

INTERROGATE 02

ECONOMIC, SOCIAL AND CULTURAL RIGHTS STANDARDS



In this second note of the *Decoding Injustice* Interrogate module, we take a look at the standards and principles that can help us expose which rights are being harmed and who is responsible. Here, activists and changemakers will find tools to demystify legal norms, so they are more useful in exposing flaws in the economic system, as well as leverage points for redesigning it.

Key Questions

What are economic, social and cultural rights?

How are economic, social and cultural rights defined and interpreted in international and domestic law?

What are the obligations of States in relation to economic, social and cultural rights?

INTERROGATE 02

ECONOMIC, SOCIAL AND CULTURAL RIGHTS STANDARDS

Introduction

Economic, social and cultural rights (ESCR) standards and principles set out what we can expect of — and demand from — governments and other powerful actors. Under international law, governments have obligations — both immediately and over the longer term — to take action on these rights. This gives us a tool for assessing how their actions affect the economy, and identifying responsibility when individuals and communities are harmed — a sort of code cracker, we might say. In this way, ESCR are a powerful counterweight to the logic of market fundamentalism.

For many years, economic, social and cultural rights were pushed to the margins of the international human rights agenda, on the grounds that they were too vague to be “justiciable”. In other words, they were not seen as legal rights that could be enforced by courts. Developments over the past few decades have shown that this is a myth. These obligations have been elaborated in greater detail by courts, international human rights bodies and other experts, and enshrined in some way in most countries’ constitutions, often as a result of civil society advocacy. As a result, we now have greater clarity about what governments are expected to do in order to meet their human rights commitments.

However, it remains the case that ESCR obligations are often described in the abstract, using specialist terms and legalistic language. In some contexts, of course, this framing is necessary, but it can also feel disconnected from the countless people around the world who are confronting hardships every day. To achieve meaningful action on ESCR, these obligations must not be only the concern of human rights lawyers and experts, but of everyone.

In order to use these obligations as a way to reveal the injustices that are coded into our economic system, and to set out

what must be done to change them, we first need to demystify what they mean. This note aims to do this. It first sets out how economic, social and cultural rights standards and principles are given force in international treaties and domestic laws. It then unpacks how each has been interpreted, as well as illustrating how they relate to one another. It ends with some thoughts on how drawing on these obligations can help point us to flaws in the design of the economic system, as well as to leverage points for redesigning it.

What Are Economic, Social And Cultural Rights?

Economic, social and cultural rights (or ESCR) are human rights that guarantee us the material conditions we need to live a life of dignity — where all of us can achieve wellbeing and realize our potential. They include a range of protections and entitlements.

Human rights are a multidimensional concept. As moral claims, human rights give force to universal values often invoked in discussions around the economy, such as dignity, equity and justice. They assert that there are certain needs that are so essential for human beings to flourish that they must be guaranteed to all. As political demands, human rights argue for the prioritization of people’s wellbeing when hard choices and trade-offs must be made in the design of policies and the distribution of resources. In this way, they are a tool that can be leveraged to build “people power” in political debates. As legal obligations — flowing from international treaties, national constitutions and other legislation — human rights call for compliance with “binding” rules, and for accountability when those rules are broken.

This document is organized according to an innovative method for collecting, analyzing and presenting evidence around three steps:



INTERROGATE

Map the problem in depth using OPERA to identify indicators and benchmarks.



ILLUMINATE

Spotlight the underlying issues by collecting, analyzing and visualizing data.



INSPIRE

Take action to build power and hold decision-makers accountable.

For these reasons, recognizing economic, social and cultural rights as human rights helps to highlight that poverty and inequality are neither inevitable nor natural. Instead, they are the outcome of deliberate political decisions and policy choices — decisions and choices that policy-makers and public officials must be held accountable for.

How Are Economic, Social And Cultural Rights Protected Internationally?

The Universal Declaration of Human Rights, adopted in 1948, did not make a distinction between the nature of civil and political rights and ESCR, but recognized both equally. In the decades that followed, as negotiations over the development of a legally binding treaty on human rights unfolded, Cold War politics prevented consensus. The result is that, somewhat arbitrarily, two separate treaties were developed: the [International Covenant on Civil and Political Rights](#), and the [International Covenant on Economic, Social and Cultural Rights](#), both adopted in 1966. Together with the [Universal Declaration of Human Rights](#), these instruments are often referred to as the “International Bill of Human Rights”.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is the most comprehensive articulation of ESCR in international law. As partially outlined below, its provisions protect human rights relating to the workplace, family life, community life and cultural life. More detailed descriptions of the content of each rights can be found elsewhere, including in the relevant [General Comments of the Committee on Economic, Social and Cultural Rights](#).

Right	Description
Adequate standard of living	The right to an adequate standard of living for individuals and families includes the rights to food, clothing, adequate housing, safe drinking water and sanitation.
Cultural rights	Cultural rights protect individuals’ and communities’ identity, traditions, language, expression and creation in diverse forms of art, knowledge and values, and their participation in scientific progress, cultural life and heritage.
Education	The right to education includes free and compulsory primary education as an immediate obligation. Schools must meet at least minimum educational standards and consistently improve equitable access and quality. Discrimination at all levels of education must be ruled out.
Health	The right to the highest attainable standards of health includes the right to physical and mental health. This includes access to necessary medical goods, care and services, and to the social determinants of health.
Social security	The right to social security includes assistance and protection for all. Social security benefits should support all people, especially individuals experiencing unemployment, disability, ill health, maternity or old age.
Work	The right to work includes an individual’s right to employment. It also includes rights <i>at</i> work, such as fair wages and equal pay for equal work, safe working conditions and the right to join a union.

In addition, other international treaties set out the rights of particular groups and also contain relevant provisions on ESCR. These include:

- [Convention on the Rights of the Child](#)
- [International Convention on the Elimination of All Forms of Racial Discrimination](#)
- [Convention on the Elimination of All Forms of Discrimination against Women](#)
- [Convention on the Rights of Persons with Disabilities](#)
- [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#)

At the regional level, human rights mechanisms have been established in Africa, the Americas and Europe and regional standards, adopted on economic, social and cultural rights. These mechanisms have also produced jurisprudence that has contributed to the normative development of ESCR both in that region and elsewhere. There are also other (non-legally binding) standards that have significantly expanded the understanding of ESCR, including the [Declaration on the Rights of Indigenous Peoples](#) and the [Declaration on the Right to Development](#).

How Are Economic And Social Rights Protected Domestically?

ESCR are widely recognized in domestic legal systems, although not always to the same extent as civil and political rights. There are a number of ways that national constitutions can and do address ESCR. The constitutions of numerous countries explicitly recognize at least some ESCR as **fully justiciable rights**. This means that individuals can go to court when their rights have been violated. The right to own property, the right to form trade unions and the right to freedom from discrimination, for example, are commonly justiciable. In some countries, an even larger number of ESCR, including the rights to healthcare, education and social security, are justiciable.

In other countries, the protection and promotion of ESCR are included as **general state duties** under the constitution. These duties impose obligations on governments in relation to ESCR but do not give individuals the right to go to court if the State fails to meet these obligations. Nevertheless, some courts have been willing to incorporate ESCR standards when defining the scope of justiciable civil and political rights. For example, India's Constitutional Court has interpreted the right to life to include the right to an adequate standard of living.

In addition, virtually all countries have **general laws** that incorporate elements of ESCR, even if they are not explicitly framed in human rights terms. For example, urban planning legislation affects the rights to housing and to water and sanitation, while laws governing pensions and unemployment benefits have an impact on the right to social security. Depending on how these laws are framed, individuals may have the right to go to court to dispute particular issues. Similarly, anti-discrimination laws are often justiciable and can be used to advance the ESCR of particular groups. The jurisprudence of national courts has

helped to develop tests to judge legislative or administrative action that affects people's rights. These tests are commonly framed using concepts such as "reasonableness", "adequacy" and "proportionality".

Interpreting The International Treaties

The right to health does not mean that individuals have a right to be healthy all the time, nor does the right to housing imply that the State must provide everyone with a house. However, rights do impose *obligations* on the State about *how it should* act. Article 2(1) of ICESCR spells out in general terms what States are expected to do. Many regional treaties and national constitutions use similar formulations.

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.

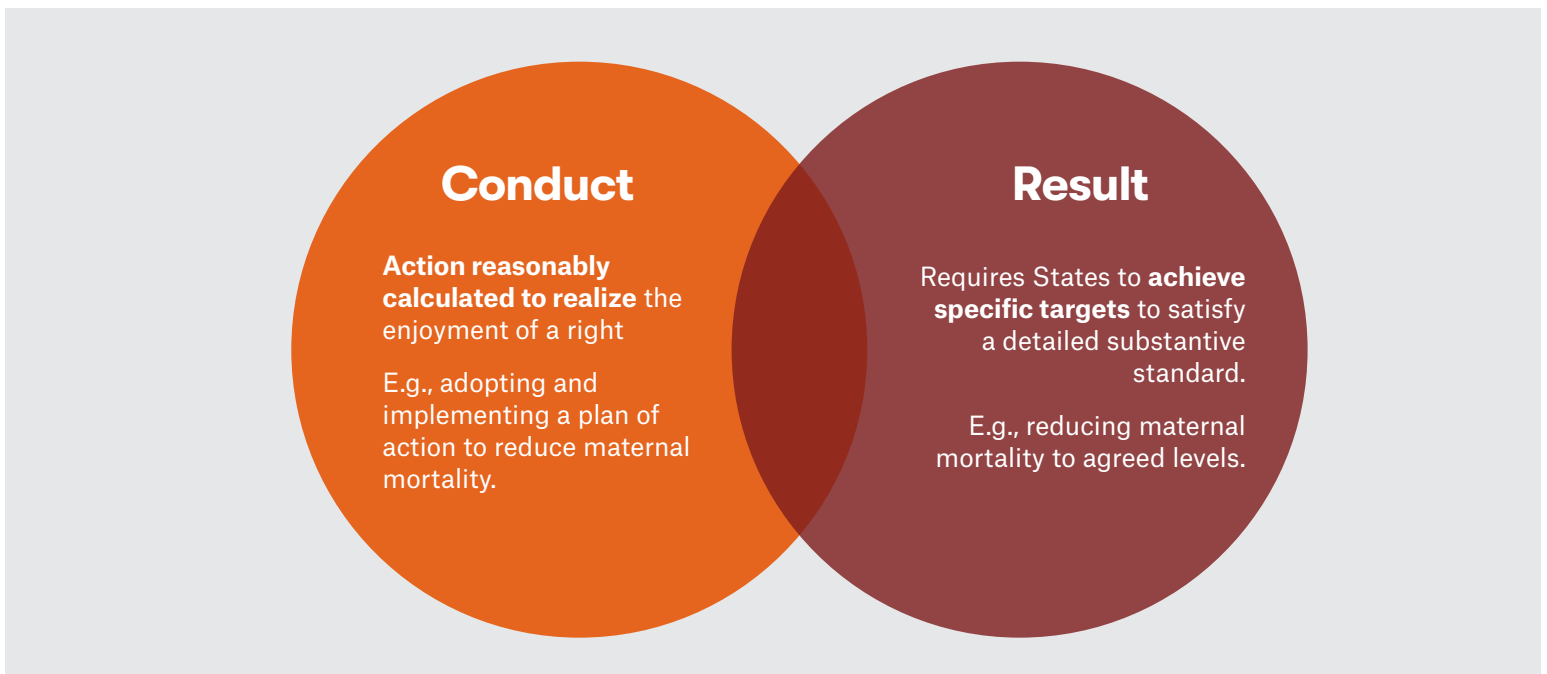
Thus, someone may be able to claim that the State violated their right to health if, for example, the State does not ensure the right of access to healthcare on a non-discriminatory basis, or if the environment was unlawfully polluted by industrial waste from State-owned facilities. An individual who is deprived of basic shelter and housing might be in a position to make a claim against the State for its failure to take the necessary steps to the maximum of its available resources, and to discharge its minimum core obligation to the right to adequate housing.

In the past two decades, significant progress has been made in clarifying the elements of article 2(1). Its many dimensions have been unpacked and clarified through the work of national courts, United Nations experts, and other bodies tasked with interpreting international treaties. If you're interested in learning more about these bodies, you can find some suggestions for further reading at the end of this note. While these interpretations are **not always legally binding**, they are widely considered and cited as authoritative clarifications of binding international norms, so they do carry **considerable legal weight**.

Drawing on the work of these different bodies, the following sections set out the expectations of governments under the ICESCR. The text in bold highlights the specific (often more legalistic) wording used to interpret the Covenant. The text in italics offers a shorthand way to capture the key idea behind the norm.

What Are States Obligated To Do In Relation To Economic And Social Rights?

In understanding State obligations, a helpful distinction can be made between obligations of conduct (what governments must do) and result (what governments must achieve). Broadly speaking, various standards and principles (also referred to as norms) fall in one of these categories. However, as shown in the diagram, there is some overlap. Importantly, results can be achieved progressively (with some exceptions). However, conduct must meet relevant norms immediately.



It's common to describe obligations of conduct using the following typology:

OBLIGATION TO RESPECT

This means *not interfering* with people's rights. It requires that governments treat people fairly and humanely and prohibits them from taking any action contrary to the rights guaranteed in law. For example, forced evictions would violate this obligation.

OBLIGATION TO PROTECT

This means *stopping other actors* — notably the private sector — from interfering with people's rights. Business activity can expose people to danger (e.g., from pollution), to exploitation (e.g., by denying fair wages and decent working conditions) or to marginalization (e.g., by displacement caused by large-scale projects). The government is obligated to take action to *prevent, investigate and punish* such abuses. For example, if the government fails to enact occupational safety laws that ensure safe labor conditions, or if it fails to take action when businesses pollute water sources, it will violate this obligation.

The actions of individuals also fall under this obligation. For example, if the State fails to stop landlords rejecting tenancy applications on the basis of ethnicity, or if it fails to take action to prosecute perpetrators of domestic violence, it will violate this obligation.

OBLIGATION TO FULFILL

This means *taking action* to ensure that people can access the goods and services they need to enjoy their rights. It includes action that:

- **Facilitates** access to — and use of — goods and services
- **Promotes** information about people's rights and how to claim them
- **Provides** goods and services to people when, for reasons beyond their control, they are unable to obtain them.

Actions include **appropriate legislative, administrative, budgetary, judicial and other measures**.

This framing recognizes that there are multiple *policy levers* that governments can use to deliver on their human rights obligations. By understanding these different types of obligations, we have a clearer picture of how these levers *should* be used. It also becomes easier to identify — and to pinpoint the responsibility for — different types of violations.

Obligations Of Result

MINIMUM CORE OBLIGATIONS

This obligation means, essentially, that governments must *eliminate extreme deprivation*. They must ensure that everyone can enjoy **minimum essential levels** of each right. Examples include essential foodstuffs, primary healthcare and basic housing. This obligation applies regardless of the availability of resources or any other factors.

If many people face extreme deprivation, it is considered a **prima facie** violation of the Covenant. In other words, it is *assumed* that the State is violating the Covenant, unless it can prove otherwise. To show that it has not violated the Covenant, the State must demonstrate that **every effort has been made** to use all the resources it has in an effort to meet those minimum levels, as a matter of priority.

Over the past two decades, the Committee on Economic, Social and Cultural Rights has adopted a number of general comments that define the minimum core obligations of the Covenant. It has outlined minimum requirements for the right to food, water, health, housing and education. For example, the right to education includes, *at a minimum*, free and compulsory primary education for all children. The right to health includes access to essential medicines, emergency care and pre- and post-natal care, *at a minimum*.

It is not always easy to identify specifically the minimum core content of each right and how these should apply in different country contexts. However, it is still a useful concept, because it insists that States must give first priority to fulfilling a basic minimum level of ESCR for all those within its jurisdiction, over and above all other policy and economic objectives. For this reason, there is a higher *burden of proof* on States to demonstrate

that they are doing everything they possibly can to achieve these outcomes.

PROGRESSIVE REALIZATION AND NON-RETROGRESSION

The idea that results can be achieved progressively — in other words, over time — is what differentiates the ICESCR from the Covenant on Civil and Political Rights. Nevertheless, States are still required to move **as “efficiently and expeditiously” as possible** towards the full realization of ESCR. For example, if the number of households that do not have access to drinking water stays the same, or decreases by only a small amount, over a decade, a strong case can be made that the State is not progressively realizing the right to water.

In addition, States must not take **“deliberately retrogressive”** measures unless they have a justified reason to do so. In such cases, the State must “fully” justify the adoption of policies that decrease people's enjoyment of a right and these policies must be:

- Legitimate (i.e., taken for a valid reason)
- Necessary and proportionate (i.e., other options are more detrimental)
- Temporary (i.e., only last for the period necessary)
- Not discriminatory (and there is a duty to mitigate inequalities)
- Ensure the protection of minimum core content of rights
- Enacted only after considering all other options.

Taking the example above, if the number of households without access to drinking water actually *increased* over time, the State would have to show a very good reason for this. Again, there is a higher *burden of proof* on States to demonstrate that such measures were really a last resort. In the context of economic policy-making, this obligation becomes particularly relevant when governments enact fiscal austerity measures, which cut investment in public services and the social protection schemes that people rely on to enjoy their rights.

EQUALITY AND NON-DISCRIMINATION

This means ensuring that policies and plans *leave no one behind*, to borrow a sustainable development concept. Unequal enjoyment of a right based on a **prohibited ground** is discrimination unless the justification for it is **reasonable and objective**. Article 2(2) of the Covenant lists the prohibited grounds, which include race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The inclusion of **“other status”** means that this list is not exhaustive, recognizing that discrimination varies according to context and evolves over time. Under article 3, States must also ensure equality between men and women in the enjoyment of ESCR.

Governments must abolish any discriminatory laws, regulations and practices **“without delay”**. **De facto** discrimination (*discrimination in practice*) should be brought to an end “as speedily as possible”. For example, article 7(a) of the Covenant relates to just and favorable conditions of work. Read in conjunction with

article 3, the State has an obligation to identify and eliminate the underlying causes of the pay gap between men and women. This includes “promoting adequate policies for childcare and care of dependent family members” so as “to reduce the constraints faced by women in reconciling professional and family responsibilities”.

Affirmative action or positive measures may be needed to end *de facto* discrimination and to guarantee true equality. For this reason, States are advised to adopt “temporary special measures” in order to bring disadvantaged groups to the same substantive level as others. Sometimes “equality” is understood narrowly as being only about equal treatment, or equality of opportunity: the idea that as long as everyone can in theory compete on a “level playing field” in an open competition, justice is served. But of course, no playing field is level and everyone has different starting points and obstacles. So under human rights law, equality means substantive equality. For example, women must be able to enjoy their rights equally with men in practice (*de facto*), not just on paper (*de jure*), taking into account the real circumstances and unequal power relations women face.

Obligations Of Conduct

THE DUTY TO TAKE STEPS

This duty, which comes directly from the wording of article 2(1), has immediate effect. The duty comes directly from the wording of article 2(1) of the Covenant. Steps can be **legislative, judicial, administrative, financial, educational and social**. This reflects the different types of policies that governments can enact. Broadly speaking, these are:

- **Regulatory:** creating and enforcing laws, rules and regulations to outlaw, sanction or require certain actions.
- **Distributive:** spreading benefits and costs across society, through grants and subsidies, service provision, etc.
- **Symbolic:** showing moral leadership to encourage or discourage certain actions through awareness raising, public education, etc.

Public financing, which describes the ways governments raise and spend money, cuts across these different areas, and is expected to direct resources toward these obligations of conduct.

The South African Constitutional Court has interpreted this duty to mean that the State must assess the situation concerning each right; make a plan for realizing the right; adopt laws and policies to put the plan into action; and develop mechanisms for monitoring the situation, including providing up-to-date disaggregated information. Similar interpretations to this one are in use in other countries.

AVAILABILITY, ACCESSIBILITY, ACCEPTABILITY AND QUALITY

Steps taken should improve the infrastructure (such as housing or hospitals), goods (such as food or medicine) and services (such as education and healthcare) that are necessary to

guarantee people’s rights. Criteria for judging whether or not there has been improvement includes assessing whether infrastructure, goods and services are:

- **Available:** in sufficient quantities.
- **Accessible:** both *physically* and *economically* to all, *without discrimination*, and the community must have *information* about them
- **Acceptable:** culturally and socially appropriate and adapted to the local context
- **(Adequate) Quality:** appropriate and adequate in standard and safety.

Taken together, these standards are sometimes referred to as AAAQ, or the 4As.

In relation to the right to food, for example, availability means that the quantity and quality of the food is sufficient to satisfy the dietary needs of individuals. Accessibility means that the costs associated with acquiring food should not compromise the ability of individuals to pay for other basic needs. Acceptability involves taking into account the non-nutrient (e.g. cultural) values attached to food. Quality means e.g. that measures are taken to prevent the contamination of foodstuffs.

MAXIMUM AVAILABLE RESOURCES

This means that any steps that are taken must be adequately resourced. It also recognizes that different States will have different capacities, depending on their level of economic development. This is a really critical obligation, because so often governments use lack of resources as an excuse for failing to fulfill ESCR. The obligation to dedicate maximum available resources gives us criteria to interrogate whether or not such claims are justified.

There is wide agreement that the obligation has three dimensions to it:

- **Resource generation:** i.e., how governments raise money
- **Resource allocation:** i.e., what governments earmark money for in their budgets
- **Resource expenditure:** i.e., how allocated money is actually spent and who is benefiting.

To use the pie metaphor: How big is it? How is it being sliced? Who’s eating it?

Governments generate resources in two main ways:

- **They raise money** — mostly through taxation, but also through fees and fines, profits from state-owned enterprises, foreign aid, and various other sources
- **They borrow money** — from public and private lenders, both domestic and foreign.

In line with this obligation, governments must raise money in a way that generates **adequate or sufficient** revenue. This means it should be enough to finance the infrastructure, goods

and services necessary to guarantee people's rights. Taxation must also be **fair, progressive or socially equitable**. This means, for example, that poorer people don't have a heavier tax burden than richer people, and that the tax system doesn't favor men over women.

When governments borrow money, they must avoid harmful loan conditions (such as the imposition of austerity measures or structural adjustment). They must also make sure that loan repayments don't eat up the finances needed to guarantee people's rights, or unfairly burden future generations. Governments that lend money bilaterally or through international financial institutions (which in reality are in a stronger bargaining position) must also make sure this doesn't happen.

When it comes to allocating resources, government budgets must give **due priority** to the infrastructure, goods and services needed to guarantee rights, including in the care economy. Resources should be allocated in an **equitable and effective** way. This means **prioritizing disadvantaged groups**.

Allocated funds must be spent **efficiently** and must **not be wasted**. This means governments must tackle corruption and strengthen financial management systems, so that money reaches the providers to whom it has been allocated, such as schools, health clinics and job centers.

As outlined in the table below, looking at obligations of result can also help us to judge whether governments are meeting their obligation to dedicate maximum available resources, and to spot red flags that suggest they may not be doing so.

	Generation	Allocation	Spending
Minimum Core Obligations	<p>Sufficient revenue is mobilized to invest in realizing basic levels of rights for all.</p> <p><i>Red flag: Government revenue makes up only a comparatively small percentage of the country's Gross Domestic Product (GDP).</i></p>	<p>Budgets prioritize achieving basic levels of rights for all.</p> <p><i>Red flag: Allocating a significant portion of the education budget to tertiary education, when many children have not completed primary school.</i></p>	<p>Financial management systems ensure funds flow efficiently.</p> <p><i>Red flag: Wasteful or extravagant spending diverts resources away from spending on basic rights.</i></p>
Non-Discrimination	<p>Tax policies are progressive and avoid disproportionately burdening poor people.</p> <p><i>Red flag: Taxing poor people more than rich people (as a proportion of their total income).</i></p>	<p>Budgets prioritize closing the gaps in human rights enjoyment between groups.</p> <p><i>Red flag: Budget allocations for the particular needs of women are clearly inadequate.</i></p>	<p>Avoid impacting disadvantaged groups when funds are diverted or redirected.</p> <p><i>Red flag: Cuts to assistance programs for particular disadvantaged groups without adequate justification.</i></p>
Progressive Realization	<p>Generate additional resources as the economy grows.</p> <p><i>Red flag: The government's budget shrinks as a proportion of overall GDP.</i></p>	<p>Budgets increase as more resources become available and aren't cut unjustifiably.</p> <p><i>Red flag: Continuing to allocate the same amount to the education sector, when the overall budget is growing.</i></p>	<p>The effectiveness of financial management systems improves over time.</p> <p><i>Red flag: The proportion of allocations that remain unspent increases over time.</i></p>

PROCESS PRINCIPLES

Steps taken must also be designed and implemented in line with procedural rights. These include the right to information, to participation, to accountability and to transparency. Access to effective remedies for victims of ESCR violations, including administrative and judicial remedies, is also essential.

EXTRATERRITORIAL OBLIGATIONS

Action taken must be cooperative at the international level. When governments have **decisive influence** on the rights of people in other countries, including when acting as members of international organizations, they must:

- **Respect rights:** by not interfering with people's rights or with another government's ability to meet its obligations
- **Protect rights:** preventing corporations and other non-state actors from interfering with people's rights abroad, by regulating their behavior or influencing it in other ways
- **Fulfil rights:** by cooperating internationally, including through economic assistance, to support all governments to meet their obligations.

When Does A State Violate Economic And Social Rights?

A human rights violation occurs when a State fails to act in accordance with a human rights obligation under national, regional or international law. Importantly, a violation may either be the result of something the State has done (an act of commission), or the *result of something it did not do* but should have done (an act of omission). Failures to fulfill ESCR are often acts of omission.

Want To Learn More?

The obligations outlined above have been unpacked and clarified through the work of various bodies tasked with interpreting international treaties and domestic laws.

To learn more about them, you can look at:

- The work of the [expert bodies](#) mandated to oversee the implementation of international human rights treaties. They adopt "general comments" that give an authoritative interpretation of the Covenant's provisions; issue "concluding observations" that make recommendations on how States can improve their implementation of the Covenant; and hear individual complaints. Some regional human rights bodies have also issued important guidance about how ESCR should be implemented and monitored, for example the [San Salvador Protocol](#) of the Inter-American human rights system, or the [Pretoria Declaration](#) under the African regional system.
- The reports of [independent experts appointed by the United Nations](#), known as "special procedures mandate holders", articulating how general principles might apply to various issues.
- Guidelines and Principles from expert groups. These include:
 - [Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights](#) (1987)
 - [Maastricht Guidelines on Violations of Economic, Social and Cultural Rights](#) (1997)
 - [Montreal Principles on Women's Economic, Social and Cultural Rights](#) (2002)
 - [Maastricht Principles on the Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights](#) (2007)
 - [Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement in education](#) (2019)
 - [Principles for Human Rights in Fiscal Policy](#) (2021)
- The jurisprudence of national courts (e.g., [ESCR-Net case law database](#)).

CONCLUDING THOUGHTS

One of the most fundamental principles of human rights is that every human being is a rights holder, and that every human right has a corresponding duty bearer, meaning someone who bears responsibility for guaranteeing that right. A human rights-based analysis therefore asks the following questions:

- **Who has been left behind and why?** Asking “who” helps to identify persistent patterns of discrimination, exclusion, impunity and powerlessness. Asking “why” is a form of causality analysis and helps to identify immediate, underlying and root causes of exclusion.
- **What are they entitled to?** This question emphasizes that the human rights norms contained in international conventions are not just words on a page, but are applicable standards. Achieving these standards is necessary for expanding the freedoms and opportunities that underlie human development.
- **Whose responsibility is it to do something about it?** This question seeks to identify, in concrete terms, the duty bearers – those with obligations to act – for a specific human right, and to define what is expected of them.
- **What do they need in order to take action?** This question helps to identify the critical capacity gaps that prevent action. These capacity gaps will nearly always involve gaps in legal, institutional, policy and budgetary frameworks. A knowledge gap on human rights awareness is also common. In this question, “they” refers to both rights holders and duty bearers.
- **How should action be taken?** A key characteristic of the human rights-based approach is that the process is just as important as the outcome of development. This question focuses on whether a particular policy decision has been taken in a way that is transparent, participatory and empowering for the people who will be affected by it.

The protections and entitlements — and the obligations they give rise to — introduced in this note can help to answer these questions. Doing so can offer new insights or elicit different perspectives on the elements of the economic system or on the dynamics created by the way they interact. In the next note ([Interrogate 3 - The OPERA Framework](#)), we introduce an analytical framework that can help to interrogate governments’ human rights obligations more systematically, by grouping them around four dimensions.