

NEXUS Shaping Feminist Visions in the 21st Century

A periodic brief covering issues of global relevance to gender equality and the realization of human rights for all
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Maximizing Resources to Realize Rights For All

What are Maximum Available Resources (MAR)?

The International Covenant on Economic, Social and Cultural Rights (ICESCR) specifies in Article 2.1 that, “each state party ... undertakes 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 economic, social and cultural rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”^{1,2} In this brief we focus on maximizing financial resources for the realization of economic and social rights.

Understanding the Obligations of MAR

States have an obligation to respect, protect and fulfill economic and social rights.³ The Committee on Economic, Social, and Cultural rights uses the following indicators to assess a governments’ compliance with economic and social rights: (I) comparing economic, social and cultural rights (ESCR) related expenditures vs. expenditures for non-ESCR related areas; (II) comparing expenditures in an ESR area such as education and health with expenditures in the same area by countries at a comparable level of development; (III) comparing allocations and expenditures against international indicators, such as the United Nations Development Programme indicator which states that 5% of gross domestic product should go to human expenditures (which for poor countries are specified as basic education, primary health care, and basic water).⁴

1 See, ICESCR, <http://www2.ohchr.org/english/law/cescr.htm>.

2 See, “An Evaluation of the Obligation to Take Steps to the ‘Maximum of Available Resources’” (E/C.12/2007/1), http://www2.ohchr.org/english/bodies/cescr/docs/e_c_12_2007_1.pdf.

3 See, “Maastricht Guidelines on Violations of Economic, Social and Cultural Rights,” http://www1.umn.edu/humanrts/instreet/Maastrichtguidelines_.html.

4 See, “UNDP Human Development Report, Financing Human

Often a narrow interpretation is adopted by States of MAR, assuming that the government’s main duty lies in efficient administration of available resources. Therefore, the practical applications of MAR have tended to limit analysis to budget expenditures and international assistance, while overlooking other determinants of the full set of resources available to ESCR—including monetary and fiscal policies.

Facilitating Economic and Social Rights

When discussing governments’ utilization of maximum available resources we sometimes overlook fiscal and monetary policies and the ways in which these instruments can be used in compliance with human rights principles such as non-discrimination, transparency and accountability.⁵ Within this context, it is necessary to analyze and identify the ways in which government expenditure and revenue, development assistance, debt and deficit financing, monetary policy and financial regulation can advance ESCR.

Below you will find brief introductions to each priority theme along with key issues to review in your own country context. For more detailed analysis, please see the full MAR report at <http://cwgl.rutgers.edu/globalcenter/publications/marreport.pdf>.

Government Expenditure Allocations regarding government expenditure, e.g., the amount of resources put towards the military can be analyzed vis a vis the amount designated for social spending that would advance economic and social rights.

Key Issues:

Development,” <http://hdr.undp.org/en/reports/global/hdr1991/chapters/>.

5 See, “Rethinking Macro Economic Strategies from a Human Rights Perspective: Why MES with Human Rights II,” <http://cwgl.rutgers.edu/globalcenter/publications/whymes2.pdf>.

- The adequacy of the size of public expenditures can be assessed in numerous ways: (I) comparing current spending on economic and social rights with past expenditures; (II) comparing levels of spending with those of other, similar countries, and; (III) comparing spending on economic and social rights with other expenditure areas in the same budget.

- Claims of improvements in efficiency - doing more with the same amount or less money - often conceal costs, in terms of increases to unpaid work in homes and communities, and retrogression in the right to just and favorable conditions of work.

- Different budget processes have different implications for safeguarding economic and social rights (e.g., are they participatory and transparent?)

- Recognize that resources may be mobilized, but spent by governments in ways that undermine human rights, rather than realize them.

Government Revenue Governments receive revenue from many sources: including, taxation, royalties paid for utilization of natural resources, and profits from public enterprises.⁶ The process of mobilizing tax revenue and using those resources to fulfill ESR and provide public goods, social services, and social protections is widely accepted as a central responsibility of a well-functioning government. Therefore, tax revenues represent a critical source of finance available to governments for meeting their ESR obligations.

Key Issues:

- Innovations in tax policy are important for supporting economic and social rights. For example, a country could introduce financial transaction taxes - low level taxes on the purchase of financial assets such as stocks, bonds, futures contracts, and currencies - which could potentially raise substantial resources.

- The level and composition of taxes (e.g., income, value-added (VAT), trade, property) affect maximum available resources and can have impacts on human rights principles, e.g., non-discrimination and equality. The effects of taxes are not always gender neutral, raising concerns about non-discrimination and equality.

- Tax policy should be responsive to the 'booms' and 'busts' of economies in order to reduce the negative consequences of the kind of drastic revenue short falls we currently see happening around the world in specific countries.

⁶ Note this depends on your country context.

- Some claim there is a danger that higher taxes will reduce the resources available for realizing economic and social rights through their impact on business activity and growth. Such claims need to be carefully evaluated and the circumstances under which tax policy affects future growth and employment need to be identified for the country in question.

Borrowing: Deficits and Debt Deficit spending (i.e., allowing expenditures to rise higher than revenues) can be important in terms of increasing the resources available for realizing human rights, especially in times of economic recession. However, structural deficits can lead to a build-up of debt which may, depending on the interest payments required/made, squeeze future expenditures on activities which promote ESR. The actions of debt holders and international institutions such as the International Monetary Fund, affect the sustainability of debt and ultimately have implications for the realization of rights.

Key Issues:

- In some circumstances, borrowing can contribute to resource mobilization in order to realize rights. However, in other cases, excessive and unsustainable borrowing simply builds up a mountain of debt that will reduce the resources available for human rights fulfillment in the future. These tensions must be considered when determining the role of borrowing for the realization of rights.

- It is important to review the distributional impacts of financing government expenditures by borrowing.

Overseas Development Assistance (ODA) Governments have an extraterritorial obligation to provide foreign assistance, but to what extent is it directly supportive of ESCR? Tracking ODA to ESR is a useful method to indicate levels of support for ESCR by donor countries. It is provided both bilaterally, government to government; and by multilateral institutions such as the World Bank, the regional development banks, and the European Union. It is important to realize that ODA takes the form of loans as well as grants. Interest has to be paid on loans and the loan has to eventually be repaid

Key Issues:

- The extent to which governments of high-income countries recognize their extraterritorial obligations to provide international assistance vary between countries and over time.

- The extent to which ODA augments the resources available may be much smaller than the amount of aid

received. The net effect of ODA on available resources should be determined. It may be that efforts to increase domestic resource mobilization are more effective than efforts to boost the amount of ODA.

Monetary Policy and Financial Regulation Monetary policy, conducted by central banks, affects the resources available for the realization of ESCR such as the right to work and the right to housing. Monetary policy and financial sector regulations provide potentially powerful instruments for directing financial resources that support the realization of human rights. They do this by influencing interest and exchange rates and the amount of credit available in the economy. Interest rates impact the level of employment and the rate of economic growth—and therefore affect the level of resources available in the economy.

Key Issues:

- The central bank is often not considered as having human rights obligations. However, the decisions of the central bank help determine the cost and availability of credit and important economic factors, such as the interest rate. Therefore, central banks have an important role with respect to the maximum available resources.
- Monetary policy choices are often portrayed as needing to balance a trade-off between employment (i.e., the right to work) and inflation (which may affect earnings and living standards, depending on the context). The existence and extent of such trade-offs need to be evaluated when considering the role of monetary policy in realizing rights.

Why is MAR Useful for Civil Society? MAR offers a practical human rights tool for assessing governments demonstrated actions in realizing economic and social rights. In this regard, civil society organizations can advocate for fiscal and monetary policy decisions that positively influence the available resources for realizing rights.⁷

The human rights community has recognized the importance of government revenues, including taxation and ODA, to maximum available resources, while economists agree that resource availability for realizing human rights depends on expenditure, aid and taxation, but also point to the possibility of borrowing and running a budget deficit.

Fiscal and monetary policy decisions influence the resources available for realizing economic and social rights and the ways policy instruments can be used in compliance with human rights principles,

⁷ See, “Maximum Available Resources & Human Rights,” <http://cwgl.rutgers.edu/globalcenter/publications/marreport.pdf>.

such as non-discrimination, progressive realization, participation, transparency and accountability.

What Action Can We Take to Promote MAR?

Although we might support the idea of governments maximizing their resources to ensure progressive realization of economic and social rights, how can we, as activists, advocate for policies that respect human rights?

Here are some of suggestions:

- Get the facts from your official national and local government on budgets and expenditures.
- Reach out to United Nations Special Rapporteurs and find out if they are planning a visit to your country. If not, look for their recent country visit reports and identify any recommendations made, which you can advocate for in your country context.⁸
- Create a comparison of military and economic and social rights (i.e., social protections, education, health, etc.) expenditures in your country. Visit CWGL’s Security Project for more information.⁹
- Use this MAR brief and the full report to organize a local discussion.
- Contact CWGL if you have any questions!

⁸ List of all special procedures mandate holders, http://www2.ohchr.org/english/bodies/chr/special/docs/Mandate_Holders_2011.xls.

⁹ See, 16 Days Security Project, <http://16dayscwgl.rutgers.edu/securityproject>.