

Progressive realization

Article 2 & Governments' Budgets

ICESCR Article 2(1):

Each State Party to the present Covenant undertakes to take steps, [...] 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 [...]



What does the obligation of progressive realization¹ in article 2 mean?

This is a question that governments serious about realizing their people's rights and living up to their treaty obligations necessarily ask themselves. It is also one that civil society groups monitoring the government's compliance with its human rights obligations will have to address.

The UN Committee on Economic, Social and Cultural Rights (CESCR) is the body that provides the most authoritative interpretation of the meaning of article 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The CESCR is charged with overseeing implementation of the ICESCR. States that have ratified the ICESCR must, as part of their treaty obligations, report regularly to the CESCR on steps they have taken to implement the treaty and on the status of the enjoyment of economic, social and cultural (ESC) rights in the country.

The Committee makes comments and recommendations on each country report. These comments and recommendations often set out the Committee's best understanding of the meaning of specific treaty provisions. Occasionally, the Committee also issues a "General Comment" (GC) on a topic that has arisen repeatedly during its deliberations in order to provide greater clarity to governments and others as to the meaning of specific rights and obligations in the ICESCR.

This booklet highlights the principal guidance that the Committee has provided through these reports and its General Comments on what the obligation to progressively achieve the full realization of ESC rights means, particularly for governments' budgets.

N.B. While this booklet focuses on the obligation to achieve progressively the full realization of ESC rights, it is essential when addressing an issue to consider this obligation in conjunction with the other two obligations in article 2—use of maximum available resources and non-discrimination. The meaning and implications of these two obligations can only be properly understood, and complied with, in conjunction with the obligation of progressive realization—and vice versa.

¹ Human rights advocates refer to this obligation as either "progressive realization" or "progressive achievement." In this booklet, the two phrases are used interchangeably.

Realistic, but also demanding

The obligation to achieve progressively the full realization of ESC rights reflects an understanding that full realization will take time and depend, in part, on the resources available to a government.

This obligation should be seen as going hand-in-hand with the obligation to use the maximum of available resources. Thus, while “progressive achievement” is a realistic obligation, it does not let governments off the hook. Governments, while taking steps to progressively achieve realization of rights, must demonstrate that they are using the maximum of available resources to continue improving the conditions of their people.

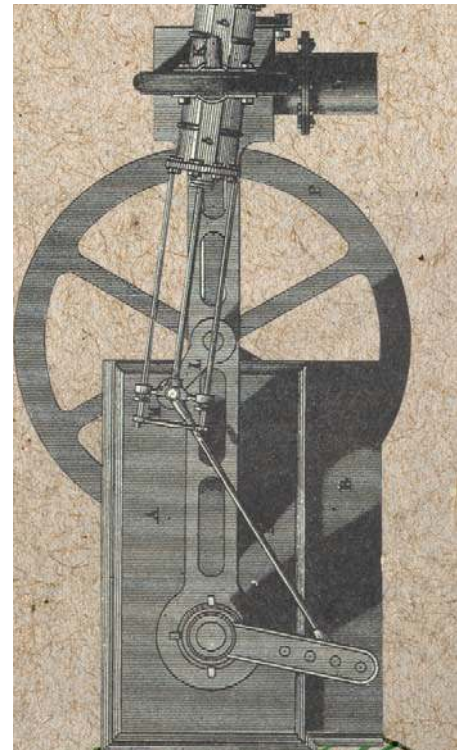
The government’s budget and progressive achievement

Analyzing whether a government is complying with its obligation of progressive achievement involves looking at people’s actual enjoyment of their rights, using indicators that reveal whether school enrollment is growing, unemployment and the number of homeless people are decreasing, and so on.

Of course, the government’s budget is central to the realization of rights. There is not, however, a direct correlation between an increase in a government’s budget and an increase in people’s enjoyment of their rights. A growing budget may be poorly targeted or wastefully spent, while a

shrinking one may be used more efficiently and actually expand services to people. It is thus important to remember that people’s situation “on the ground”—not the budget—is the most valid indicator of whether a government is complying with its obligation of progressive achievement.

With these cautionary notes in mind, here is what the CESCR has said about the obligation of progressive achievement, and what this implies for governments’ budgets.



It is not sufficient for a government to identify and use appropriate indicators (for example, the number of children moving from primary to secondary school) to assess the progressive realization of rights. They must also gather solid data related to the indicators. In addition, it is essential that the data be appropriately disaggregated by such categories as gender, income level, geography, ethnicity and so on. It is often the case that aggregated data look good (showing, for example, an increasing percentage of children moving from primary to secondary school), at the same time that disaggregated data would show that specific groups are not experiencing such an improvement (and this, in turn, would imply a failure to comply with the obligation of non-discrimination). See case study on *Progressive Realization: Benefits of increased expenditures not reaching the most vulnerable*.

Continuously improve conditions

Firstly, governments must continually improve conditions that are fundamental to the realization of ESC rights. (See case study on *Progressive Realization: Budget increases and meeting the obligation of progressive realization*.)

Moreover, governments do not have all the time in the world to do so. Even though they may have limited resources, they cannot delay taking such steps as developing policies and plans, which are essential to a sound development process and do not require a lot of resources. Beyond this, governments must move as expeditiously and effectively as possible towards full realization of the rights in the ICESCR.

The Committee has also said that it expects that resources allocated to the realization of the ESC rights will increase in proportion to any global increase in resources. This means, for example, that if the government brings in increased revenue, it must ensure that the share of the budget allocated to and spent on ESC rights-related areas increases proportionally. In other words, these areas should benefit from the “expanding pie.”

Even if a government has limited resources, it cannot postpone meeting certain obligations—most particularly the obligation of non-discrimination. While taking steps to realize, for example, the right to education or health, the government must ensure that the steps, however small, benefit all in a non-discriminatory fashion.



Do not take steps backwards

Secondly, the obligation of progressive achievement means that a government should not deliberately take what are called “retrogressive measures”—steps that diminish people’s current enjoyment of their rights.

With regard to the government’s budget, this means that the government generally should not cut budgets affecting ESC rights-related areas. While the true measure of progressive achievement is what happens to people’s actual enjoyment of rights, normally a cut in a budget leads to a cut in goods and services, which in turn affects people’s enjoyment of their rights. (See case study on *Progressive Realization: Retrogression due to tax reforms reducing funds for the realization of ESC rights*.) However, a cut in the budget would not amount to a “retrogressive measure” if the government were to introduce compensatory measures or efficiencies in spending that have the effect of neutralizing any negative impact from cuts.

That said, a substantial budget cut to programs essential for the enjoyment of ESC rights would be cause for concern. The government should explain the factors that prompted the cut and monitor its impact on the realization of related rights. It should also thoroughly investigate the impact of the cuts on different populations, to ensure that such cuts are not discriminatory. (See booklet on the obligation of non-discrimination.)

Times of economic crises and natural disasters

When an economic crisis or natural disaster hits a country, the government often has to divert resources from existing programs to respond to the situation. While this is understandable, the Committee has said that the obligation of progressive achievement puts certain limits on what a government can do. In particular,

- Vulnerable members of society must be protected by, for example, the adoption of relatively low-cost measures; and





- Certain minimum standards must be maintained for all with regard to safe drinking water, food, shelter, health care and other essentials for human life.

In addition, once the resource constraints caused by the economic crisis or natural disaster disappear and the economy recovers, the government must reverse the measures it took that led to a reduction in ESC rights-related expenditures. It must also work to repair any damage populations have suffered as a result of the resource constraints—again, paying particular attention to vulnerable groups.



If a government concludes that it has to cut its budget and it is clear that such a cut will result in a reduction in the goods and services necessary for the realization of rights, the CESCR has said that:

- The government has the burden of proving that it has made its decision only after the most careful consideration of all alternatives;
- It has arrived at its decision keeping in mind its obligations with regard to all of the rights in the ICESCR; and
- It has used the maximum of available resources to avoid making the cuts.

The Article 2 project

This booklet is part of the *Article 2 & Governments' Budgets* handbook. The handbook has been developed by the Article 2 Project, a working group housed first at the Partnership Initiative of the International Budget Partnership (IBP), and then at the Global Movement for Budget Transparency, Accountability and Participation. The project aims to enhance understanding of the implications of article 2 of the ICESCR for how governments should develop their budgets, raise revenue and undertake expenditures.

Article 2 of the ICESCR sets out that governments are obligated to "[...] take steps, individually and through international assistance and co-operation, [...] **to the maximum of its available resources**, with a view to **achieving progressively** the full realization of the rights recognized in the present Covenant [...], **without discrimination** of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

This handbook is, primarily, a resource for civil society organizations, human rights commissions, and even legislators, to hold governments to account for their human rights obligations. Download the complete handbook at:

www.internationalbudget.org/publications/ESCRArticle2.

Authors: Ann Blyberg and Helena Hofbauer

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