

How to Apply a Human Rights Framework to Macroeconomic Strategies

Why is a Human Rights Perspective Important for Auditing Economic Policy? The human rights framework, set out in the landmark United Nations (UN) Universal Declaration of Human Rights (UDHR), sets forth a common standard for all people to live by and identifies government obligations towards the realization of human rights. Particularly useful is the framework set out in the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights¹, which differentiates three types of obligations:

- The obligation to **respect** requires states to refrain from interfering with the enjoyment of economic, social and cultural rights. Thus the right to housing is violated if the State engages in arbitrary forced evictions.
- The obligation to **protect** requires States to prevent violations of such rights by third parties. Thus the failure to ensure that private employers comply with basic labor standards may amount to a violation of the right to work or the right to just and favorable conditions of work.
- The obligation to **fulfill** requires States to take appropriate legislative, administrative, budgetary, judicial and other measures towards the full realization of such rights. Thus, the failure of States to provide essential primary health care to those in need may amount to a violation.

Each of these obligations must include conduct and results:

- The obligation of **conduct** requires action reasonably calculated to realize the enjoyment of a particular right.
- The obligation of **result** requires States to achieve specific targets to satisfy a detailed substantive standard.

At the UN World Conference on Human Rights in Vienna in 1993², governments recognized that human rights are the primary responsibility of governments. Given this, what are key human rights principles that could be used to assess the ways in which economic policies are moving towards the full realization of economic and social rights? Some ideas are presented in the next section.

Understanding Human Rights Principles States should abide by the following key points to achieve economic and social rights: the requirement for progressive realization; the use of maximum available resources; the avoidance of retrogression; non-discrimination and equality; minimum core obligations; and participation, transparency and accountability. These principles can be used as a framework for auditing economic policy.

Progressive Realization: The International Covenant on Economic, Social, and Cultural Rights (ICESCR)^{3 4} specifies that States have the obligation to progressively achieve over time the full realization of the rights recognized in the Covenant to the maximum of available resources.

Maximum Available Resources: The State must mobilize and use the full range of resources to realize economic and social rights.⁵

Non-Retrogression: States should not allow the existing protection of economic and social rights to deteriorate. A retrogressive measure would be cuts to expenditures on public services that are critical for realization of economic and social rights; or cuts to taxes that are critical for funding such services.

1 Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, http://www1.umn.edu/humanrts/instree/Maastrichtguidelines_.html.

2 Vienna Declaration and Programme of Action, <http://www.unhcr.ch/huridocda/huridoca.nsf/%28symbol%29/a.conf.157.23.en>.

3 United Nations International Covenant on Economic, Social and Cultural Rights, <http://www2.ohchr.org/english/law/cescr.htm>.

4 United Nations Committee on Economic, Social and Cultural Rights, <http://www2.ohchr.org/english/bodies/cescr/>.

5 Nexus: Shaping Feminist Visions in the 21st Century, Brief Number 2 - Maximizing Resources to Realize Rights For All, http://cwgl.rutgers.edu/component/docman/doc_download/436-nexusbrief2.

Non-discrimination and Equality: Article 2 of the UDHR and ICESCR states that everyone is entitled to all the rights and freedoms without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Minimum Essential Levels/Minimum Core Obligations: The State is obligated to make sure that people living under their jurisdiction enjoy at least critical levels of protection of each of their economic, social, and cultural rights.

Accountability, Participation and Transparency: Article 19 of the UDHR refers to people's right to receive and impart information. The CESCR has indicated that the right of individuals to participate must be an 'integral component' of any policy or practice that seeks to meet the State's obligation to ensure the equal right of men and women to the enjoyment of all human rights⁶.

How to Conduct an Economic and Social Rights Audit on Economic Policy?

In conducting an audit, we suggest the following stages⁷:

- Select the economic policies to be considered (e.g., social expenditure);
- Identify which human rights principles apply most directly to the selected policies (e.g., principle of non-discrimination and equality, principle of non-retrogression);
- Identify relevant indicators to assess how far obligations of conduct are being met, examples are below;
- Identify indicators of results in realizing economic and social rights, and use them to cross check indicators of conduct, examples are below;

In this brief, the economic policies selected are public expenditure and taxation⁸. In the tables below you will find ways to audit your government's performance on economic and social rights.

Public Expenditure States have an obligation to use public expenditure in ways that respect, protect and fulfill human rights. Fulfillment of human rights is particularly likely to require public expenditure.

ECONOMIC POLICY	HUMAN RIGHTS PRINCIPLE	CONDUCT INDICATOR	RESULTS INDICATOR	CONCLUSION & COMPLIANCE
Public Expenditure	Progressive realization and Non-retrogression	<ul style="list-style-type: none"> • Find out what the ratio of public expenditure is to GDP, in comparison to countries with similar GDP per capita. • Find out what the ratio of public expenditure to GDP is over time. • Research how much your government is spending on health services, public education, social welfare, etc. 	If you focus on health then cross check with indicators on health (e.g., maternal mortality rates or infant mortality). Have health outcomes improved over time?	If public expenditure is low compared to other similar countries and is falling over time, and if at the same time, indicators of enjoyment of rights are low and falling, your government is not upholding its economic and social rights obligations. Responsibility for non-compliance with human rights obligations may be shared with other governments and international financial institutions if the latter are unreasonably constraining public expenditure. ⁹
	Non-discrimination and equality	<ul style="list-style-type: none"> • Find out what the distribution of expenditure is between different social groups. In some cases equal shares will be an appropriate benchmark of non-discrimination and equality, but not always, as differences in needs, deprivations, and preferences must be taken into account. • Find out if the distributions of legal entitlements are limited to particular groups? (e.g. citizens or non-citizens, employed and unemployed, social security for those who pay contributions into the system, discretionary social assistance for those who do not). 	Are enjoyment of rights realized differently among groups in the population (i.e., disaggregating by race, gender, ethnicity, citizenship, sexual orientation, etc. which households have high levels of food in/ security)?	If the discrimination of expenditure privileges those who are already well off and whose rights are realized, the government is not complying with the principle of non-discrimination and equality.
	Participation, transparency and accountability	<ul style="list-style-type: none"> • Find out if your government makes its budgets publicly available and in an accessible manner. • Find out how transparent your government is when it engages in decision-making. Access the transparency of government decision-making on matters affecting economic and social rights. 	Is access to information on public expenditure publicly available, and are there entry points for public engagement?	If information is hard to obtain or confusing and if ordinary citizens have little scope for participation in decisions on public expenditure then the country fails to uphold its obligation.

⁶ CESCR, General Comment 16, para. 37. See further General Comment 14, para. 54; General Comment 15, paras. 16(a) and 48.

⁷ Please note that there is no one size fits all model and that your audit will depend on your country's specific economic situation.

⁸ Auditing Economic Policy in the Light of Obligations on Economic and Social Rights, <http://cwgl.rutgers.edu/resources/publications/economic-a-social-rights/386-auditing-economic-policy-in-the-light-of-obligations-on-economic-and-social-rights>.

⁹ Progressive economists argue that the IMF is currently putting inappropriate constraints on the public expenditure of some governments of some small, poor countries, as a condition for access to its funds.

Taxation: Adequate tax revenue needs to be raised to fund the expenditure required for realization of economic and social rights, and in ways that respect human rights. For taxation we only have a conduct indicator as the results are realized in expenditure.

ECONOMIC POLICY	HUMAN RIGHTS PRINCIPLE	CONDUCT INDICATOR	CONCLUSION & COMPLIANCE
Taxation	Maximum available resources	<ul style="list-style-type: none"> Find out what the ratio of tax revenue to GDP over time is and compare with similar countries. Find out what amount of tax revenue is forgone to tax breaks for the wealthy and corporations? 	If tax revenue levels are relatively low and falling over time the country is not adequately maximizing financial resources for economic and social rights. The responsibility for this may be shared with transnational corporations which take measures to avoid paying taxes, by transferring their profits to tax havens; and with international financial institutions that make reduction of taxes on imports a condition for loans in circumstances where it is difficult to replace the revenue thereby lost.
	Non-discrimination and equality	<ul style="list-style-type: none"> Find out what the shares of tax revenue paid by different groups and the rate of taxation on different social groups. Find out the structure of tax laws and their implementation (i.e., do the income tax laws discriminate on the basis of gender, race, sexual orientation, types of household, citizenship, or civil status?). 	In those countries where transnational corporations exist, a much bigger proportion of tax revenue is paid by people than by corporations. If the incidence of tax is higher for poor people than for rich people, and patriarchal households pay less tax than egalitarian households, then compliance with economics and social rights obligations is weak.
	Participation, transparency and accountability	<ul style="list-style-type: none"> Find out if your country's tax codes are transparent and accountable. Find out what opportunities exist for engagement in public discussions about tax policies. 	There is a lack of compliance if tax laws are extremely complex, with many loopholes; if governments fail to publish accurate information about tax incidence; if there is no independent oversight of the tax authorities and changes in tax laws are unduly influenced by rich and powerful corporations or high income groups.

Realities of Audits It is important to recognize that attention to human rights obligations does not provide the answers to all economic policy questions. The kind of audit proposed in this brief does not aim to identify the best policies to realize human rights rather we hope to move economic policy in a better direction by identifying which policies are least likely to be consistent with human rights obligations.

If you or your organization conducts an economic policy audit using the above indicators, please share it with cwgl@rci.rutgers.edu. We'd like to hear from you!

Resources on Economic Policy Indicators:

- **Balakrishnan and Elson (eds.), *Economic Policy and Human Rights: Holding Governments to Account*, Zed Books**
<http://zedbooks.co.uk/paperback/economic-policy-and-human-rights>
- **Elson, *Budgeting for Women's Rights***
<http://internationalbudget.org/wp-content/uploads/Budgeting-for-Women%E2%80%99s-Rights-Monitoring-Government-Budgets-for-Compliance-with-CEDAW.pdf>
- **Gender Responsive Budgeting, UN Women**
<http://www.gender-budgets.org>
- **Global Transparency Initiative (GTI)**
<http://www.ifitransparency.org/index.shtml>
- **International Budget Partnership**
<http://internationalbudget.org>
- **World Development Index**
<http://data.worldbank.org/indicator>

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