

Budgets and Economic and Social Rights (ESR)

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Key Themes

- ▶ Why look at budgets?
 - ▶ Budget obligations under the International Covenant on Economic, Social and Cultural Rights
 - ▶ What next?
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Why Look at Budgets and ESR?

- ▶ Many ESR obligations are **resource-dependent** and will have **budgetary implications**
- ▶ The recent financial and economic crises have highlighted the extent to which economic policy was (and remains) **uninformed** by States' ESR obligations – despite having massive implications for ESR enjoyment
- ▶ Bridging the 'implementation gap' in human rights
 - Requires budget decisions that reflect a vision of human rights for all ([COE Commissioner for Human Rights 2009](#))

The Key Obligation

▶ Article 2(1)

- Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the **maximum of its available resources**, with a view to **achieving progressively the full realization of the rights** recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.
- ▶ Imposes a range of progressive and immediate obligations

Art 2(1) Maximum Available Resources

- ▶ Real resources – beyond current allocations
 - Need to look at how state chooses to mobilise (or not) resources for ESR satisfaction ([Balakrishnan et al 2011](#); [Ortiz et al 2011](#); [CESR 2012](#))
- ▶ Spending must be *sufficient* (adequate)
- ▶ Spending must be *efficient*
 - States must channel funding in terms of ESR-related need
 - Funding allocated to ESR must be expended for that purpose!
- ▶ Funding must be allocated towards smooth administration and management of allocated resources
- ▶ Not just about **financial** resources!
([Nolan and Dutschke 2010](#))

Art 2(1) Progressive Realisation

- ▶ Refers to progress in actual enjoyment of rights
- ▶ State must show that it is moving as ‘expeditiously and effectively’ as possible (ComESCR, GC No.3)
- ▶ It involves:
 - expanding ESR access – larger *number* of people
 - improving ESR implementation – wider *range* of people
- ▶ State must ensure **funding priority** is accorded to the rights of people entitled to special assistance (e.g., children, people with disabilities, older persons)

**Implications of fiscal austerity
(Ireland/NI) and welfare reform agenda
(UK/NI) for progressive realisation?**

Art 2(1) Non-Retrogression

- ▶ Prohibition on backward steps in the level of ESR enjoyment
- ▶ E.g. **Unjustified** reduction in public expenditure devoted to the implementation to ESR in the absence of adequate compensatory measures for the protection of injured individuals
- ▶ Can be justified only ‘with careful regard to the totality of [ICESCR] rights’ (ComESCR, [General Comment No.3](#))
- ▶ State must **budget** to uphold existing supply and ensure equal access
- ▶ State must **increase resources** for ESR in line with inflation

But what about **cuts to child benefit** and **respite care grant (IRL)**, proposed reductions in **housing benefit (NI)** and introduction of the ‘**benefit cap**’ (NI)?

The Challenge of Structural Adjustment

“Any proposed policy change or adjustment has to meet the following requirements:

1. the policy is a **temporary** measure covering only the period of the crisis;
2. the policy is **necessary and proportionate**, [in the sense that the adoption of any other policy, or a failure to act, would be more detrimental to economic, social and cultural rights];
3. the policy is **not discriminatory** and comprises all possible measures, including tax measures, to support social transfers and mitigate inequalities that can grow in times of crisis and to ensure that the rights of disadvantaged and marginalized individuals and groups are not disproportionately affected; and
4. the policy identifies the **minimum core content of rights, or a social protection floor**, as developed by the ILO, and ensures the protection of this core content at all times”.

(2012 Chairperson’s Letter)

How will [Ireland](#) and the [UK](#) fare in their impending appearances before the Committee?

Immediate and Progressive Obligations

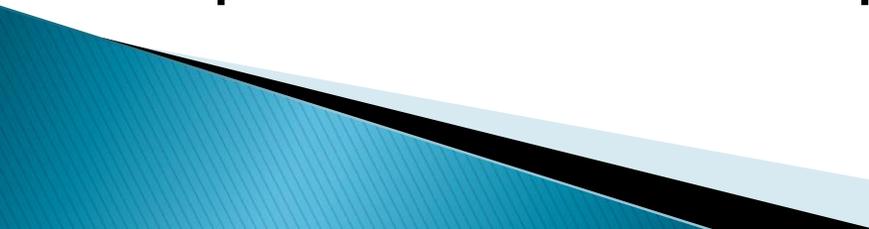
▶ Minimum core

- State must provide minimum essential level necessary for survival
 - But we see increases in homelessness and hunger in Northern Ireland and Ireland...
- Requires a calculated priority in resource allocation/ higher justification

▶ Non-discrimination article 2(2)

- Resource implication: State must budget to ensure no discrimination in ESR
- Issue: uneven impact of budgetary allocations, expenditure or cuts
 - Disproportionate impact of crisis and responses thereto on women ([NWCI 2012](#); [Women's Budget Group](#)), people with disabilities ([DFI 2012](#); [NICVA 2013](#))

Immediate and Progressive Obligations

- ▶ Process related obligations imposed by ESR
 - Duty to monitor and develop a national strategy to give effect to ESR – need to monitor budgetary decisions impact on ESR
 - Through human rights impact assessments of budgetary decisions, etc.
 - ▶ ESR obligations in terms of budget processes
 - Accountability and transparency
 - Need to ensure participation
- Resources have to be allocated for process requirements to be operationalised.
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What Next?

- ▶ We must ask the ‘rights question’ when dealing with issues around social and economic policy; there is a need to use rights language to challenge the prevalent ‘austerity’ agenda in Northern Ireland and Ireland
 - UK and Ireland’s reports to CESCR: a golden opportunity?
- ▶ We need to move beyond the reactive to the proactive
 - we must strive to ensure that fiscal and economic policy is ESR-compliant in its inception, development and implementation (e.g., build on [Social Justice 2014](#))
- ▶ We must work with economists to integrate human rights concerns with economic analysis so as to provide rights-focused economic models and analyses
 - See, e.g., [CESR 2012](#); [O’Connell et al 2014](#); [Nolan et al 2013](#); [Balakrishnan et al 2011](#)
- ▶ Push Westminster, Stormont and the Irish government to carry out human rights-based analyses of budget and economic decision-making processes and outcomes – both ex ante and post facto