

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



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www.internationalbudget.org/publications/ESCRArticle2

