, and demands that homes of the poor and their rights to remain near the city are protected.

The second feature article, by Nakulima Saphina, focuses on privatisation in education and discrimination, in particular its effect on the right to education in Uganda. Saphina argues that the right to education is a fundamental human right, and a powerful tool through which economically and socially marginalised adults and children can lift themselves out of poverty and participate fully as citizens. This article urges that the growth of unregulated and unmonitored privatisation in education is significantly affecting the human right to education in various ways, in addition to exacerbating socio-economic segregation of and discrimination against vulnerable groups.

This issue also contains updates from the African human rights system and the United Nations human rights system.

We acknowledge and thank all the guest contributors to this issue. We trust that readers will find it stimulating and useful in the advancement of socio-economic rights and ultimately attainment of social justice.

*Gladys Mirugi-Mukundi, Co-Editor*

## 1

# Factors behind urban land justice and inequality in Cape Town

## by **Martha Sithole Hungwe**

### Introduction

Cape Town is often dubbed the most segregated city in the world. Whilst the extent of segregation relative to other cities in South Africa still needs to be validated through research, its existence is apparent to the naked eye. Cape Town, like many South African cities, is marred by the prevalence of the spatial injustice and inequitable power distribution that came with apartheid spatial planning. The sources of inequality and power imbalances lie in various forms of historical and present-day racial spatial segregation and inequality:

- \* income- and wealth-led spatial segregation and inequality (spatial segregation and inequality as a result of income and wealth levels);
- \* private-sector-led spatial segregation and inequality (spatial segregation and inequality initiated by private property developers);
- \* property-market-led spatial segregation and inequality (spatial segregation and inequality caused by property market trends); and
- \* government-led segregation and inequality (spatial segregation and inequality caused by government).

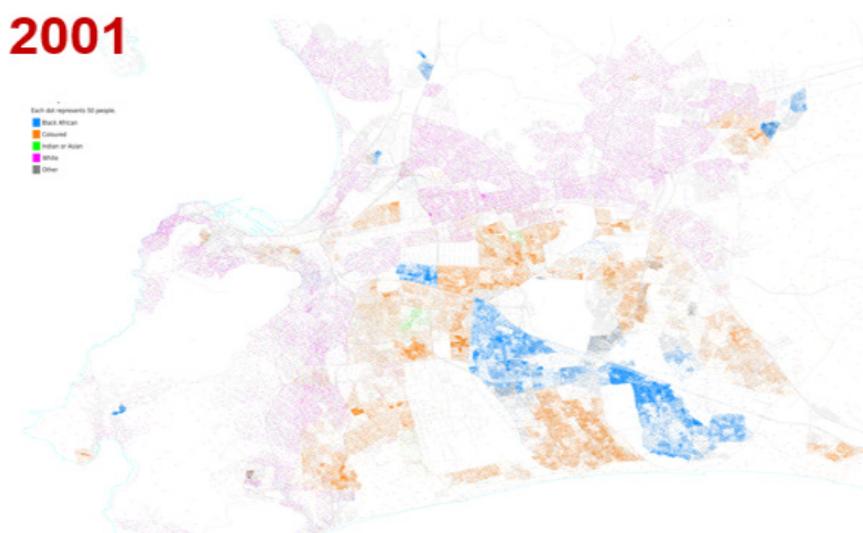
There are those who benefit from Cape Town's spatial distribution and those who are forced to endure. The poor, and predominantly black and coloured groups, are usually at the brunt of the inequality that plagues the city.

### Historical and present-day racial spatial segregation and inequality

Without going into detail about the apartheid era in the Cape Town context, it can be noted that the implementation of the Group Areas Act of 1966 was characterised by land capture and consequent mass evictions of people from what is now the central business district (CBD) and District Six. About 60 000 people were forcibly removed from District Six in particular and redistributed across the Cape Flats in Manenberg, Lavender Hill, Hanover Park and elsewhere. Black households were encamped in places like Langa, Khayelitsha and Gugulethu.

More than two decades after the end of apartheid, most of Cape Town's working class are still excluded from areas where they need to be for work and education as well as for a dignified and safe living environment. The wealthier classes, who tend to be white, live in well-located areas such as the CBD and surrounds, whilst the poorer communities, who are predominantly black and coloured, remain at the periphery of the city. The following images show the persistence of spatial apartheid in Cape Town.

**Image 1 Spatial distribution of people by race 2001**



<https://adrianfrith.com/images/dotmaps/Cape-Town-2001.png>

Adrian Frith's map showing racial distribution and segregation in Cape Town. Key: Each dot represents 50 people: Orange = Coloured; Blue = Black; Green = Indian; Pink = White; Grey = Other

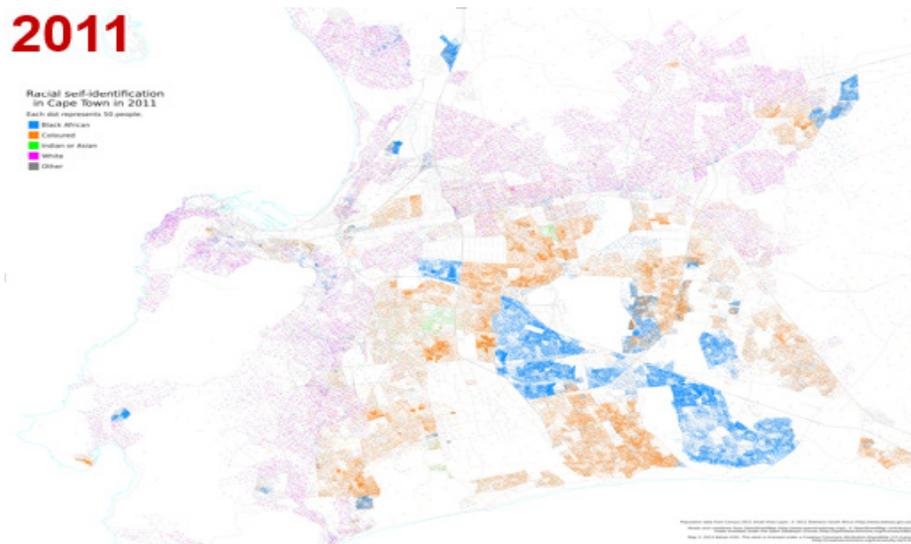
Martha Sithole Hungwe was a researcher at Ndifuna Ukwazi.

Ndifuna Ukwazi is an activist organisation and law centre that promotes the realisation of Constitutional Rights and Social Justice – through legal, research and organising support to working class people, communities and social movements.

Ndifuna Ukwazi leads the Reclaim the City campaign. This is a Cape Town-based initiative for desegregation and affordable housing development in the inner city. Through this campaign, Ndifuna Ukwazi works to advance urban land justice – that is the protection and promotion of access to affordable, well located housing in Cape Town; building inclusive and sustainable mixed use and mixed income communities; and supporting tenant rights and security of tenure in both private and public housing. For more see: <http://reclaimthecity.org.za/> and <http://nu.org.za>

By 2010, the spatial pattern had not changed much as shown in Image 2 below.

**Image 2: Spatial distribution of people by race in 2011**



<https://adrianfrith.com/images/dotmaps/Cape-Town-2011.png>

Key: Each dot represents 50 people: Orange = Coloured; Blue = Black; Green = Indian; Pink = White; Grey = Other

Spatial disparities based on race are still prevalent. Very little integration has happened over time. What little of it has occurred is due to some black and coloured people being able to afford space in the predominantly white areas. Racial integration is slow, and curbed by current residents' fear of other race groups and of crime rates rising and property rates declining due to the arrival of black and coloured people.

### **Income- and wealth-led spatial segregation and inequality**

Other factors that exacerbate spatial segregation and inequality are income and wealth disparities, which have further entrenched apartheid spatial planning. Most of the rich and predominantly white people live in areas where property values are high. Currently, for more black and coloured people to inhabit these well-located areas, they would have to amass more or less the same amount of wealth or at least be earning incomes high enough to afford living in areas such as Sea Point, Green Point, Rondebosch, Kenilworth, Constantia, Upper Woodstock and Durbanville, among others. Unfortunately, black and coloured households do not have a fair starting point due to the restrictive effects of the apartheid regime. As such, fewer can afford space in well-to-do neighbourhoods.

### **Private-sector-led spatial segregation and inequality**

Private property developers have also been instrumental in further entrenching apartheid spatial patterns by buying up property in well-located areas such as Woodstock and Salt River. This results in residents being rendered homeless. An example is Bromwell Street, where a private developer called the Woodstock Hub bought up a cluster of semi-detached houses and is currently trying to evict their residents. The Woodstock Hub intends to demolish those homes and develop high-rise, market-related rental housing stock, which will render the Bromwell families homeless.

Apart from the immediate threat of homelessness, gentrification initiated by the private sector will lead to rising property values in the area, with increasing rentals forcing out low-income households. If there is no intervention, Woodstock and Salt River will become areas where the affluent live, similar to Sea Point and Green Point, and low-income households will be forced to the periphery of the city.

### **Property market-led spatial segregation and inequality**

The property market also influences the apparent segregation and deepening inequality. High property values worsen the affordability of property prices in Cape Town. According to Prime Global Cities Index report by Knight Frank, a global independently owned property consulting company, in the second quarter of 2016, Cape Town was ranked third among cities worldwide with the largest increase in property prices with Shanghai ranked in second place and Vancouver ranked in first place.

Rising property prices culminating in high rentals lead to the exclusion of low-income families, who are predominantly black and coloured, in well-located areas. These families are at times left homeless.

The increase in property investment for holiday accommodation by foreign buyers means that their properties lie vacant for most of the year. This leads to a further proliferation of Airbnb facilities, which provide expensive short-term rental options for those who can afford them but exclude low-income families. All these factors create hindrances for racial and income integration in any well-located area. In so doing, these factors lead again to a further embedding of the apartheid spatial structure.

### Government-led spatial segregation and inequality

All spheres of government have a role to play in redressing spatial segregation. Our Constitution of 1996, the Spatial Land Use Management Act of 2013 and both the Western Cape's and City of Cape Town's Spatial Development Frameworks, together with the City of Cape Town's Integrated Development Plan (2012-2017) and its annual reviews, agree on the need to redress the apartheid spatial pattern. However, what is apparent is that not much is happening on the ground.

### The greatest weakness of RDP housing

It took too long for the national government to realise that the Reconstruction and Development Programme (RDP) was also entrenching apartheid spatial patterns, this by locating the poor at the outskirts of the city where land was cheaper. Once weaknesses were acknowledged, the Breaking New Ground (BNG) Policy was drafted in 2004. However, RDP houses (also known as BNG houses) are still being built far from well-located areas.

### Social housing funding in crisis

The only housing programme which is structured to directly redress apartheid spatial planning by providing affordable rental housing stock for low to emerging middle-income families earning between R1 500 and R3 5000 is called the Social Housing. The roll-out of social housing opportunities has been curtailed by the fact that the financing structure has not changed since the inception of the Social Housing Investment Programme in 2008. The national

government must review the Restructuring Capital Grant and the Provincial Institutional Subsidy so that they reflect current construction costs. Social housing institutions responsible for building and managing social housing projects have been advocating for this for a long time, but the national government is not coming to the party.

### Mega-project approach to housing delivery vs infill development

Another problem is the concentration on megaprojects in greenfield areas instead of infill affordable developments, where government builds affordable housing on unused land in existing well-located areas. This is an issue countrywide. The City's Spatial Development Framework calls inter alia for the City to

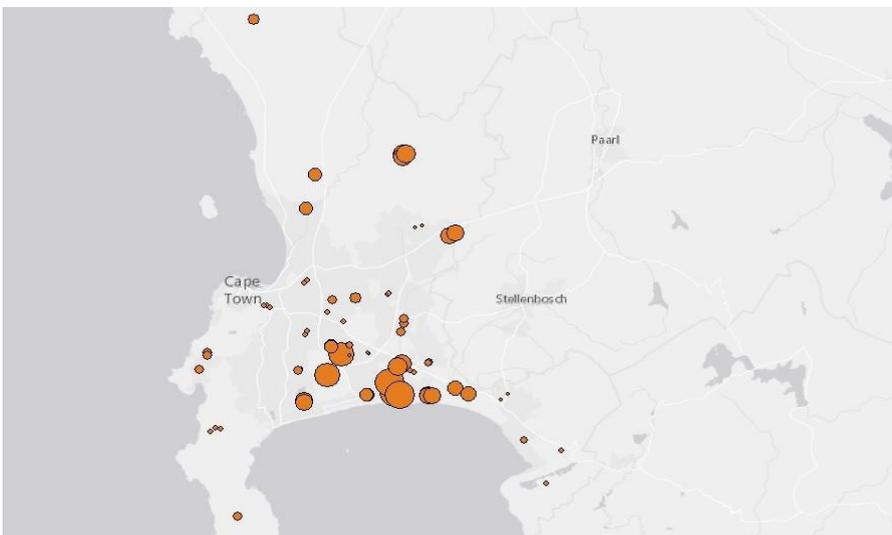
- \* where appropriate, use publicly owned infill sites to help reconfigure the distribution of land uses and people; and
- \* increase low-income earners' access to affordable housing which is located close to the city's economic opportunities.

### The City's modus operandi in housing delivery

Zooming into our current context, the City of Cape Town's 2016 Capital Budget is a key document identifying which capital projects are under construction, for how much and in which ward. The budget shows that most of the housing projects under way are located in wards at a distance from well-located areas, such as the CBD and surrounds in particular.

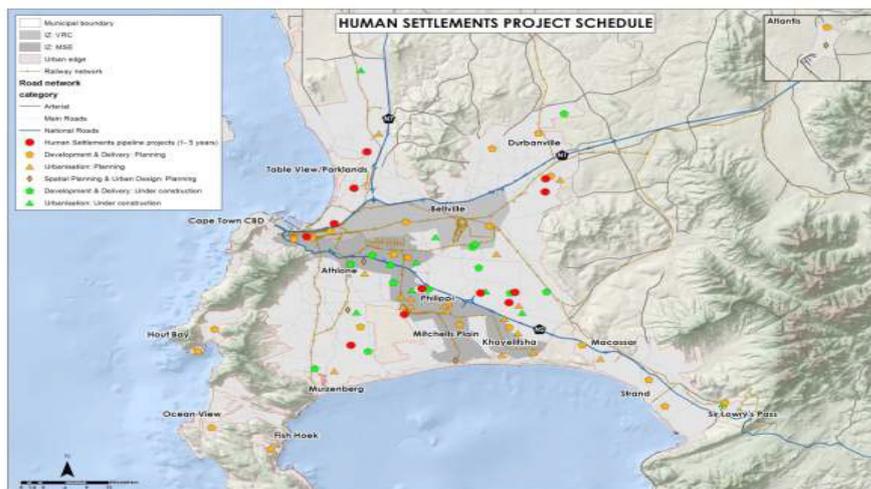
The City's 2016 Integrated Development Plan (IDP) Review shows that, again, the majority of its planned housing projects are located further out, mostly in the Cape Flats where people were relocated from the CBD and immediate surrounds (District Six, for instance) by the apartheid government (see Image 3 below).

**Image 3: Planned housing project in Cape Town**



Most of the developments are not along any existing economic corridors or nodes such as the Voortrekker Road corridor or the Southern corridor, but are in the Cape Flats. On the one hand, one could argue that where the projects are planned, that is where most of the informal settlement pockets and most of the people in need of housing are, so there is need for housing there. Moreover, in terms of practicality, it seems easier for the City to keep people there instead of breaking up existing communities and moving people away to new homes elsewhere. On the other hand, by doing so, the municipal government is endorsing apartheid spatial patterns.

**Image 4: Human Settlements Project Schedule**



Source: City of Cape Town Built Environment Performance Plan 2015/2016

The Human Settlements Project Schedule uses red dots to highlight City housing projects under way at that time; yellow dots and triangles for those in the pipeline; and green dots and triangles for those under construction. Note that there is only one project planned for the Southern Suburbs Main Road; two planned for the inner city and surrounds (the oldest economic node in the country, which is yet to receive a single subsidised rental unit); and four along the Voortrekker Corridor.

### The City's role in private evictions

In addition, the City of Cape Town has claimed that it has no hand in curbing private evictions, or at least in providing alternative accommodation when they happen, which is the case at Bromwell. We have learnt that the City of Cape Town has a constitutional obligation to provide temporary alternative accommodation for evicted people in or as near as possible to the area from which they are evicted. This obligation was confirmed by a Constitutional Court judgment in 2011, in *City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties*. The matter is currently before the courts, where Ndifuna Ukwazi, an NPO advocating for affordable housing in well-located areas, is advocating for the City to provide alternative temporary accommodation in the event of private-sector-led evictions.

### Government-led evictions

The Western Cape Government is in the process of evicting low-income families from government rental stock in De Waal Drive, Naruna and Rugby. The rental stock from which these vulnerable families are being evicted is in well-located areas. The effect of this is homelessness and an increase in the housing backlog of both the City and the province. If the families get public housing, it will be on the outskirts in City stock in areas like Wolwerivier.

### Sale of well-located state land

Both the City and Western Cape Government are failing to acknowledge the social value of land and are only considering its economic value. If government considered the social value, they would avoid making decisions regarding the affordability of land for subsidised, rental, social and gap housing programmes and projects on the basis of price alone. This would lead to well-located land being reserved for affordable housing.

### Absence of an affordable housing plan for all established economic nodes and corridors (portfolio approach)

Neither the City nor the Western Cape Government has a comprehensive spatial plan detailing where and how affordable housing, for rental and ownership, will be provided in the short, medium and long term in established economic nodes and corridors.

They must develop a comprehensive plan, which includes a spatialised inventory of all existing subsidised housing units, including those which have been lost to market uses. This should include more detailed plans identifying land suitable for affordable housing within each precinct. The plan must include phasing and deliverables. Such a roadmap will undoubtedly create more transparency in the way in which state land is dealt with.

As the largest and oldest economic node in the Metro, the CBD and surrounds should be the first spatially defined unit of analysis for such a plan. In its case before the courts, Ndifuna Ukwazi argues that this priority area includes Sea Point in the west to Salt River in the east.

In the absence of such a plan, the ongoing and ad hoc disposals of municipal and provincial land are in fact hindering the City's and Western Cape Government's ability to create a more inclusive and compact Metro. As a result, the poor will always be located far from economic nodes and corridors, including the CBD and surrounds.

## Conclusion

In order to reverse the negative effects of spatial injustices and inequalities that came with apartheid and that are still apparent today, there is need for intervention. This will have to be effected by the government. The preamble of the Constitution of 1996 declares: 'We therefore, through our freely elected representatives, adopt this Constitution as the supreme law of the Republic so as to heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights ... (and) improve the quality of the lives of all citizens and free the potential of each person ...' Therefore, the government bears the primary responsibility for effecting transformation with regards to the economy.

This should be done through more than legislation, frameworks, policies or even planning documents. The government needs to take direct actions that will lead to spatial equality and prevent deepening inequality. Some of the challenges to this come from opponents to change and integration, namely the private sector, which is profit-oriented, and well-off individuals who cannot imagine living next to someone different to them in terms of social class, race and income. Market forces, too, need to be kept in check to allow free-market behaviour from hindering excessive exclusion of the vulnerable.

In addressing the inequalities at source, there is no need to be extreme to the effect that private developers are squeezed out and 'flee'. There is need for a delicate balance. However, the status quo cannot be left as is.

Even after the necessary strategic steps and actions have been identified, the obvious question that remains is whether the government has the ability and political willingness to address continuing segregation and inequalities. Other cities around the world – London, Berlin, Sao Paulo, Finland and New York – have taken positive stances towards the provision of high-quality affordable housing in well-located areas. This, in other words, is not only a resource question but a question of political will.

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## 2

# Privatisation in education and discrimination: its impact on the right to education in Uganda

## by **Nakulima Saphina**

### Introduction

Privatisation in education is a growing global phenomenon threatening the right to education in many countries, including Uganda. This trend has significant implications for the human right to education in terms of quality, accessibility and affordability of education, especially for vulnerable children. Accordingly, private education refers to education provided by non-state actors, including private companies, religious institutions, non-governmental organisations, community groups, trusts or private individuals.

According to the United Nations Educational, Scientific and Cultural Organisation (UNESCO 2015), the development of private provision of education as it is – even at low cost – seems unlikely to address the issue of poor children who cannot access schools, and may even increase segregation and reinforce inequalities in education opportunities. Similarly, the United Nations (UN) special rapporteur emphasised that privatisation ‘throws overboard the fundamental principle of equality of opportunity in education, which is common to almost all international human rights treaties’ (Singh 2015). Access to education based upon the capacity to pay fees, which is entailed by privatisation, ‘flies in the face of prohibited grounds of discrimination’.

The right to education has been recognised in international human rights law. Article 26 of the Universal Declaration of Human Rights reads to the effect that everyone has the right to education, which shall be directed to the full development of the human personality. Subsequently, several international and regional human rights treaties have restated the right to education.

These include the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child, the African Charter on Human and Peoples’ Rights, and the African Charter on the Rights and Welfare of the Child. Under international human rights law, the state has the principal obligation for ‘the direct provision of education in most circumstances’.

International human rights law further recognises the freedom to establish private education institutions, but provides that private education should not be developed to the detriment of human rights (ICESCR 1966). In particular, it should not lead to discrimination.

The ICESCR allows private actors to establish and direct schools, yet it imposes certain obligations on private actors and the state (CESCR General Comment 13). This liberty is subject to the requirement that these private actors must conform to the minimum standards laid down by the state.

The minimum standards in this regard include school infrastructure, teacher qualifications, curricula and licensing, among others, and the state must conduct regular monitoring to ensure compliance. Uganda’s domestic law also guarantees the right to education and cross-cutting rights such as equality and non-discrimination (Constitution 1995).

The growth of private actors in education has far-reaching consequences for the right to education. Hence, private actors must respect the right to education and the state must ensure that all private actors who play a role in education provision are held accountable.

### Privatisation of education in Uganda

In Uganda, privatisation in education manifests itself in a number of ways or models, including through public-private partnerships and private providers such as religious institutions, private individuals, low- and high-fee private schools, community schools, companies and international NGOs.

Uganda liberalised the education sector in 1993 to allow for private actors to supplement government efforts in providing education, in line with the Government White Paper on Education (1992) that encouraged strengthening partnerships in education. This was part of the wider Structural Adjustment Programmes (SAPs), which introduced privatisation, deregulation and emphasis on the market economy for various economic and social sectors.

Since then, the national government has actively supported the establishment of private schools. The fifth periodic report by the Government of Uganda indicates ‘support for the establishment of private schools’ as one of the three measures to aid enrolment and retention of pupils in school (2013)

This support has been partly through the enactment of an enabling law and institutional restructuring to cater for the private sector. Indeed, one of the objectives of the Education (Pre-primary, Primary and Post-primary) Act of 2008 is ‘to promote partnerships with the various stakeholders in providing education services’. Section 6 of the Act lists the categories of recognised education institutions and includes profit and nonprofit private institutions, while Part VII has provisions relating to private schools.

The private sector is diverse, comprising individual investors, community groups, civil society organisations, international NGOs and faith-based organisations running for-profit and non-profit private schools. For-profit private schools include high-fee and medium-fee schools that are either fully financed by private sources or have entered into public-private partnerships with the government.

Nakulima Saphina is the Senior Program Officer: Right to Education at the Initiative for Social and Economic Rights (ISER). ISER is an independent, not-for-profit human rights organisation responsible for promoting the effective understanding, monitoring, implementation and realisation of economic and social rights in Uganda. Visit <http://www.iser-uganda.org> for more information.

Currently, 36.2 per cent of schools at primary level and 66 per cent of schools at secondary level are private (MoESTS 2015). As of 2015, the private school enrolment as a percentage of total enrolment was 17.1 per cent and 50.1 per cent at primary and secondary levels, respectively (MoESTS 2015). In 2008, the Private Schools and Institutions department was inaugurated and is charged with the overall coordination, regulation, policy formulation and guidance on all matters regarding private schools to ensure compliance with minimum standards.

The rapid growth of private education provision amidst declining state investment in public education can be attributed to inadequacies in the system, increasing government support for low-fee private schools without critical assessment of their impact on the right to education, and weak supervision and regulatory frameworks that fuel the discrimination and segregation of vulnerable groups. This is because growth has not been commensurate with proper regulatory and monitoring mechanisms, among others.

### How privatisation of education in Uganda is leading to discrimination against vulnerable groups

The possibility for non-state actors to establish and direct private institutions should not engender any form of discrimination or segregation. The state is obliged to ensure that this does not lead to extreme disparities of educational opportunities for some groups. However, it has been documented that private provision of education in Uganda excludes some groups (ISER 2015).

Despite this growth, the government has not effectively regulated and monitored private providers of education to ensure that they adhere to the Basic Requirements and Minimum Standards (BRMS). The education ministry has cited lack of human and financial resources as the problem, which has led to the establishment of many substandard private schools. For example, on 4 November 2016, the Uganda High Court at Kampala ordered closure of Bridge International Academies for operating without license and in disregard of the BRMS for schools as regards infrastructure, meet minimum sanitation requirements of operation use of qualified teachers, and approved curricula. The lack of regulation and proper monitoring mechanisms has paved the way for social segregation and discrimination, which is greatly affecting vulnerable children.

Most private schools charge high fees, which is a barrier for the poor and leads to high drop-out rates (ISER, 2016). Private schools charge exorbitant fees, higher than the average income of most parents in the lowest quintile. As a result of those parents being unable to pay school fees, 27 per cent of children are forced to drop out, with a further 18 per cent prohibited from sitting exams. The financial burden on low-income families is worsened by the associated costs of schooling, such as uniforms, development and examination fees, scholastic materials and toilet paper (ISER, 2016). In most low-fee private schools, access to education for children from poor backgrounds is still a significant challenge because many families cannot afford the total cost of education.

As a result, many students end up dropping out or not enrolling in school. There is also gendered inequality as a result of private provision of education. The high cost of education in private schools has forced families with uncertain sources of income to choose which child they can send to school (UNESCO). In most cases, parents prioritise boys over girls. This is influenced by cultural beliefs in some rural and remote areas, where girls are seen as a source of income once married off and boys, as future breadwinners. Poor parents do not want to waste their meagre resources on girls' education, so some drop out while others never enroll.

There is little or no reasonable accommodation for children with disabilities in private schools, despite the government's promotion of inclusive education. In most private schools, the buildings are not physically accessible. The reason for this may be that construction for private schools is not inspected and supervised by district engineers, as is the case for public schools. As a result, most children with physical disabilities drop out of school because of the difficulty in accessing different buildings. Many of these schools do not have a single special-needs teacher, or one proficient in sign language to assist the deaf children. This has been attributed to the expense of such teachers, which schools are not willing to cover.

Lastly, many children from rural backgrounds are disadvantaged due to the fact that private schools, especially those on public-private partnerships, are concentrated in urban and peri-urban areas. This is because most business people do not want to open up businesses in rural areas for fear of not being able to maximise profits. As a result, children who come from such disadvantaged areas will have access only to public education if available, with its associated poor quality and poor-performance outcomes. This puts them at a great disadvantage compared to their counterparts in areas where private schools are accessible.

### Conclusion

The poor quality of public schools has forced many parents to opt for private schools, even when they have to carry the burden of high tuition and non-tuition fees. However, the quality in private schools is also a mere perception that is not backed by concrete evidence. This has been worsened by the lack of proper regulatory and monitoring mechanisms at private schools. The situation has exacerbated discrimination and segregation, especially for children from poor backgrounds and rural areas, those with disabilities, and girls, who are seen as income-generators through marriage. These factors contribute to the high drop-out rates at schools.

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## 3 Updates

### **African Human Rights System: African Commission's Resolution on the right to food and Food security in Africa**

During its 60th Ordinary Session from 8 to 22 May, Niamey, Niger, the African Commission on Human and Peoples' Rights adopted an important resolution on the right to food and food security in Africa. The resolution draws on existing standards such as the Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter and the Declaration of the Pretoria Seminar on Economic, Social and Cultural Rights in Africa (the Declaration). The Commission notes with concern threats posed by food insecurity to the enjoyment of the right to food of millions of people in the region. It therefore urges African governments to adopt legislative, administrative and other necessary measures with a view to addressing the challenge of food insecurity and hunger in the region. It further urges African governments to ensure accessibility of food to the most vulnerable and marginalised groups in the region through the adoption of special programmes. More importantly, the Commission calls on non-state actors involved in conflicts to ensure access to humanitarian reliefs and food to victims of war without any hindrance.

The resolution is available here <http://www.acdhrs.org/2017/07/adopted-resolutions-at-the-60th-ordinary-session-of-the-achpr->

### **UN Human Rights System: UN Committee on Convention on the Rights of the Child adopts General Comment 20 on the implementation of the right of the child during adolescence**

This General Comment addresses the role of states and non-state actors in implementing the rights of the child during adolescence. It provides a comprehensive guide to states on measures to adopt with a view to realising the rights of children during adolescence in line with the sustainable development goals (SDGs). The Committee notes that focus on adolescents is necessitated by their 'unique and defining stage of human development' which is often characterised by physical and mental growth. It further notes that in implementing the rights of the child during adolescence states must adhere to the general principles of the Convention such as the right to development (evolving capacities), best interests of the child, non-discrimination, life and survival and participation. According to the Committee certain adolescents require special attention and they include girls, boys, children with disabilities, lesbian, gay, bisexual, transgender and intersex adolescents and minorities and indigenous adolescents. The Committee addresses some of the important socioeconomic needs of children during adolescents. For instance, the Committee notes that health care services hardly address the peculiar needs of adolescents. The Committee identifies barriers to health care services for adolescents to include legal and financial, discrimination, lack of confidentiality and respect, violence and abuse, stigma and judgmental attitudes of health care providers. The Committee urges states to adopt a comprehensive and gender sensitive measures to address barriers to health care services for adolescents. The Committee equally examines the impact of poverty on the well-being of adolescents and the need for states to adopt comprehensive, affordable, inclusive and quality access to education for all adolescents.

For more on the General Comments of the Committee visit [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11).

### **UN Human Rights System: UN Committee on Economic, Social and Cultural Rights General Comment 24 on Business and Human Rights**

In this important General Comment, the Committee examines the impact of business activities on the enjoyment of socioeconomic rights. The General Comment builds on existing norms and standards such as the Human Rights Council's Guiding Principles on Business and Human Right. It sets out to clarify the nature and extent of states' obligations in addressing the negative impacts of business activities on the enjoyment of socioeconomic rights. It also seeks to assist non-state actors, particularly corporate entities 'in discharging their human rights obligations and assuming their responsibilities... that may be associated with violations of Covenant rights within their sphere of influence'. According to the General Comment, the word 'business', should be construed broadly to include 'all activities of

business entities, whether they operate transnationally or whether their activities are purely domestic, whether fully privately owned or State-owned, regardless of size, sector, location, ownership and structure'. It notes that in addressing the negative impacts of business on the enjoyment of socioeconomic rights, states have the obligations to respect, protect and fulfil as well as ensure non-discrimination. While the General Comment notes that states have the obligations to respect, protect and fulfil, emphasis was placed on the obligation to protect as this is the one most relevant in the context of business activities. In line with international human rights law, the Committee identifies some situations under which a state may become directly responsible for the activities of business entities. More importantly, the Committee reiterated the extra-territorial obligations of states with regard to activities of business entities. The Committee explains that the extra-territorial obligation of states to respect requires states parties to 'refrain from interfering directly or indirectly with the enjoyment of the Covenant rights by persons outside their territories'.

For more on the General Comments of the Committee visit [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/TBSearch.aspx?TreatyID=9&DocTypeID=11](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?TreatyID=9&DocTypeID=11)

## 4 Call for contributions to the ESR Review

The Socio-Economic Rights Project of the Community Law Centre at the University of the Western Cape welcomes contributions to be published in the ESR Review.

The ESR Review is a quarterly publication that aims to inform and educate politicians, policy-makers, NGOs, the academic community and legal practitioners about key developments relating to socio-economic rights at national and international levels. It also seeks to stimulate creative thinking on how to advance these rights as a tool for poverty alleviation in South Africa and abroad.

### Contributions:

- should reflect contemporary debate or spark new debate;
- should be opinion pieces or serve an advocacy function, rather than simply stating legal principles or being descriptive in nature;
- should not be on a topic already published in the ESR Review, unless they take the debate forward;
- should not be a marketing exercise for a particular project or programme; and

should be written in a simple, clear style that avoids technical language and legal jargon where possible, taking into account that the ESR Review is read by both legal practitioners and grassroots human rights organisations.

Send contributions in electronic format (MSWord) to [serp@uwc.ac.za](mailto:serp@uwc.ac.za). Provide your full name and present position. Titles and qualifications are not necessary.

If the article has already been published elsewhere, give full details, including whether it has been shortened, updated or substantially changed for the ESR Review and whether the required authorisations have been granted.

### Length

Contributions should be no longer than 3 000 words, except contributions for the Events section (1 500 words) and the Publications (Book Review) section (1 000 words).

Previous issues of the ESR Review are available online: <http://dullahomarinate.org.za/socio-economic-rights/esr-review>