

REALISING RIGHTS: KEY PRINCIPLES

In 2015, the UN Committee on Economic, Social & Cultural Rights recommended that Ireland “*consider instituting human rights impact assessments into its policy-making process, particularly in relation to the Covenant rights*”. The Programme for Partnership Government 2016 commits to developing a process of budget and policy proofing “*as a means of advancing equality, reducing poverty and strengthening economic and social rights*”. International rights bodies have interpreted and developed how rights can be realised in practice, and identified some core principles relevant in particular to realising social, economic and cultural rights.

Respect, protect and fulfil rights

- Respect: States should not interfere with enjoyment of rights
- Protect: States should prevent rights violations by third parties
- Fulfill: States should take appropriate measures to ensure realisation of rights

Equality and non-discrimination

- Non-discrimination and equality are essential to enjoying economic, social & cultural rights
- States obliged to guarantee rights without discrimination of any kind

Progressive realisation

- Full rights realisation may be difficult in short-term, including due to constrained resources
- States do have a continuing obligation to take appropriate steps – deliberate, concrete, and clearly targeted – to realise rights as quickly and effectively as possible
- ‘Appropriate’ includes legislative, administrative, financial, educational, & social measures

Maximum available resources

- States must take steps to realise rights to the maximum of available resources
- When resources are severely constrained, vulnerable people can be protected by relatively low-cost targeted programmes

Non-retrogression

- Retrogression occurs when States take steps that deprive people of rights they previously enjoyed; essentially the opposite of progressive realisation
- States should not cut funding for essential goods and services where this would cause undue hardship, unless they can prove that they do not have the necessary resources

Minimum core obligations

- At a minimum, States are obliged to provide for the ‘minimum essential’ levels of rights
- A failure to provide this minimum is a failure by the State party to discharge its obligations

Immediate obligations: result

- States have immediate obligations to realise substantive and cross cutting rights such as equality and non-discrimination; these overarching rights are not subject to progressive realisation

Immediate obligations: conduct

- The budgetary process must include mechanisms to deliver transparency, accountability, participation
- Citizens should have access to remedies in cases of rights violations

Extra-territoriality

- A state's human rights obligations apply both within and beyond its territory
- To realise universal human rights, states should take action separately, and jointly through international cooperation