



FRAMEWORK

Table on States' Human Rights Obligations to Finance Public Services:

A Focus on Education and Health



Summary

This document compiles binding and interpretive international and African standards on States' obligations to finance public services, with a focus on education and health. Sources are grouped by legal authority (international and regional treaties; international and regional general comments; international and regional principles and statements). Within each source, content is organised by themes: maximum available resources and progressive realisation; immediate obligations; non-retrogression; domestic resource mobilisation and transparency; international cooperation and assistance; as well as sector-specific standards (education and health). Quotes are exact; emphasis through bold is used to aid navigation. It also includes a Glossary.

This document presents a structured compilation of States' human rights obligations to finance public services, particularly education and health, for the realisation of economic, social and cultural rights. It is designed to support national and international advocacy, policy engagement, and research.

The document is divided into six sections:

- **Section I – International Treaties:** Includes relevant provisions from binding international instruments including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), and the United Nations Convention against Corruption (UNCAC). These texts establish States' legal obligations with respect to the financing and provision of public services.
- **Section II – General Comments by Treaty Bodies:** Draws from authoritative interpretations by UN treaty monitoring bodies, particularly the Committee on Economic, Social and Cultural Rights (CESCR) and the Committee on the Rights of the Child (CRC). These comments clarify the normative content of States' obligations, including progressive realisation, the use of maximum available resources, immediate obligations, and protection against retrogressive measures.
- **Section III – International Principles and Statements:** Includes guiding principles and interpretive statements from expert bodies and human rights mechanisms, such as the Abidjan Principles, the Maastricht Principles, and CESCR's Statements. These are not binding in themselves but reflect internationally accepted standards and contribute to the interpretation and application of States' legal obligations.
- **Section IV – African Regional Treaties:** Includes binding regional human rights instruments that articulate African States' obligations related to the financing and provision of public services, such as the African Charter on Human and Peoples' Rights and the African Charter on the Rights and Welfare of the Child.
- **Section V – General Comments by African Treaty Bodies:** Draws from authoritative regional interpretations that clarify the normative content of African States' obligations, including progressive realisation, use of maximum available resources, domestic resource mobilisation, minimum core obligations, and safeguards against retrogressive measures.
- **Section VI – African Guidelines and Principles:** Compiles non-binding but influential regional frameworks and interpretative statements that synthesise and establish practical benchmarks to guide African States in aligning their policies with their human rights obligations on education and health.

To ensure coherence and facilitate legal analysis, the content in each section is categorised under thematic subsections. These vary depending on the content within each source but overall include: the obligation to use the maximum available resources and non-retrogression, obligations of immediate effect, international cooperation and assistance, States' domestic resource mobilisation and transparency, as well as particularities regarding the right to education and health. The six sections are kept strictly separate to preserve the legal nature and authority of each source.

This document does not aim to provide a comprehensive summary of all obligations under international law. Rather, it highlights the specific legal dimensions that intersect with the financing of public services. Keywords and sentences in bold have been included to assist in locating specific themes and supporting further analysis.

Glossary

MAR (Maximum available resources): The obligation that States have to mobilise and use the maximum available resources, including financial, natural and human, to realise economic, social and cultural rights (ESCR). This obligation entails mobilising domestic resources, coupled with international resources, when necessary.

Non-retrogression: It is a human rights principle and obligation that prohibits States from taking backward steps which would decline the enjoyment or protection of rights, particularly ESCR. Any proposed cut or backward step is presumed impermissible and must be rigorously justified, including by showing that less harmful alternatives were not available and that the most vulnerable were protected.

Minimum core obligations: '[T]hose obligations related to economic, social and cultural rights, which a country needs to comply with at all times and in all circumstances, regardless of their resources or the overall conditions of a country. If they are not complied with, a country is not meeting their obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR).'¹

Immediate obligations: Include non-discrimination, minimum core obligations, and taking deliberate, concrete and targeted steps towards the full realisation of ESCR. These obligations are not contingent on resources; a State may not delay them or justify inaction due to a lack of resources. Their purpose is to ensure the realisation of economic, social and cultural rights without delay.

Progressive realisation: The obligation that States have to move as expeditiously and effectively as possible towards the full realisation of economic, social and cultural rights, using the maximum available resources. This principle acknowledges that the full realisation of ESCR takes time. However, it does require States to take deliberate, concrete and targeted measures, including laws, policies and budgets, supported by time-bound plans, benchmarks and indicators, implemented transparently and with meaningful participation and accountability.

¹ Scottish Human Rights Commission (2023) *Minimum Core Obligations – The Practice of the UN Committee on Economic, Social and Cultural Rights*.

Tables

I. International Treaties (ICESCR, CRC, UNCAC)

Instrument	Provision	Extract	Keywords
Maximum Available Resources (MAR)			
International Covenant on Economic, Social and Cultural Rights (ICESCR)	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.'	- Economic, social and cultural rights (ESCR) - Take steps - Maximum available resources (MAR) - Progressive realisation
Convention on the rights of the Child (CRC)	4	'States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation .'	- ESCR - MAR - International cooperation
Immediate Obligations			
ICESCR	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.'	Non-discrimination
CRC	2	'1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. 2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.'	Non-discrimination
Domestic Resource Mobilisation and Transparency			
The UN Convention Against Corruption (UNCAC)	9 (2)	'Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia: (a) Procedures for the adoption of the national budget; (b) Timely reporting on revenue and expenditure; (c) A system of accounting and auditing standards and related oversight; (d) Effective and efficient systems of risk management and internal control; and (e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.'	- Transparency and accountability - Management of public finances
International Cooperation and Assistance			
ICESCR	22	'The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant .'	- International cooperation - Technical assistance - Progressive realisation
ICESCR	23	'The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present	International cooperation

		Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.'	
CRC	28 (3)	'States Parties shall promote and encourage international cooperation in matters relating to education , in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.'	• International cooperation • Right to education
Right to Education			
ICESCR	13 (2)	The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right: (a) Primary education shall be compulsory and available free to all; (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education; (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education; (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education; (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.'	• Right to education
CRC	28 (1)	'States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all; (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need; (c) Make higher education accessible to all on the basis of capacity by every appropriate means; (d) Make educational and vocational information and guidance available and accessible to all children; (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.'	• Right to education
ICESCR	14	'Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation , within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all .'	• Compulsory, free primary education • Plan of action • Progressive realisation
Right to Health			
ICESCR	12	'1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.'	• Right to health

CRC	24	'1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services. 2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: (a) To diminish infant and child mortality; (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care; (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution; (d) To ensure appropriate pre-natal and post-natal health care for mothers; (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents; (f) To develop preventive health care, guidance for parents and family planning education and services. 3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children. 4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.'	• Right to health
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II. General Comments by UN Treaty Bodies

Instrument	Provision	Extract	Keywords
Maximum Available Resources (MAR) and Non-Retrogression			
Committee on Economic Social and Cultural Rights (CESCR), General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, para. 1 of the Covenant)	9	'[...] Moreover, any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources. '	• ESCR • Retrogressive measures • MAR
CESCR, General Comment No. 13: The Right to Education (Art. 13 of the Covenant)	45	'There is a strong presumption of impermissibility of any retrogressive measures taken in relation to the right to education , as well as other rights enunciated in the Covenant . If any deliberately retrogressive measures are taken, the State party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the State party's maximum available resources. '	• ESCR and right to education • Retrogressive measures • MAR
Committee on the Rights of the Child (CRC), General comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)	31	'The obligation imposed on States parties by article 4 to realize children's economic, social and cultural rights "to the maximum extent" also means that they should not take deliberate retrogressive measures in relation to economic, social and cultural rights . States parties should not allow the existing level of enjoyment of children's rights to deteriorate. In times of economic crisis , regressive measures may only be considered after assessing all other options and ensuring that children are the last to be affected , especially children in vulnerable situations. States parties shall demonstrate that such measures are necessary, reasonable, proportionate, non-discriminatory and temporary and that any rights thus affected will be restored as soon as possible . States parties should take appropriate measures so that the groups of children who are affected, and others with knowledge about those children's situation, participate in the decision-making process related to such measures. [...]'	• ESCR - Rights of the child • Retrogressive measures • Economic crisis • Characteristics of retrogressive measures
CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health	32	'As with all other rights in the Covenant, there is a strong presumption that retrogressive measures taken in relation to the right to health are not permissible. If any deliberately retrogressive measures are taken, the State party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are duly justified by reference to the totality of the rights provided for in the Covenant in the context of the full use of the State party's maximum available resources. '	• ESCR and right to health • Retrogressive measures • MAR
CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health	47	'In determining which actions or omissions amount to a violation of the right to health , it is important to distinguish the inability from the unwillingness of a State party to comply with its obligations under article 12. This follows from article 12.1, which speaks of the highest attainable standard of health, as well as from article 2.1 of the Covenant, which obliges each State party to take the necessary steps to the maximum of its available resources . A State which is unwilling to use the maximum of its available resources for the realization of the right to health is in violation of its obligations under article 12. If resource constraints render it impossible for a State to comply fully with its Covenant obligations, it has the burden of justifying that every effort has nevertheless been made to use all available resources at its disposal in order to satisfy, as a matter of priority, the obligations outlined above. It should be stressed, however, that a State party cannot, under any circumstances whatsoever, justify its	• Right to health • MAR • Core obligations • Non-dirigible

		non-compliance with the core obligations set out in paragraph 43 above, which are non-derivable.'	
CESCR, General Comment No.14: The Right to the Highest Attainable Standard of Health	48	'Violations of the right to health can occur through the direct action of States or other entities insufficiently regulated by States. The adoption of any retrogressive measures incompatible with the core obligations under the right to health, outlined in paragraph 43 above, constitutes a violation of the right to health. Violations through acts of commission include the formal repeal or suspension of legislation necessary for the continued enjoyment of the right to health or the adoption of legislation or policies which are manifestly incompatible with pre-existing domestic or international legal obligations in relation to the right to health.'	• Right to health • Retrogressive measures • Core obligations • Acts of commission
Immediate Obligations			
CESCR, General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, para. 1 of the Covenant)	1, 2	'1. Article 2 is of particular importance to a full understanding of the Covenant and must be seen as having a dynamic relationship with all of the other provisions of the Covenant. It describes the nature of the general legal obligations undertaken by States parties to the Covenant. Those obligations include both what may be termed (following the work of the International Law Commission) obligations of conduct and obligations of result. [...] In particular, while the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes various obligations which are of immediate effect. Of these, two are of particular importance in understanding the precise nature of States parties obligations. One of these, which is dealt with in a separate general comment, and which is to be considered by the Committee at its sixth session, is the "undertaking to guarantee" that relevant rights "will be exercised without discrimination" [...]. 2. The other is the undertaking in article 2 (1) "to take steps", which in itself, is not qualified or limited by other considerations. The full meaning of the phrase can also be gauged by noting some of the different language versions. In English the undertaking is "to take steps", in French it is "to act" ("s'engage à agir") and in Spanish it is "to adopt measures" ("a adoptar medidas"). Thus while the full realization of the relevant rights may be achieved progressively, steps towards that goal must be taken within a reasonably short time after the Covenant's entry into force for the States concerned. Such steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the Covenant.'	• ESCR • Immediate obligations • Take steps • Characteristics of steps (deliberate, concrete and targeted)
CESCR, General Comment No. 13: The Right to Education (Art. 13 of the Covenant)	31	'The prohibition against discrimination enshrined in article 2 (2) of the Covenant is subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination. [...]	• Right to education • Immediate obligations • Non-discrimination
CESCR, General Comment No. 13: The Right to Education (Art. 13 of the Covenant)	43	'While the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources , it also imposes on States parties various obligations which are of immediate effect. States parties have immediate obligations in relation to the right to education, such as the "guarantee" that the right "will be exercised without discrimination of any kind" (art.2 (2)) and the obligation "to take steps" (art. 2 (1)) towards the full realization of article 13. Such steps must be "deliberate, concrete, and targeted" towards the full realization of the right to education.'	• Right to education • Immediate obligations • Non-discrimination • Take steps • Characteristics of steps (deliberate, concrete and targeted)
CESCR, General Comment No. 13: The Right to Education (Art. 13 of the Covenant)	51	'[...]The obligation to provide primary education for all is an immediate duty of all States parties.'	• Right to primary education • Immediate obligations
CESCR, General Comment No. 13: The Right to Education (Art. 13 of the Covenant)	52	'In relation to article 13 (2) (b)-(d), a State party has an immediate obligation "to take steps" (art. 2 (1)) towards the realization of secondary, higher and fundamental education for all those within its jurisdiction. At a minimum , the State party is required to adopt and implement a national educational strategy which includes the provision of secondary, higher and fundamental education in accordance with the Covenant. This strategy should include	• Right to secondary, higher and fundamental education • Immediate obligations • Take steps • National strategy

		mechanisms, such as indicators and benchmarks on the right to education, by which progress can be closely monitored.'	
CESCR, <u>General Comment No. 11: Plans of Action for Primary Education (Art. 14 of the Covenant)</u>	10	'[...] Moreover, it needs to be stressed in this regard that the State party's other obligations, such as non-discrimination, are required to be implemented fully and immediately. '	• Right to education • Immediate obligations • Non-discrimination
CESCR, <u>General Comment No. 11: Plans of Action for Primary Education (Art. 14 of the Covenant)</u>	32	'The adoption of temporary special measures intended to bring about de facto equality for men and women and for disadvantaged groups is not a violation of the right to non-discrimination with regard to education, so long as such measures do not lead to the maintenance of unequal or separate standards for different groups, and provided they are not continued after the objectives for which they were taken have been achieved. '	• Right to education • Immediate obligations • Non-discrimination
CESCR, <u>General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)</u>	18	'By virtue of article 2.2 and article 3, the Covenant proscribes any discrimination in access to health care and underlying determinants of health, as well as to means and entitlements for their procurement, on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation and civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to health. The Committee stresses that many measures, such as most strategies and programmes designed to eliminate health-related discrimination, can be pursued with minimum resource implications through the adoption, modification or abrogation of legislation or the dissemination of information. [...]'	• Right to health • Immediate obligations • Non-discrimination
CESCR, <u>General Comment No. 14: The Right to the Highest Attainable Standard of Health</u>	30	'[...] States parties have immediate obligations in relation to the right to health, such as the guarantee that the right will be exercised without discrimination of any kind (art. 2.2) and the obligation to take steps (art. 2.1) towards the full realization of article 12. Such steps must be deliberate, concrete and targeted towards the full realization of the right to health.'	• Right to health • Immediate obligations • Non-discrimination • Take steps
CESCR, <u>General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, para. 1 of the Covenant)</u>	10	'[...] a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party. Thus, for example, a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care , of basic shelter and housing, or of the most basic forms of education is, prima facie, failing to discharge its obligations under the Covenant. If the Covenant were to be read in such a way as not to establish such a minimum core obligation, it would be largely deprived of its raison d'être. By the same token, it must be noted that any assessment as to whether a State has discharged its minimum core obligation must also take account of resource constraints applying within the country concerned. Article 2 (1) obligates each State party to take the necessary steps "to the maximum of its available resources". In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations. '	• ESCR • Immediate obligations • Minimum core obligations • Resource constraints • MAR
CESCR, <u>General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, para. 1 of the Covenant)</u>	11	'The Committee wishes to emphasize, however, that even where the available resources are demonstrably inadequate, the obligation remains for a State party to strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances. Moreover, the obligations to monitor the extent of the realization, or more especially of the non-realization, of economic, social and cultural rights, and to devise strategies and programmes for their promotion, are not in any way eliminated as a result of resource constraints. The Committee has already dealt with these issues in its general comment No. 1 (1989).'	• ESCR • Immediate obligations • Minimum core obligations • Resource constraints • Monitor realisation and non-realisation of ESCR

CRC, <u>General Comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)</u>	31	'[...] The immediate and minimum core obligations imposed by children's rights shall not be compromised by any retrogressive measures, even in times of economic crisis. '	• ESCR - Rights of the child • Immediate obligations • Minimum core obligations • Economic crisis
CESCR, <u>General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, para. 1 of the Covenant)</u>	12	'Similarly, the Committee underlines the fact that even in times of severe resources constraints whether caused by a process of adjustment, of economic recession, or by other factors the vulnerable members of society can and indeed must be protected by the adoption of relatively low-cost targeted programmes. '	• ESCR • Immediate obligations • Minimum core obligations • Severe resource constraints • Low-cost targeted programmes
CESCR, <u>General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)</u>	18	'[...] The Committee recalls general comment No. 3, paragraph 12, which states that even in times of severe resource constraints, the vulnerable members of society must be protected by the adoption of relatively low-cost targeted programmes. '	• Right to health • Immediate obligations • Minimum core obligations • Severe resource constraints • Low-cost targeted programmes
CESCR, <u>General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)</u>	43	'In general comment No. 3, the Committee confirms that States parties have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the Covenant, including essential primary health care. Read in conjunction with more contemporary instruments, such as the Programme of Action of the International Conference on Population and Development, the Alma-Ata Declaration provides compelling guidance on the core obligations arising from article 12. Accordingly, in the Committee's view, these core obligations include at least the following obligations: (a) To ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups; (b) To ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone; (c) To ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water; (d) To provide essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs; (e) To ensure equitable distribution of all health facilities, goods and services; To adopt and implement a national public health strategy and plan of action, on the basis of epidemiological evidence, addressing the health concerns of the whole population; the strategy and plan of action shall be devised, and periodically reviewed, on the basis of a participatory and transparent process; they shall include methods, such as right to health indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all vulnerable or marginalized groups.'	• Right to health • Immediate obligations • Minimum core obligations • Non-discrimination • National strategy • Plan of action • Indicators and benchmarks
CESCR, <u>General Comment No. 11: Plans of Action for Primary Education (Art. 14 of the Covenant)</u>	8	' <u>Adoption of a detailed plan.</u> The State party is required to adopt a plan of action within two years. This must be interpreted as meaning within two years of the Covenant's entry into force of the State concerned, or within two years of a subsequent change in circumstances which has led to the non-observance of the relevant obligation. This obligation is a continuing one and States parties to which the provision is relevant by virtue of the prevailing situation are not absolved from the obligation as a result of their past failure to act within the two-year limit. The plan must cover all of the actions which are necessary in order to secure each of the requisite component parts of the right and must be sufficiently detailed so as to ensure the comprehensive realization of the right. Participation of all sections of civil society in the drawing up of the plan is vital and some means of periodically reviewing progress and ensuring accountability are essential. Without those elements, the significance of the article would be undermined.'	• Right to education • Immediate obligations • Minimum core obligations • Plan of action

CESCR, General Comment No. 11: Plans of Action for Primary Education (Art. 14 of the Covenant)	9	'[...] Obligations. A State party cannot escape the unequivocal obligation to adopt a plan of action on the grounds that the necessary resources are not available. If the obligation could be avoided in this way, there would be no justification for the unique requirement contained in article 14 which applies, almost by definition, to situations characterized by inadequate financial resources.'	• Right to education • Immediate obligations • Minimum core obligations • Plan of action • Resource constraints
Progressive Realisation			
CESCR, General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, para. 1 of the Covenant)	9	'The principal obligation of result reflected in article 2 (1) is to take steps "with a view to achieving progressively the full realization of the rights recognized " in the Covenant. The term "progressive realization" is often used to describe the intent of this phrase. The concept of progressive realization constitutes a recognition of the fact that full realization of all economic, social and cultural rights will generally not be able to be achieved in a short period of time. In this sense the obligation differs significantly from that contained in article 2 of the International Covenant on Civil and Political Rights which embodies an immediate obligation to respect and ensure all of the relevant rights. Nevertheless, the fact that realization over time, or in other words progressively, is foreseen under the Covenant should not be misinterpreted as depriving the obligation of all meaningful content. It is on the one hand a necessary flexibility device , reflecting the realities of the real world and the difficulties involved for any country in ensuring full realization of economic, social and cultural rights. On the other hand, the phrase must be read in the light of the overall objective, indeed the raison d'être, of the Covenant which is to establish clear obligations for States parties in respect of the full realization of the rights in question. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal. [...]'	• ESCR • Progressive realisation • Take steps • States' obligation to fully realise ESCR • Move as expeditiously and effectively as possible
CESCR, General Comment No. 13: The Right to Education (Art. 13 of the Covenant)	14	'[P]rogressive introduction of free education means that while States must prioritize the provision of free primary education , they also have an obligation to take concrete steps towards achieving free secondary and higher education. [...]'	• Right to education • Progressive realisation • Take steps
CESCR, General Comment No. 13: The Right to Education (Art. 13 of the Covenant)	44	'The realization of the right to education over time, that is " progressively ", should not be interpreted as depriving States parties' obligations of all meaningful content. Progressive realization means that States parties have a specific and continuing obligation "to move as expeditiously and effectively as possible" towards the full realization of article 13. '	• Right to education • Progressive realisation • Move as expeditiously and effectively as possible
CESCR, General Comment No. 11: Plans of Action for Primary Education (Art. 14 of the Covenant)	10	' <u>Progressive implementation.</u> The plan of action must be aimed at securing the progressive implementation of the right to compulsory primary education, free of charge, under article 14. Unlike the provision in article 2.1, however, article 14 specifies that the target date must be "within a reasonable number of years" and moreover, that the time-frame must "be fixed in the plan". In other words, the plan must specifically set out a series of targeted implementation dates for each stage of the progressive implementation of the plan. This underscores both the importance and the relative inflexibility of the obligation in question. [...]'	• Right to education • Progressive realisation • Plan of action
CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health	30	'While the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes on States Parties various obligations which are of immediate effect. [...]'	• Right to health • Progressive realisation
CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health	31	'The progressive realization of the right to health over a period of time should not be interpreted as depriving States parties' obligations of all meaningful content. Rather, progressive realization means that States parties have a specific and continuing obligation to move as expeditiously and effectively as possible towards the full realization of article 12.'	• Right to health • Progressive realisation • States' obligation to fully realise the right to health • Move as expeditiously and effectively as possible

Domestic Resource Mobilisation and Transparency

<u>CRC, General comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)</u>	74	'The Committee recognizes the importance of States' legislation, policies and systems in relation to revenue mobilization and borrowing to sustain available resources for the rights of the child. States parties should take concrete sustainable measures to mobilize domestic resources at the national and subnational levels, such as through taxes and non-tax revenues.'	• ESCR - Rights of the child • Domestic resource mobilisation • Legislation • Policies • Tax
<u>CRC, General comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)</u>	11	'[...] At the same time, the Committee underlines that such legislation, policies and programmes cannot be implemented without sufficient financial resources being mobilized, allocated and spent in an accountable, effective, efficient, equitable, participatory, transparent and sustainable manner.'	• ESCR - Rights of the child • Domestic resource mobilisation • Characteristics of allocation and expenditure
<u>CRC, General comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)</u>	21	'The obligation to undertake "all appropriate measures" includes the duty to ensure that: (a) Laws and policies are in place to support resource mobilization, budget allocation and spending to realize children's rights; (b) Sufficient public resources are mobilized, allocated and utilized effectively to fully implement approved legislation, policies, programmes and budgets; [...] (d) Budgets are systematically planned, enacted, implemented and accounted for at the national and subnational levels of the State, in a manner that ensures the realization of children's rights.'	• ESCR - Rights of the child • Domestic resource mobilisation • Legislation • Policies • Public resources • Budgets
<u>CRC, General comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)</u>	34	' Corruption and mismanagement of public resources in State revenue mobilization, allocation and spending represents a failure by the State to comply with its obligation to use the maximum of available resources. The Committee underlines the importance of States parties allocating resources to prevent and eliminate any corruption affecting children's rights, in accordance with the United Nations Convention against Corruption.'	• ESCR - Rights of the child • Corruption • Mismanagement of public resources • Failure by the State to comply with its obligation to use MAR
<u>CRC, General comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)</u>	62	'States parties should develop and maintain public financial management systems and practices that are open to scrutiny, and information on public resources should be freely available in a timely manner. Transparency contributes to efficiency and combats corruption and mismanagement of public budgets, which in turn increases the public resources available to advance child rights. Transparency is also a prerequisite for enabling meaningful participation of the executive, legislatures and civil society, including children, in the budget process. The Committee emphasizes the importance of States parties actively promoting access to information about public revenues, allocations and spending related to children and adopting policies to support and encourage continuous engagement with legislatures and civil society, including children.'	• ESCR - Rights of the child • Transparency • Corruption • Mismanagement of public resources • Public resources
<u>CRC, General comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)</u>	76	'The mobilization of resources for public spending on child rights should itself be conducted in a manner that adheres to the budget principles set out in section IV. A lack of transparency in resource mobilization systems can lead to inefficiencies, mismanagement of public finances and corruption. This in turn can lead to insufficient resources being available to spend on the rights of the child. The different tax regimes that do not take into account the ability of families to pay can lead to an inequity in resource mobilization. This can place disproportionate revenue burdens on people with already scarce financial resources, some of whom will be caring for children.'	• ESCR - Rights of the child • Domestic resource mobilisation • Public spending • Budget principles • Transparency • Corruption • Tax justice
<u>CRC, General comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)</u>	77, 101-103	77. 'States parties should mobilize the full extent of their available resources in a way that is consistent with their obligations of implementation, by: (a) Conducting child rights impact assessments of legislation and policies pertaining to resource mobilization; (b) Reviewing and ensuring that policies and formulas for the division of revenue, both vertical (between different levels of the State)	• ESCR - Rights of the child • Domestic resource mobilisation • Practical guidance on mobilisation of MAR • Monitor and publicly report on the

		and horizontal (between units at the same level), support and enhance equality among children in different geographical regions; (c) Reviewing and strengthening their capacity to formulate and manage tax legislation, policies and systems, including the signing of agreements between countries to avoid tax evasion; (d) Safeguarding the resources available to advance children's rights by preventing wastage of resources due to inefficiency or mismanagement and combating corrupt or illicit practices at all levels; (e) Applying the budget principles set out in section IV in all resource mobilization strategies; (f) Ensuring that their sources of revenue, spending and liabilities lead to the realization of children's rights for current and future generations.' 101. 'States parties should monitor and publicly report on the implementation of enacted budgets on a regular basis, including: (a) Making comparisons between what was budgeted and what was actually spent at different administrative levels across different social sectors; (b) Publishing a comprehensive midterm report that covers actual expenditures made, revenues mobilized, and debt incurred half-way into the budget year; (c) Publishing more frequent, for example monthly or quarterly, in-year reports.' 102. 'States parties are obliged to establish public accountability mechanisms that allow civil society, including children, to monitor outcomes of public spending.' 103. 'States parties should have internal control and audit processes in place to ensure that rules and procedures are followed in relation to actual expenditures related to children's rights, and that accounting and reporting processes are adhered to.'	implementation of budgets • Public accountability • Internal control and audit processes
CESCR, General Comment No. 11: Plans of Action for Primary Education (Art. 14 of the Covenant)	35, 37	35. 'Sharp disparities in spending policies that result in differing qualities of education for persons residing in different geographic locations may constitute discrimination under the Covenant.' 37. 'States parties must closely monitor education - including all relevant policies, institutions, programmes, spending patterns and other practices - so as to identify and take measures to redress any de facto discrimination. Educational data should be disaggregated by the prohibited grounds of discrimination.'	• Right to education • Resource allocation/Spending • Non-discrimination
CESCR, General Comment No. 13: The Right to Education (Art. 13 of the Covenant)	54	'[...] A State party has no obligation to fund institutions established in accordance with article 13 (3) and (4); however, if a State elects to make a financial contribution to private educational institutions, it must do so without discrimination on any of the prohibited grounds.'	• Right to education • No obligation to fund private institutions
CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)	52	'Violations of the obligation to fulfil occur through the failure of States parties to take all necessary steps to ensure the realization of the right to health. Examples include the failure to adopt or implement a national health policy designed to ensure the right to health for everyone; insufficient expenditure or misallocation of public resources which results in the non-enjoyment of the right to health by individuals or groups, particularly the vulnerable or marginalized; the failure to monitor the realization of the right to health at the national level, for example by identifying right to health indicators and benchmarks; the failure to take measures to reduce the inequitable distribution of health facilities, goods and services; the failure to adopt a gender-sensitive approach to health; and the failure to reduce infant and maternal mortality rates.'	• Right to health • Resource allocation/Spending • Non-discrimination
International Cooperation and Assistance			
CESCR, General Comment No. 2: International technical assistance measures (Art. 22 of the Covenant)	13	'A final element of article 2 (1), to which attention must be drawn, is that the undertaking given by all States parties is "to take steps, individually and through international assistance and cooperation, especially economic and technical ...". The Committee notes that the phrase "to the maximum of its available resources" was intended by the drafters of the Covenant to refer to both the resources existing within a State and those available from the international community through international cooperation and assistance. Moreover, the essential	• ESCR • MAR • International cooperation and assistance

		role of such cooperation in facilitating the full realization of the relevant rights is further underlined by the specific provisions contained in articles 11, 15, 22 and 23. With respect to article 22 the Committee has already drawn attention, in general comment No. 2 (1990), to some of the opportunities and responsibilities that exist in relation to international cooperation . Article 23 also specifically identifies “the furnishing of technical assistance” as well as other activities, as being among the means of “international action for the achievement of the rights recognized [...]”.	
CRC, General comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)	75	‘States parties shall seek international cooperation if the available resources to realize the rights of children are insufficient . Such cooperation shall take the Convention and its Optional Protocols into account both on the part of the recipient and the donor States. The Committee underlines the fact that international and regional cooperation for the realization of children's rights can include mobilization of resources to targeted programmes, as well as measures relating to taxation, combating tax evasion, debt management, transparency and other issues. ’	• ESCR - Rights of the child • International cooperation • Tax • Combat tax evasion • Debt management • Transparency
CRC, General comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)	35	‘States parties have an obligation to cooperate with one another in the promotion of universal respect for, and observance of, human rights , including the rights of the child. States that lack the resources needed to implement the rights enshrined in the Convention and its Optional Protocols are obliged to seek international cooperation , be it bilateral, regional, interregional, global or multilateral. States parties with resources for international cooperation have an obligation to provide such cooperation with the aim of facilitating the implementation of children's rights in the recipient State. ’	• ESCR – Rights of the child • Obligation to seek for international cooperation • Obligation to provide international cooperation
CRC, General comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)	36	‘States parties should demonstrate that, where necessary, they have made every effort to seek and implement international cooperation to realize the rights of the child . Such cooperation may include technical and financial support in relation to implementing children's rights in the budget process, including from the United Nations.’	• ESCR – Rights of the child • Obligation to seek for international cooperation
CRC, General comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)	37	‘States parties should collaborate with other States’ efforts to mobilize the maximum available resources for children's rights. ’	• ESCR - Rights of the child • International cooperation • MAR
CESCR, General Comment No. 11: Plans of Action for Primary Education (Art. 14 of the Covenant)	11	‘[...] The Committee also calls upon the relevant international agencies to assist States parties to the greatest extent possible to meet their obligations on an urgent basis.’	• Right to education • International assistance
CESCR, General Comment No. 13: The Right to Education (Art. 13 of the Covenant)	56	‘In its General Comment 3, the Committee drew attention to the obligation of all States parties to take steps, “individually and through international assistance and cooperation , especially economic and technical”, towards the full realization of the rights recognized in the Covenant, such as the right to education. Articles 2 (1) and 23 of the Covenant, Article 56 of the Charter of the United Nations, article 10 of the World Declaration on Education for All, and Part I, paragraph 34 of the Vienna Declaration and Programme of Action all reinforce the obligation of States parties in relation to the provision of international assistance and cooperation for the full realization of the right to education. In relation to the negotiation and ratification of international agreements, States parties should take steps to ensure that these instruments do not adversely impact upon the right to education. Similarly, States parties have an obligation to ensure that their actions as members of international organizations, including international financial institutions, take due account of the right to education. ’	• Right to education • International cooperation and assistance
CESCR, General Comment No.	38	‘In its general comment No. 3, the Committee drew attention to the obligation of all States parties to take steps, individually and	• Right to health

<u>14: The Right to the Highest Attainable Standard of Health (Art. 12)</u>		through international assistance and cooperation, especially economic and technical, towards the full realization of the rights recognized in the Covenant, such as the right to health. In the spirit of Article 56 of the Charter of the United Nations, the specific provisions of the Covenant (arts. 12, 2.1, 22 and 23) and the Alma-Ata Declaration on primary health care, States parties should recognize the essential role of international cooperation and comply with their commitment to take joint and separate action to achieve the full realization of the right to health. In this regard, States parties are referred to the Alma-Ata Declaration which proclaims that the existing gross inequality in the health status of the people, particularly between developed and developing countries, as well as within countries, is politically, socially and economically unacceptable and is, therefore, of common concern to all countries.'	• International assistance and cooperation
<u>CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)</u>	39	'To comply with their international obligations in relation to article 12, States parties have to respect the enjoyment of the right to health in other countries, and to prevent third parties from violating the right in other countries, if they are able to influence these third parties by way of legal or political means, in accordance with the Charter of the United Nations and applicable international law. Depending on the availability of resources, States should facilitate access to essential health facilities, goods and services in other countries, wherever possible, and provide the necessary aid when required. States parties should ensure that the right to health is given due attention in international agreements and, to that end, should consider the development of further legal instruments. In relation to the conclusion of other international agreements, States parties should take steps to ensure that these instruments do not adversely impact upon the right to health. [...]'	• Right to health • International cooperation • International agreements
<u>CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)</u>	45	'For the avoidance of any doubt, the Committee wishes to emphasize that it is particularly incumbent on States parties and other actors in a position to assist, to provide "international assistance and cooperation, especially economic and technical" which enable developing countries to fulfil their core and other obligations indicated in paragraphs 43 and 44 above.'	• Right to health • International cooperation and assistance
<u>CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)</u>	64	'Moreover, coordinated efforts for the realization of the right to health should be maintained to enhance the interaction among all the actors concerned, including the various components of civil society. In conformity with articles 22 and 23 of the Covenant, WHO, the International Labour Organization, the United Nations Development Programme, UNICEF, the United Nations Population Fund, the World Bank, regional development banks, the International Monetary Fund, the World Trade Organization and other relevant bodies within the United Nations system, should cooperate effectively with States parties, building on their respective expertise, in relation to the implementation of the right to health at the national level, with due respect to their individual mandates. [...] The adoption of a human rights-based approach by United Nations specialized agencies, programmes and bodies will greatly facilitate implementation of the right to health. In the course of its examination of States parties' reports, the Committee will also consider the role of health professional associations and other non-governmental organizations in relation to the States' obligations under article 12.'	• Right to health • International assistance
Debt, Structural Adjustment and Austerity			
<u>CESCR, General Comment No. 2: International technical assistance measures (Art. 22 of the Covenant)</u>	9	'A matter which has been of particular concern to the Committee in the examination of the reports of States parties is the adverse impact of the debt burden and of the relevant adjustment measures on the enjoyment of economic, social and cultural rights in many countries. The Committee recognizes that adjustment programmes will often be unavoidable and that these will frequently involve a major element of austerity. Under such circumstances, however, endeavours to protect the most basic economic, social and cultural rights become more, rather than less, urgent. States parties to the Covenant, as well as the relevant United Nations agencies, should thus make a particular effort to ensure that such protection is, to the maximum extent possible, built-in to programmes and policies designed to promote adjustment. Such an approach, which is sometimes referred to as "adjustment with a human face" or as	• ESCR • Debt • Structural adjustment programmes • Austerity • International cooperation • Debt relief

		promoting “the human dimension of development” requires that the goal of protecting the rights of the poor and vulnerable should become a basic objective of economic adjustment. Similarly, international measures to deal with the debt crisis should take full account of the need to protect economic, social and cultural rights through, inter alia, international cooperation. In many situations, this might point to the need for major debt relief initiatives.	
CRC, General Comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)	78, 79	78. The Committee recognizes that sustainable debt management by States, on behalf of creditors and lenders, can contribute to mobilizing resources for the rights of the child. Sustainable debt management includes having in place transparent legislation, policies and systems with clear roles and responsibilities for borrowing and lending, as well as managing and monitoring debt. The Committee also recognizes that long-term unsustainable debt can be a barrier to a State's ability to mobilize resources for children's rights, and may lead to taxes and user fees that impact negatively on children. Child rights impact assessments should therefore be carried out also in relation to debt agreements.' 79. 'Debt relief can increase States' ability to mobilize resources for the rights of the child. When States parties receive debt relief, children's rights shall be given serious consideration in decisions regarding the allocation of resources that become available as a result of such relief.'	• ESCR - Rights of the child • Debt • Debt relief • Right impact assessments
CESCR, General Comment No. 11: Plans of Action for Primary Education (Art. 14 of the Covenant)	3	'[...]The Committee is fully aware that many diverse factors have made it difficult for States parties to fulfil their obligation to provide a plan of action. For example, the structural adjustment programmes that began in the 1970s, the debt crises that followed in the 1980s and the financial crises of the late 1990s, as well as other factors, have greatly exacerbated the extent to which the right to primary education is being denied. These difficulties, however, cannot relieve States parties of their obligation to adopt and submit a plan of action to the Committee, as provided for in article 14 of the Covenant.'	• Right to education • Structural adjustment programmes • Debt • Financial crises • Plan of action
CESCR, General Comment No. 13: The Right to Education (Art. 13 of the Covenant)	60	'[...] In particular, the international financial institutions, notably the World Bank and IMF, should pay greater attention to the protection of the right to education in their lending policies, credit agreements, structural adjustment programmes and measures taken in response to the debt crisis.'	• Right to education • World Bank and IMF • Structural adjustment programs • Debt crisis response
CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)	39	'[...] Similarly, States parties have an obligation to ensure that their actions as members of international organizations take due account of the right to health. Accordingly, States parties which are members of international financial institutions, notably the International Monetary Fund, the World Bank, and regional development banks, should pay greater attention to the protection of the right to health in influencing the lending policies, credit agreements and international measures of these institutions.'	• Right to health • International financial institutions • World Bank and IMF • Lending policies • Credit agreements • International measures
CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)	64	'[...] In particular, the international financial institutions, notably the World Bank and the International Monetary Fund, should pay greater attention to the protection of the right to health in their lending policies, credit agreements and structural adjustment programmes. [...]	• Right to health • International financial institutions • Structural adjustment programs • Lending policies • Credit agreements • Structural adjustment programmes
Right to Education			
CESCR, General Comment No. 11: Plans of Action for Primary Education (Art. 14 of the Covenant)	7	' Free of charge. The nature of this requirement is unequivocal. The right is expressly formulated so as to ensure the availability of primary education without charge to the child, parents or guardians. Fees imposed by the Government, the local authorities or the school, and other direct costs, constitute disincentives to the enjoyment of the right and may jeopardize its realization. They are also often highly regressive in effect. Their elimination is a matter which must be addressed by the required plan of action. Indirect costs, such as compulsory levies on parents (sometimes portrayed as being voluntary, when in fact they are not), or the obligation to wear a relatively expensive school uniform, can also fall into the same category. Other indirect costs may be permissible, subject to the Committee's examination on a case-by-case basis.'	• Right to primary education free of charge • Direct costs (fees) • Indirect costs • Plan of action

CESCR, General Comment No. 13: The Right to Education (Art. 13 of the Covenant)	25	The requirement that the “ development of a system of schools at all levels shall be actively pursued ” means that a State party is obliged to have an overall developmental strategy for its school system . The strategy must encompass schooling at all levels , but the Covenant requires States parties to prioritize primary education (see para. 51). “[A]ctively pursued” suggests that the overall strategy should attract a degree of governmental priority and, in any event, must be implemented with vigour.’	• Right to education • States’ obligation to ensure public education
CESCR, General Comment No. 13: The Right to Education (Art. 13 of the Covenant)	48	‘In this respect, two features of article 13 require emphasis. First, it is clear that article 13 regards States as having principal responsibility for the direct provision of education in most circumstances ; States parties recognize, for example, that the “development of a system of schools at all levels shall be actively pursued” (art. 13 (2) (e)).’	• Right to education • States’ obligation to ensure public education
CESCR, General Comment No. 13: The Right to Education (Art. 13 of the Covenant)	53	‘[...]The obligation to pursue actively the “development of a system of schools at all levels” reinforces the principal responsibility of States parties to ensure the direct provision of the right to education in most circumstances.’	• Right to education • States’ obligation to ensure public education
CESCR, General Comment No. 13: The Right to Education (Art. 13 of the Covenant)	58	‘[...] Violations of article 13 may occur through the direct action of States parties (acts of commission) or through their failure to take steps required by the Covenant (acts of omission).’	• Right to education • Acts of commission • Acts of omission
Right to Health			
CESCR, General Comment No.14: The Right to the Highest Attainable Standard of Health	9	The notion of “the highest attainable standard of health” in article 12.1 takes into account both the individual’s biological and socio-economic preconditions and a State’s available resources . There are a number of aspects which cannot be addressed solely within the relationship between States and individuals; in particular, good health cannot be ensured by a State, nor can States provide protection against every possible cause of human ill health. Thus, genetic factors, individual susceptibility to ill health and the adoption of unhealthy or risky lifestyles may play an important role with respect to an individual’s health. Consequently, the right to health must be understood as a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health. ’	• Right to health • Highest attainable standard of health
CESCR, General Comment No.14: The Right to the Highest Attainable Standard of Health	19	‘With respect to the right to health, equality of access to health care and health services has to be emphasized. States have a special obligation to provide those who do not have sufficient means with the necessary health insurance and health-care facilities, and to prevent any discrimination on internationally prohibited grounds in the provision of health care and health services, especially with respect to the core obligations of the right to health. Inappropriate health resource allocation can lead to discrimination that may not be overt. For example, investments should not disproportionately favour expensive curative health services which are often accessible only to a small, privileged fraction of the population, rather than primary and preventive health care benefiting a far larger part of the population.’	• Right to health • Health insurance • Health-care facilities • Non-discrimination • Minimum core obligations • Resource allocation
CESCR, General Comment No.14: The Right to the Highest Attainable Standard of Health	53	‘The most appropriate feasible measures to implement the right to health will vary significantly from one State to another. Every State has a margin of discretion in assessing which measures are most suitable to meet its specific circumstances. The Covenant, however, clearly imposes a duty on each State to take whatever steps are necessary to ensure that everyone has access to health facilities, goods and services so that they can enjoy, as soon as possible, the highest attainable standard of physical and mental health. This requires the adoption of a national strategy to ensure to all the enjoyment of the right to health, based on human rights principles which define the objectives of that strategy, and the formulation of policies and corresponding right to health indicators and benchmarks. The national health strategy should also identify the resources available to attain defined objectives, as well as the most cost-effective way of using those resources.’	• Right to health • Immediate obligations • Take steps • Highest attainable standard of health • National strategy • MAR

III. International Principles and Statements

Instrument	Provision	Extract	Keywords
Maximum Available Resources (MAR) and Non-retrogression			
CESCR's Statement: <i>An evaluation of the obligation to take steps to the "Maximum Available Resources" under an optional protocol to the Covenant</i> (UN doc E/C.12/2007/1)	4	'The "availability of resources" , although an important qualifier to the obligation to take steps, does not alter the immediacy of the obligation, nor can resource constraints alone justify inaction . Where the available resources are demonstrably inadequate, the obligation remains for a State party to ensure the widest possible enjoyment of economic, social and cultural rights under the prevailing circumstances . The Committee has already emphasized that, even in times of severe resource constraints , States parties must protect the most disadvantaged and marginalized members or groups of society by adopting relatively low-cost targeted programmes .'	• ESCR • MAR • Severe resource constraints • Low-cost targeted programmes
CESCR's Statement (UN doc E/C.12/2007/1)	5	'The undertaking by a State party to use "the maximum" of its available resources towards fully realizing the provisions of the Covenant entitles it to receive resources offered by the international community . In this regard, the phrase "to the maximum of its available resources" refers to both the resources existing within a State as well as those available from the international community through international cooperation and assistance.'	• ESCR • MAR • Domestic resource mobilisation • International cooperation and assistance
CESCR's Statement (UN doc E/C.12/2007/1)	8	'In considering a communication concerning an alleged failure of a State party to take steps to the maximum of available resources, the Committee will examine the measures that the State party has effectively taken, legislative or otherwise. In assessing whether they are "adequate" or "reasonable", the Committee may take into account, inter alia, the following considerations: (a) The extent to which the measures taken were deliberate, concrete and targeted towards the fulfilment of economic, social and cultural rights; (b) Whether the State party exercised its discretion in a non-discriminatory and non-arbitrary manner; (c) Whether the State party's decision (not) to allocate available resources was in accordance with international human rights standards; (d) Where several policy options are available, whether the State party adopted the option that least restricts Covenant rights; (e) The time frame in which the steps were taken; Whether the steps had taken into account the precarious situation of disadvantaged and marginalized individuals or groups and, whether they were non-discriminatory, and whether they prioritized grave situations or situations of risk.'	• ESCR • Failure to take steps • MAR • Practical considerations
CESCR's Statement (UN doc E/C.12/2007/1)	9	'The Committee notes that in case of failure to take any steps or of the adoption of retrogressive steps, the burden of proof rests with the State party to show that such a course of action was based on the most careful consideration and can be justified by reference to the totality of the rights provided for in the Covenant and by the fact that full use was made of available resources.'	• ESCR • Failure to take steps • Retrogressive measures • Burden of proof
CESCR's Statement (UN doc E/C.12/2007/1)	10	'Should a State party use "resource constraints" as an explanation for any retrogressive steps taken, the Committee would consider such information on a country-by-country basis in the light of objective criteria such as: (a) The country's level of development; (b) The severity of the alleged breach, in particular whether the situation concerned the enjoyment of the minimum core content of the Covenant; (c) The country's current economic situation, in particular whether the country was undergoing a period of economic recession; (d) The existence of other serious claims on the State party's limited resources; for example, resulting from a recent natural disaster or from recent internal or international armed conflict; (e) Whether the State party had sought to identify low-cost options; and	• ESCR • Retrogressive measures • Resource Constraints • Practical considerations

		(f) Whether the State party had sought cooperation and assistance or rejected offers of resources from the international community for the purposes of implementing the provisions of the Covenant without sufficient reason.'	
CESCR's Statement (UN doc E/C.12/2007/1)	12	'Where the Committee considers that a State party has not taken reasonable or adequate steps, it will make relevant recommendations to the State party. In line with the practice of other treaty bodies, the Committee will respect the margin of appreciation of the State party to determine the optimum use of its resources and to adopt national policies and prioritize certain resource demands over others.'	• ESCR • Failure to take steps • Margin of appreciation • Optimum use of resources
Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights (Maastricht Principles)	Principle 32	' Principles and priorities in cooperation in fulfilling economic, social and cultural rights extraterritorially, States must: [...] avoid any retrogressive measures or else discharge their burden to demonstrate that such measures are duly justified by reference to the full range of human rights obligations, and are only taken after a comprehensive examination of alternatives.'	• ESCR Extraterritorial obligations (ETOs) • Retrogressive measures
Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement in education (Abidjan Principles)	Guiding Principle 44	' Lack of will is distinct from a lack of capacity, and cannot justify a State's failure to provide free, quality, public education in accordance with its obligations under international human rights law.'	• Right to public education • Lack of will • Retrogressive measures
Abidjan Principles	Guiding Principle 45	There is a strong presumption that retrogressive measures taken in relation to the right to public education are impermissible. If, in exceptional circumstances, retrogressive measures are taken, the State has the burden of proving that any such measure is in accordance with applicable human rights law and standards. Any such measure: - should be temporary by nature and in effect, and limited to the duration of the crisis causing the situation of fiscal constraint; - should be necessary and proportionate, in that the adoption of any other policy alternatives or the failure to act would be more detrimental to the enjoyment of economic, social and cultural rights, with the possibility of taking any alternative measures comprehensively examined; - should be reasonable; - should not be directly or indirectly discriminatory; - should accord particular attention to the rights of vulnerable, disadvantaged, and marginalised individuals and groups, including their right to free, quality, public education, and ensure that they are not disproportionately affected. Children must be the last affected by such measures; - should identify the minimum core content of the right to public education and other affected economic, social and cultural rights, and ensure the protection of this core content at all times; - should involve full and effective participation of affected groups, including children and other learners, in examining the proposed measures and alternatives; and - should be subject to meaningful review procedures at the national level.'	• Right to public education • Retrogressive measures • Characteristics of retrogressive measures
Progressive Realisation			
CESCR's Statement (UN doc E/C.12/2007/1)	11	'In its assessment of whether a State party has taken reasonable steps to the maximum of its available resources to achieve progressively the realization of the provisions of the Covenant, the Committee places great importance on transparent and participative decision-making processes at the national level. [...]'	• ESCR • Progressive realisation • Take steps • MAR

Abidjan Principles	Guiding Principle 36	While progressively realising their obligations to provide free, public education of the highest attainable quality at all levels as effectively and expeditiously as possible, States must immediately take steps to ensure that no individual is excluded from any public educational institution on the basis of the inability to pay, and must take all effective measures to prevent the risk of over-indebtedness for learners and their families.'	• Right to free, quality, public education • Progressive realisation • Take steps • Economic barriers
Domestic Resource Mobilisation and Transparency			
CESCR's Statement: <i>Tax policy and the International Covenant on Economic, Social and Cultural Rights</i> (UN doc E/C.12/2025/1)	1	'[...] Taxation is a key instrument for mobilizing resources to realize economic, social and cultural rights and to address poverty and socioeconomic inequalities. While States have the right to design, implement and regulate their tax policies in accordance with their national priorities, this prerogative must be exercised in a manner consistent with their obligations under international human rights law, including the Covenant.'	• ESCR • Domestic resource mobilisation • Taxation
CESCR's Statement (UN doc E/C.12/2025/1)	4	'In reviewing the implementation of the Covenant by States Parties, the Committee has identified situations in which regressive and ineffective tax policies hamper the capacity of States Parties to fulfil economic, social and cultural rights and have a disproportionate impact on low-income households, women and disadvantaged groups. One such example is a tax policy that maintains low personal and corporate income taxes without adequately addressing high income inequalities. In addition, consumption taxes, such as value added tax, can have adverse impacts on disadvantaged groups such as low-income families and single-parent households, which typically spend a higher percentage of their income on everyday goods and services. In this context, the Committee has called upon States Parties to design and implement tax policies that are effective, adequate, progressive and socially just.'	• ESCR • Domestic resource mobilisation • Tax policies (effective, adequate, progressive and socially just)
CESCR's Statement (UN doc E/C.12/2025/1)	5	'As a prerequisite, the Committee emphasizes that, both domestically and in the context of international tax cooperation, States Parties must observe the procedural guarantees derived from their human rights obligations in designing and implementing tax policies. Tax policymaking should be inclusive, transparent, participatory and evidence-based, fostering informed public debate. Furthermore, States Parties should conduct comprehensive assessments of the impact of existing and proposed tax policies on the realization of economic, social and cultural rights. Impact assessments should be conducted, in a transparent manner, with the meaningful and informed participation of social stakeholders. Such assessments should include an analysis of: (a) the ratio of taxation to gross domestic product; (b) the revenue derived from individual and corporate income taxes, and from consumption taxes, including value added tax; (c) the overall distributional impact and the tax burden on different income groups, women and disadvantaged groups; and (d) the benefits and impact of various tax exemptions, including those related to natural resources.'	• ESCR • Domestic resource mobilisation • Tax policies (inclusive, transparent, participatory and evidence-based) • Impact assessments
CESCR's Statement (UN doc E/C.12/2025/1)	6	'A well-designed tax system should serve to effectively raise revenue to secure economic, social and cultural rights and reduce high levels of economic and social inequality. The Committee recalls that the implementation of any tax system must not have a detrimental impact on the enjoyment of the rights covered under the Covenant, in particular, the right to an adequate standard of living, in particular for disadvantaged and marginalized groups. In this regard, States Parties could consider taking measures such as: (a) ensuring that those with higher income and wealth, in particular those at the top of the income and wealth spectrums, are subject to a proportionate and appropriate tax burden; (b) shifting focus to a more direct income taxation approach rather than relying on indirect taxes, such as value added tax and goods and services tax, which tend to disproportionately affect individuals and families with lower incomes; and (c) levying adequate taxation on the profits of large companies, in particular multinational companies domiciled or operating in the State Party and on high-net-worth individuals, including through the introduction of a globally coordinated minimum income tax for ultra-high-net-worth individuals. In addition, a holistic review of the tax system is essential to ensure that the combined effect of these measures advances economic,	• ESCR • Domestic resource mobilisation • Tax justice

		social and cultural rights while reducing inequality. Collectively, these measures could help States Parties to expand their tax base and strengthen the redistributive effect of their national tax systems . The effectiveness of these measures can be further enhanced by appropriate budgetary and effective spending policies aimed at realizing economic, social and cultural rights.'	
CESCR's Statement (UN doc E/C.12/2025/1)	9	' Illicit financial flows and tax abuse represent a huge loss of public revenue and constitute an impediment to the mobilization of domestic resources for the realization of human rights and to combating persistent poverty and inequality, in particular in low- and middle-income countries. [...]'	• ESCR • Domestic resource mobilisation • Illicit financial flows • Tax abuse
International Cooperation and Assistance			
Maastricht Principles	Principle 32	'Principles and priorities in cooperation in fulfilling economic, social and cultural rights extraterritorially, States must: prioritize the realization of the rights of disadvantaged, marginalized and vulnerable groups; prioritize core obligations to realize minimum essential levels of economic, social and cultural rights, and move as expeditiously and effectively as possible towards the full realization of economic, social and cultural rights; observe international human rights standards, including the right to self-determination and the right to participate in decision-making, as well as the principles of non-discrimination and equality, including gender equality, transparency, and accountability; [...].'	• ESCR • ETOs
CESCR's Statement (UN doc E/C.12/2025/1)	9	'[...] State Parties have a duty to take measures to combat tax evasion and tax avoidance , both within and beyond their territory.'	• ESCR • ETOs • Combat tax evasion and avoidance
CESCR's Statement (UN doc E/C.12/2025/1)	10	' Tax evasion and tax avoidance by corporations and high-net-worth individuals are often transboundary in nature and give rise to States' extraterritorial obligations . The Committee has observed situations in some States where low effective corporate tax rates, wasteful tax incentives, weak oversight and enforcement against illicit financial flows, tax evasion and tax avoidance, and the permitting of tax havens and financial secrecy drive a race to the bottom, depriving other States of significant resources for public services such as health, education and housing and for social security and environmental policies . As the Committee has clarified, the extraterritorial obligations deriving from article 2 (1) of the Covenant require States Parties to ensure that their national tax policies do not undermine the capacity of other countries to raise public revenues for the realization of economic, social and cultural rights . To that end, States Parties should conduct an independent and comprehensive assessment of the impact of their national and international tax policies on other countries, in particular on developing countries, and take corrective measures if required.'	• ESCR • ETOs • Combat tax evasion and avoidance • Impact assessment
CESCR's Statement (UN doc E/C.12/2025/1)	13	'In addition, the Committee reminds international organizations, including international financial institutions , that as subjects of international law, they must respect human rights and fulfil all obligations imposed by general rules of international law . In particular, international financial institutions, as specialized agencies of the United Nations, are bound by the human rights provisions contained in the Charter of the United Nations. Accordingly, they should conduct human rights impact assessments of any proposed tax reforms to ensure that their recommendations do not undermine, but instead facilitate, the capacity of States to realize economic, social and cultural rights , in particular in countries that are highly dependent on external financing.'	• ESCR • International financial institutions • Human rights impact assessments

IV. Regional Treaties

Instrument	Provision	Extract	Keywords
Immediate Obligations			
African Charter on Human and Peoples' Rights (African Charter)	1	'The Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Chapter and shall undertake to adopt legislative or other measures to give effect to them. '	• ESCR - Human rights • Legislative measures • Obligation of effect
African Charter	2	'Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.'	• ESCR - Human rights • Non-discrimination
African Charter on the Rights and Welfare of the Child (ACRWC)	1	'The Member States of the Organization of African Unity Parties to the present Charter shall recognize the rights, freedoms and duties enshrines in this Charter and shall undertake to take the necessary steps, in accordance with their Constitutional processes and with the provisions of the present Charter, to adopt such legislative or other measures as may be necessary to give effect to the provisions of this Charter. '	• ESCR - Human rights • Constitutional process • Legislative measures • Obligation of effect
Right to Education			
African Charter	17 (1)	'Every individual shall have the right to education. '	• Right to education
ACRWC	11 (1)	'Every child shall have the right to education. '	• Right to education
ACRWC	11 (3)	'States Parties to the present Charter shall take all appropriate measures with a view to achieving the full realization of this right and shall in particular: (a) provide free and compulsory basic education; (b) encourage the development of secondary education in its different forms and to progressively make it free and accessible to all; [...].'	• Right to education • Free and compulsory • Progressive realisation
Right to Health			
African Charter	16 (1)	'Every individual shall have the right to enjoy the best attainable state of physical and mental health. '	• Right to health
African Charter	16 (2)	'States parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.'	• Necessary measures to protect the right to health

V. Regional General Comments

Instrument	Provision	Extract	Keywords
Maximum Available Resources (MAR) and Non-Retrogression			
General Comment 7: State Obligations Under the African Charter on Human and Peoples' Rights in the Context of Private Provision of Social Services (ACHPR. General Comment 7)	28	'When States take retrogressive measures, they must overcome a heavy burden of proof to demonstrate that their actions are justified under international human rights law. To do this, States must prove that their actions comply with the 'totality of the rights' provided for in the Charter and reflect the States immediate obligation to use the maximum available resources to progressively realise economic social and cultural rights. A measure is retrogressive if it diminishes the enjoyment of a right's full normative content, including its availability, accessibility, acceptability, adaptability, or quality. For example, water disconnection, cuts to social security payments, and insufficient maintenance of infrastructure necessary for social service provision, are all retrogressive measures incompatible with the Charter. The delegation of resources to a private actor will also be a retrogressive measure if it fails to meet the conditions outlined in Section 5 below.'	• ESCR • Retrogressive measures • Burden of proof • MAR • Progressive realisation
ACHPR. General Comment 7	29	'If retrogressive measures are taken, the State must demonstrate that the measures: - are temporary in nature and effect, and remain in place only as long as they are necessary, while being extendable upon review; - pursue a legitimate aim, in accordance with the aims set out in Article 27(2) of the Charter; - are necessary, in the sense that a failure to act or the adoption of any other policy would be more detrimental to the legitimate aim pursued; - are proportionate, in that they must be justifiable after careful consideration of all less restrictive alternatives; are non-discriminatory, in the sense that they do not disproportionately affect the rights of vulnerable and marginalised groups, and can mitigate against the inequalities that can emerge in times of crisis; - involve the full and effective participation of affected groups; and protect the core content of economic, social and cultural rights at all times.'	• ESCR • Characteristics of retrogressive measures
ACHPR. General Comment 7	38	'Under Article 1 of the Charter, States must take 'legislative or other measures' to give effect to economic, social and cultural rights, to their maximum available resources. This requires States to use all resources, existing and potential, including natural, human, technological, institutional and informational resources. To execute this obligation, States must: impose laws and policies to support resource mobilization, budget allocation and spending in order to fund the provision of public social services; collect, generate, and disseminate the necessary data and information to support the design and implementation of appropriate legislation, policies, programmes and budgets to advance the provision of public social services; ensure that budgets are systematically planned, enacted, implemented and accounted for at the national and subnational levels of the State; and mobilise, allocate and utilise public resources to fully implement approved legislation, policies, programmes and budgets relevant to the provision of public social services, including resources mobilised through: primarily domestic resources, such as fair and progressive taxation and other domestic income generating mechanisms; expansion of the revenue base; reallocation of public expenditure; elimination of illicit financial flows, corruption, tax evasion, and tax avoidance; the use of fiscal and foreign exchange reserves; the management of debt by borrowing or restructuring existing debt; the development and adoption of an accommodating macroeconomic framework; or	• ESCR • MAR • Domestic resource mobilisation • Fair and progressive taxation • Illicit financial flows • Corruption • Combat tax evasion and avoidance • Fiscal and foreign exchange reserves • Debt management • International assistance and cooperation

(ii) international assistance and co-operation.'			
Immediate obligation			
General Comment 5 on "State Party Obligations under the African Charter on the Rights and the Welfare of the Child (Article 1) and Systems Strengthening for the Child Protection. (ACERWC, General comment 5)	Part II, pages 4-5.	The concept of "implementation" is embedded in all human rights laws, declarations and resolutions. It refers to a crucial matter: giving effect to the provisions and principles of these instruments. In turn, this involves taking a wide range of measures to combat deprivation, provide protection, enhance access to quality basic services, and improve the overall safety and wellbeing of every individual child. Implementation covers the process whereby governments take the necessary legal, policy, budgetary, administrative and other appropriate measures to ensure the full realisation of all children's rights stipulated in the CRC, the African Children's Charter and other relevant national, regional and international human rights laws and instruments pertaining to children to ensure the wellbeing of all children. Implementation and enforcement can be seen as synergistic concepts. In relation to the International Covenant on Civil and Political Rights, the Human Rights Committee has defined the meaning of "obligation" saying that "[a] general obligation is imposed on States Parties to respect the Covenant rights and to ensure them to all individuals in their territory." In relation to the African Children's Charter, the overarching state party "obligation" is to respect Charter rights and to ensure fulfilment of all Charter rights to all children in their territory.'	• Rights of the child • Immediate obligation • Implementation • Measures (legal, policy, budgetary, administrative, etc)
ACERWC, General comment 5	Part III. Page 6	'[...]As the emerging jurisprudence of this Committee shows, the Committee believes that economic, social and cultural rights should be justiciable in the same way as are civil and political rights. Moreover, whatever their economic circumstances, States Parties are required to undertake all possible positive measures towards the realization of the rights of the child contained in the African Children's Charter, paying special attention to the most disadvantaged and marginalised groups. This necessarily implies progressive realization in the implementation of some Charter Rights, including economic social and cultural rights but also some civil, political and protection rights, as many African states are still improving the human rights fulfilment of their citizens.'	• Justiciability of ESCR • Immediate obligation • Take steps • Progressive realisation
ACERWC, General comment 5	Para 3.6	The Committee emphasizes that, as part and parcel of a rights-based approach, States Parties must see their duty as fulfilling applicable legal obligations to each and every child. Implementation of the human rights of children must not be seen as a charitable process, bestowing favours on children. The clear meaning of "shall recognize" as contained in Article (1) is peremptory, underling the rights-based approach. Furthermore, there is no hierarchy of rights within the African Children's Charter- all rights are equally important and must be implemented immediately. Progressive realisation should not mean postponement of implementation. Progressive realization must be understood in the context of the urgency required to fulfil children's rights.'	• Rights of the child • Immediate obligation • Urgency to fulfil children's rights
ACERWC, General comment 5	4.1	This non-discrimination obligation requires States Parties to actively identify individual children and groups of children in respect of whom the recognition and realization of their rights may demand special measures. The application of the non-discrimination principle of equal access to all rights does not mean identical treatment. It may require taking special measures in order to diminish or eliminate conditions that cause discrimination, whether it is discrimination in the context of civil or political rights, in relation to the fulfilment of social, economic and cultural rights, or in relation to specific measures of protection. [...] States Parties should recognise that implementation of the African Children's Charter rights will require dedicated additional resources, and should strive consciously to identify such resources, to the maximum extent feasible, that can be devoted to implementation.'	• Rights of the child • Immediate obligation • Non-discrimination • MAR
Progressive realisation			
ACHPR, General Comment 7	26	'In recent years, the concept of 'progressive realisation' has been misused by some States to evade their obligations under the Charter to justify successive failures to ensure the universal provision of social services. As a result, many communities have endured decades of deprivation, as they wait for water, healthcare and other social services that never arrive. In the Commission's view, much	• ESCR • Misuse of progressive realisation • Lack of will

		of this slow progress is the result of a lack of will, rather than a lack of capacity. These unreasonable delays – and the political inertia that prolongs them – is incompatible with the State obligation to progressively realise economic, social, and cultural rights.'	
ACHPR, General Comment 7	27	'Progressive realisation does not allow States to implement their obligations with piecemeal improvements. Instead, it prescribes a comprehensive obligation to take a series of immediate steps that achieve visible results , which can be assessed against predetermined benchmarks, with objectives that evolve over time. To achieve this, States must set short, medium and long-term goals to ensure the availability, accessibility, acceptability and quality of social services for all , while addressing inequality in the enjoyment of the services between different categories of individuals and communities. States must ensure that a larger number and wider range of persons must have access to all economic, social and cultural rights over time to comply with this obligation. Accordingly, States must outline a clear national strategy for the provision of each social service, detailing concrete benchmarks and specific activities in order to achieve provision of social services within a definite timeframe. These strategies must impose safeguards for temporal accountability. These safeguards must specify clear timeframes for project completion and accountability mechanisms to address unreasonable delays.'	• ESCR • Progressive realisation • Take steps • Ensure availability, accessibility, acceptability and quality of social services • National strategy
ACERWC, General comment 5	Part III. Page 6-7	'[...] [T]he Committee underlines that there is no reference in Article 1 to "progressive realisation of rights", or to the degree of realisation within the "maximum extent" of available resources. These phrases have often been adduced with respect to the fulfilment of social and economic rights which appear, at first glance, to entail more intensive dedication of resources, and which also require investment in the systems needed for their administration or delivery (e.g. health systems, educational systems, and systems for the disbursement of poverty alleviation measures such as social cash transfers). The Committee is, of course, fully aware that social spending in State parties in African context oftentimes proceeds off a low base, with reference to the situation that prevailed during the structural adjustment era of the 1980s and 1990s when the African Children's Charter was being adopted. Nevertheless, whilst being aware of fiscal realities, the Charter standards were set intentionally - they do not allow states parties to claim that they do not have any resources for the implementation of social and economic goods for the fulfilment of children's rights. This General Comment urges State Parties, whatever their economic resource base, to comply at least with previously agreed targets relating to social spending (e.g. 15% of GDP on health according to the Abuja Declaration; 9% of GDP on education according to the Dakar Declaration; and 20% of Overseas Development Assistance must go on basic social services), and to include such information in their State Party reports.'	• ESCR • Progressive realisation • MAR • Structural adjustment programmes • International benchmarks for health and education
Domestic Resource Mobilisation and Transparency			
ACHPR, General Comment 7	35	'Human dignity, which is a pillar upon which the African Charter is founded, is denied when individuals have no access to social services. Under international human rights law, the State must ensure an effective system for the provision of quality social services in order to respect, protect, promote, and fulfil their obligations with regards to human rights. Although States have reasonable discretion when designing their systems for social service provision, there should always be a quality public option. This system should be adequately funded, democratically controlled, and non-commercial in nature.'	• ESCR • Fund quality social services (public services) • Respect, protect, promote and fulfil human rights
ACHPR, General Comment 7	37	'The obligation to provide public social services cannot be realised without sufficient resources being mobilised, allocated and spent in an accountable, effective, efficient, equitable, participatory, transparent and sustainable manner. Prioritising social services in budgetary policy contributes not only to realising the rights in the Charter, but also has a strong correlation with economic growth and sustainable development. Hence, all structures in government with a role in devising public budgets should exercise their functions in a way that realises the rights guaranteed in the Charter.'	• ESCR • Resource mobilisation and allocation • Public social services (public services)
ACHPR, General Comment 7	39	' When budgeting for public social services, States should allocate resources in a manner that reduces inequalities in the enjoyment of social services between different groups. This requires States to make evidence-based, per capita allocations for different groups,	• ESCR • Resource mobilisation and allocation

		disaggregated by age, social and economic status, geography, ethnicity, income, gender, disability, and other grounds. Where social service obligations are shared between a national government and a subnational government, States should ensure that sub-national governments have sufficient funding to meet all the economic, social, and cultural obligations delegated to it. These funds should be dispersed fully, in compliance with the applicable legislation, as soon as possible, to avoid any delay in social service delivery.'	• Reduction of inequality • Public social services (public services)
ACHPR, General Comment 7	40	'Further, States should ensure that spending does not fall below the level required by domestic or international funding commitments , such as the percentage of gross domestic product earmarked in development goals. States must also allocate sufficient funds to deliver social services during emergencies, including the outbreak of war, natural disasters or public health crises. States must take proactive steps to ensure the provision of social services even during social, political or economic crisis. '	• ESCR • Resource mobilisation and allocation • Crisis • Social services (public services)
ACHPR, General Comment 7	41	'Public resources dedicated to social service provision should be managed efficiently, to realise the States obligation to respect, protect, promote, and fulfil human rights. Approved expenditures should be executed in line with the enacted budget. Goods and services to advance human rights should be procured and delivered transparently and on time, and be of appropriate quality. States parties should make efforts to overcome institutional barriers that impede efficient spending. Monitoring, evaluation and auditing of public funds should provide checks and balances that promote sound financial management. [...] (i) What constitutes 'efficient spending' must be evaluated on the basis of human rights, and not exclusively in terms of financial cost. In most hospitals, financial cost per treatment is often treated as a major indicator of efficiency. As a result, administrators tend to make short-term efficiency gains by reducing the amount of time a patient spends in hospitals. However, many patients require further care at home, which is often provided, unpaid, by their families. Therefore, efficiency may appear to increase as the cost of treating each patient decreases, but these apparent cost savings are borne by the relatives, who must reduce their time for other activities (such as sleep, school, and paid work) to care for their family members. Since most caretakers are women and girls, some measures that appear as 'efficient' can have negative ripple effects on the rights to education, to play, to seek work and human development.'	• ESCR • Public resources • Budget • Efficient spending • Social services (public services)
ACHPR, General Comment 7	42	'Further, all expenditure should be justified by appropriate procurement processes. States have an obligation to uncover and remedy the root causes of ineffective and inefficient public spending, for example, poor quality of goods or services, inadequate financial management or procurement systems, leakages, untimely transfers, unclear roles and responsibilities, poor absorptive capacity, weak budget information systems and corruption. When States parties waste or mismanage resources aimed at advancing or implementing human rights, they have an obligation to explain why this has occurred and show how the causes have been addressed, their effects remedied, and which safeguards have been implemented to ensure non-repetition. States must eliminate wasteful expenditure. Expenditure is wasteful when: (a) it is not used for its intended purpose; (b) the government pays more than required for goods and services, or where it procures goods and services of inadequate quality; (c) its underlying allocations are not justified by evidence; or (d) it duplicates other expenditure.'	• ESCR • Ineffective and inefficient public spending • Wastage and mismanagement of resources • Wasteful expenditure
ACERWC, General comment 5	6.3.1	'State Parties to the Charter must design and implement child sensitive national budgeting by developing and using tools for making children visible in budgetary processes at the national and sub-national levels including in the context of international cooperation, and in the context of regional economic imperatives. As previously endorsed by the CRC Committee, sustainable public finances budgets must be agreed through effective, efficient, equitable, transparent and evidence-based financial spending plans. The implementation of the Charter requires that cognisance of the rights of the Child be taken at all stages of the public budgeting process : planning, enacting, executing	• ESCR - Rights of the child • Resource mobilisation and allocation • Budget • Fulfilment of rights • Debt financing • Public investments

		and budget tracking, and follow up. Fulfilment of children's rights requires States Parties to take measures that equip all levels and structures of the executive, legislature and judiciary with the resources required to advance the rights of children in an equitable and sustainable manner. They are expected to demonstrate that they have mobilized, allocated and spent budgets to maximise the fulfilment of all children's rights; all too often, monies allocated for critical children's rights such as education and health remain underspent, and States must therefore pay particular attention to the absorption capacity of executing entities to ensure that available resources are in fact utilised. They must obviously avoid dissipating available resources through wastage corruption and by permitting rent-seeking practices to proliferate. Since the implementation of children's rights is ongoing, there is a need to take future generations into account in the budgeting process, and ensure that multi-year revenue streams are available for projected spending needs. Costly, fanciful and unnecessary expenditure on "white elephants" and the trappings of power should be avoided if they have the likely effect of diminishing available resources for future generations. This Committee has previously commented adversely upon excessive spending on the military and military equipment which has the effect of denuding the public purse for children's rights. Debt financing is another drain on available resources - generally, government spending in Africa has risen rapidly, but revenues have regressed, leading to growing deficits, resulting in debt financing, which prejudices what is available to fulfil children's rights. There are important principles which inform the budgeting process from a child rights perspective. These include: • Enhancing an equity focus in budgeting: In line with the principle of non- discrimination in the Charter States should ensure that public investment in children creates equal opportunities for all children to realize their rights. To achieve equity in public spending, states should develop fiscal policies that will ensure that poorest and most excluded children are reached with essential services for their survival, learning and protection. These include: girls, internally displaced children, refugees, children affected by disasters and conflict, children without appropriate care, children with disabilities and orphaned children. • Removing financial barriers that hinder children from accessing essential services: states should remove cost barriers to basic services, including through Universal Health Coverage and free quality pre-primary and primary education. • Ensuring minimum financial security for all children through child-sensitive social protection approaches. • Ensuring the budget classification systems allow for the allocations to child focused programs to be identified: states should develop clear budget classification systems, that allow States and other entities to monitor how budget allocations and actual expenditures on children are allocated and utilized. This calls for budget lines and codes which, at a minimum, disaggregate all planned, enacted, revised and actual expenditures that directly affect children by age, gender, programme, geographic location, and administrative units. • States Parties should create opportunities for citizens, including children, to actively participate in fiscal and public finance management processes and to hold governments to account for their decisions and actions. To enable meaningful participation in the budget process, States should ensure children have access to user-friendly budget documents. • States Parties should ensure that children's rights are deliberately reflected and adequately catered for in all donor aid agreements, including with global finance institutions.	• Principles that inform the budgeting process
ACERWC General comment 5	6.3.2	'The availability of resources depends crucially on effective taxation systems being put in place. This enables governments to tap into domestic revenues, which is then also sustainable for future generations. With many African countries developing mining, oil and gas industries, rapid escalation of digital connectivity and increasing urbanisation of the population, it becomes crucial to invest in robust tax collection systems, which can also monitor outflows and detect and react to illicit financial drain. Where foreign multinationals operate in a State party, it should be required of them to report annually on the profits earned in that individual state party, and the rate of tax paid to the incumbent State Party, rather than reporting an	• ESCR - Rights of the child • Domestic resource mobilisation • Taxation • Monitor outflows • Illicit financial flow • Base erosion and profit shifting • Loopholes • Tax dodging • Multinationals

		aggravated total for the company as a whole, so that taxes due to the country in which the profits were made are obscured. State Parties should furthermore adopt measures in their taxation systems to mitigate against base erosion and profit shifting, which result in missed opportunities for tax collection, and fewer resources available to fulfil children's rights. Leakage of potential tax revenues through aggressive tax planning schemes and mispricing should be curbed to the extent possible. Loopholes in policies and laws that allow for treaty shopping and other manifestations of tax dodging should be eliminated. Taxes should be designed in such a way that the burden of taxation does not fall disproportionately on the poor.'	
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VI. Regional Principles and Statements

Instrument	Provision	Extract	Keywords
Maximum Available Resources (MAR) and Non-Retrogression			
African Commission on Human and Peoples' Rights (ACHPR), Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights	20	'Measures that reduce the enjoyment of economic, social and cultural rights by individuals or peoples are prima facie in violation of the African Charter. Any such measures must be justified in the light of the totality of the rights provided for in the African Charter and in the context of the full use of the maximum available resources. In this context available resources refers to both the State's own resources and international assistance and cooperation (see paragraph XX below.) In determining whether a state party has violated the Charter by implementing a retrogressive measure the Commission will consider whether: - there was reasonable justification for the action; alternatives were comprehensively examined and those which were least restrictive of protected human rights were adopted; - there was genuine participation of affected groups in examining the proposed measures and alternatives; - the measures were directly or indirectly discriminatory; - the measures would have a sustained impact on the realisation of the protected right; - the measures had an unreasonable impact on whether an individual or group was deprived of access to the minimum essential level of the protected right; and there was an independent review of the measures at the national level.'	- ESCR - MAR - Retrogressive measures - Characteristics of retrogressive measures
Immediate Obligations			
ACHPR, Principles and Guidelines of ESCR in the African Charter	2	'Article 1 of the Charter requires State Parties to "recognise" the rights, duties and freedoms enshrined in the Charter, and "to adopt legislative or other measures to give effect to them." Such measures include providing for the protection and realisation of economic, social and cultural rights through constitutional rights and institutions, legislative, policy and budgetary measures, educational and public awareness measures and administrative action as well as ensuring appropriate administrative and judicial remedies for the violation of these rights.'	- ESCR - Immediate obligations - Protection and realisation of ESCR
ACHPR, Principles and Guidelines of ESCR in the African Charter	16	'Despite the obligation to progressively realise economic, social and cultural rights, some of the obligations imposed on States parties to the African Charter are immediate upon ratification of the Charter. These obligations include but are not limited to the obligation to take steps, the prohibition of retrogressive steps, minimum core obligations and the obligation to prevent discrimination in the enjoyment of economic, social and cultural right.'	- ESCR - Immediate obligations - Take steps - Non-retrogression - Minimum core obligations - Non-discrimination
ACHPR, Principles and Guidelines of ESCR in the African Charter	18	'All States parties have immediate obligations to take steps, in accordance with a measurable national plan of action, towards the realisation of the protected economic, social and cultural rights. The measures adopted should be deliberate, concrete and targeted as clearly as possible towards ensuring enjoyment of the rights protected in the African Charter. States parties are obliged to take legislative measures for the protection of economic, social and cultural rights. However, these measures will generally not be sufficient. States Parties are also obliged to allocate sufficient resources within national budgets towards the realisation of each right.'	- ESCR - Immediate obligations - Take steps - Plan of action
ACHPR, Principles and Guidelines of ESCR in the African Charter	19	'Article 2 of the African Charter prohibits any discrimination in the enjoyment of the protected rights on the following non-exhaustive grounds including race, ethnic group, colour, sex/gender, language, religion, political or any other opinion, national and social origin, economic status and birth. Thus, any discrimination against individuals in their access to or enjoyment of economic, social and cultural rights on any of the prohibited grounds is a violation of the African Charter. Discrimination includes any conduct or omission which has the purpose or effect of nullifying or impairing the equal access to and enjoyment of economic, social and cultural rights. The	- ESCR - Immediate obligation - Non-discrimination

		obligation to protect the individual from discrimination is immediate.'	
ACHPR, Principles and Guidelines of ESCR in the African Charter	17	'States parties have an obligation to ensure the satisfaction of, at the very least, the minimum essential levels of each of the economic, social and cultural rights contained in the African Charter. The minimum core obligation is the obligation of the State to ensure that no significant number of individuals is deprived of the essential elements of a particular right. This obligation exists regardless of the availability of resources and is non-derogable. When a State claims that it has failed to realise minimum essential levels of economic, social and cultural rights it must be able to show that it has allocated all available resources towards the realisation of these rights, and particularly towards the realisation of the minimum core content. Where the State does suffer from demonstrable resource constraints, caused by whatever reason, including economic adjustment, the State should still implement measures to ensure the minimum essential levels of each right to members of vulnerable and disadvantaged groups, particularly by prioritising them in all interventions. While the obligation to realise the minimum core content of the rights means that the state should prioritise the realisation of the rights for the poorest and most vulnerable in society it does not remove the obligation to progressively realise the rights for all individuals.'	• ESCR • Immediate obligations • Minimum obligations core
Progressive Realisation			
ACHPR, Principles and Guidelines of ESCR in the African Charter	13	'The obligation to progressively and constantly move towards the full realisation of economic, social and cultural rights, within the resources available to a State, including regional and international aid, is referred to as progressive realisation. While the African Charter does not expressly refer to the principle of progressive realisation this concept is widely accepted in the interpretation of economic, social and cultural rights and has been implied into the Charter in accordance with articles 61 and 62 of the African Charter. States parties are therefore under a continuing duty to move as expeditiously and effectively as possible towards the full realisation of economic, social and cultural rights.'	• ESCR • Progressive realisation • MAR • Move as expeditiously and effectively as possible
ACHPR, Principles and Guidelines of ESCR in the African Charter	14	'The concept of progressive realisation means that States must implement a reasonable and measurable plan, including set achievable benchmarks and timeframes, for the enjoyment over time of economic, social and cultural rights within the resources available to the state party. Some obligations in relation to progressive realisation are immediate. For example, States have an obligation to take concrete and targeted steps to realise economic, social and cultural rights. The essential needs of members of vulnerable and disadvantaged groups should be prioritised in all resource allocation processes.'	• ESCR • Progressive realisation • MAR • Plan of action
ACHPR, Principles and Guidelines of ESCR in the African Charter	15	'States need sufficient resources to progressively realise economic, social and cultural rights. There are a variety of means through which states may raise these resources, including taxation. The duty of the individual to pay taxes imposed by the African Charter implies that there is an obligation on the State to institute an effective and fair taxation system and a budgeting process that ensures that economic, social and cultural rights are prioritised in the distribution of resources.'	• ESCR • Progressive realisation • Sufficient resources • Effective and Fair taxation and budgeting process
Right to Education			
ACHPR, Principles and Guidelines of ESCR in the African Charter	71	'a. To ensure that all children enjoy their right to free and compulsory primary education. No children should be denied this right because of school fees or related costs of education. Special measures may be required to ensure that children belonging to disadvantaged or vulnerable groups receive free primary education. To achieve this objective states are bound to progressively increase the amount of national resources allocated to education. b. To implement policies to eliminate or reduce the costs of attending primary school which include the provision of stipends, providing free or subsidised uniforms (or lifting of uniform requirements), provision of free textbooks, provision of free or subsidised transportation or free school meals to encourage the attendance of poor children at school.	• Right to education • Right to free and compulsory primary education • Right to secondary education • Right to higher education • Direct and indirect fees or costs of education • Progressive increase of national resources allocated to education

		c. To develop a system at all levels that ensures that education is physically and economically accessible to everyone (including the provision of finance, the building of schools and the provision of educational materials), establishing an adequate scholarship and/or fellowship system, ensuring continued education for teachers and instructors including education on human rights, and continuously improving the conditions of service and level of training of teaching staff. d. To ensure that secondary education is made generally available and accessible to all by all appropriate means, and in particular by the progressive introduction of free education. States shall ensure that secondary education is not dependent on a student's apparent capacity or ability and that secondary education will be distributed throughout the State in such a way that it is available on the same basis to all. e. To ensure that higher education is made generally available and accessible to all, on the basis of capacity, by all appropriate means, and in particular by the progressive introduction of free education."	Progressive realisation of free secondary and higher education
Right to Health			
ACHPR, Principles and Guidelines of ESCR in the African Charter	67	The minimum core obligations of the right to health include at least the following: a. Ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalised groups; [...]	- Right to health - Minimum core obligations - Non-discrimination
ACHPR, Principles and Guidelines of ESCR in the African Charter	67	'[...] f. Adopt and implement a comprehensive national public health strategy and plan of action. This plan should include special attention to basic and primary health care, and specific measures to ensure coverage of all age groups including in particular in marginalised urban and rural areas. g. Set a target of allocating at least 15% of their annual budget to the improvement of the health sector. An appropriate and adequate portion of this amount must be put at the disposal of the national authorities responsible for the fight against malaria, HIV/AIDS, tuberculosis and other related diseases. [...]	- Right to health - National strategy - Plan of action - Regional 15% annual budget benchmark
ACHPR, Principles and Guidelines of ESCR in the African Charter	67	'[...] bb. Introduce, where necessary, national health insurance to ensure that individuals, especially those belonging to vulnerable and disadvantaged groups, are not prevented from accessing health care services and goods. cc. Adopt and implement policies that ensure that members of vulnerable and disadvantaged groups have access to medicines. Appropriate legislation and international trade regulation and cooperation should be utilised towards the establishment of scientifically sound pharmaceutical industries in Africa with particular emphasis on local African production for self-reliance in drug industries. This should include utilising parallel importation and compulsory licensing for medicines where available and applicable, to ensure the availability of drugs and technologies at affordable prices for treatment, care, and prevention of epidemic, endemic, occupational and other diseases including malaria, HIV/AIDS tuberculosis and other infectious diseases. States parties shall also take immediate action to use tax exemption and other incentives to reduce the prices of drugs and all other inputs in health care services for accelerated improvement of the health of individuals and peoples.'	- Right to health - Non-discrimination - National health insurance - Access to medicine

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The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) is an international non-governmental organisation. Together with partners around the world, GI-ESCR works to end social, economic and gender injustice using a human rights approach.

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