Non-Discrimination

Article 2 & Governments’ Budgets

ICESCR Article 2(2):

The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised 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.
Economic policies, such as budgetary allocations ... should pay attention to the need to guarantee the effective enjoyment of ... rights without discrimination. (CESCR General Comment 20, para. 38)

• Obligation falls on all levels of government (Sonora Ciudadana and ACIJ case study)
• Also applies to revenue. Different taxing schemes have differential impacts
• *Non-discrimination is an immediate and cross-cutting obligation*
Formal vs. substantive discrimination

- Formal discrimination
- Substantive discrimination—impact is discriminatory (PDV case study, ACIJ case study)
- To identify substantive discrimination, government must monitor the impact of the budget on different populations
Where discrimination exists...

• Government must reorient its budget to aim towards a situation of equality and non-discrimination

• This process should also be guided by the other two article 2 obligations

• A lack of available resources is not an acceptable justification for inaction, unless every effort has been made to use all available resources to eliminate the discrimination, as a matter of priority. (GC 20, para. 13)
Special measures

- States parties may, and in some cases should, take special measures to redress situations resulting from historical discrimination (GC 20, para. 9)
- These special measures will, in many cases, require that government direct disproportionately greater financial resources to the group suffering the discrimination (NCDHR case study)
Private sector and discrimination

• Governments must take measures to ensure that individuals and entities in the private sphere do not discriminate (GC 20, para. 11)
• Governments must ensure that monitoring and regulatory bodies are adequately funded
Download the complete handbook on Article 2 & Governments’ Budgets at:

www.internationalbudget.org/publications/ESCRArticle2