



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

**Briefing Paper:
Human Rights and Budgeting**

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1.0 Introduction

- 1.1 The NI Human Rights Commission (the NIHRC) is a statutory public body established in 1999 to promote and protect human rights. In accordance with the Northern Ireland Act 1998, the Commission reviews the adequacy and effectiveness of law and practice relating to the protection of human rights in Northern Ireland (NI).
- 1.2 This briefing paper explores the connection between government budgets and their responsibilities to respect, protect, and fulfil human rights. Human rights monitoring bodies increasingly emphasise the critical role of public budgets in advancing people’s rights—particularly those of marginalised or excluded groups, such as women, children, persons with disabilities, and minorities. The paper aims to better enable government officials to be guided by their human rights obligations at each stage of the budgeting process, including formulation, allocation, implementation, and monitoring. It also provides civil society organisations with insights into the relationship between human rights and budgeting, enabling them to hold governments accountable.
- 1.3 The following section explores how human rights standards provide a normative framework for complex decision-making on government budgets, while human rights principles provide operational parameters within which the development and implementation of fiscal policies should operate. The subsequent sections set out the NI budgetary context and demonstrate how to implement human rights budgeting in NI.

2.0 International Human Rights Framework

- 2.1 International human rights law imposes a general commitment on States to secure enjoyment of human rights, which includes “positive obligations”. This means that the State’s duty to guarantee effective enjoyment of human rights goes beyond ensuring that the government itself respects rights. The State must also take reasonable measures to prevent human rights abuses.¹ This includes legislative, judicial, administrative, budgetary, economic, and other measures, such as the provision of

¹ For example, by enacting laws and securing their effective enforcement, through education, information, monitoring and, where necessary, the deployment of sanctions.

essential public services and institutions.²

- 2.2 Economic policy is not exempt from the duty on the UK Government and NI Executive to secure enjoyment of human rights.³ Protecting the rights of those already marginalised becomes particularly pertinent during times of economic downturn, so as not to compound pre-existing patterns of exclusion and discrimination.⁴ Growing jurisprudence from human rights treaty bodies demonstrates in detailed and concrete terms how the allocation of resources impacts human rights protection. For example, the Committee on the Rights of the Child,⁵ the Committee on the Elimination of Discrimination against Women,⁶ and the Committee on the Rights of Persons with Disabilities⁷ have all highlighted the impact of UK austerity measures on human rights within the margins of their specific mandates.
- 2.3 The NIHRC acknowledges that budgeting processes require complex analysis and governments enjoy a wide margin of appreciation in respect of the specific circumstances.⁸ However, international human rights standards and principles can provide an invaluable framework that supports and improves budgeting processes, while demonstrating the government's clear commitment to human rights obligations. Central to this framework are the standards set out in the International Covenant on Economic, Social and Cultural Rights, which are examined in detail below.

International Covenant on Economic, Social and Cultural Rights (ICESCR)

- 2.4 Article 2(1) of the ICESCR requires States to "take steps...to the maximum of its available resources, with a view to achieving progressively the full

² For example, see: 'UN CEDAW Committee General Recommendation No.24 on Women and Health (Article 12)', 2 February 1999, at para 17; CRC/C/GC/14, 'UN CRC Committee General Comment No.14 on the right of the child to have his or her best interests taken a primary consideration', 29 May 2013, at para 10; CRPD/C/18/1, 'UN CRPD Committee General Comment No.19 on Article 19: Living independently and being included in the community', 29 August 2017, at para 54.

³ A/HRC/40/57, 'Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights: Guiding principles on human rights impact assessments of economic reforms', 19 December 2018, at para 5; Council of Europe Commissioner for Human Rights, 'Safeguarding human rights in times of economic crisis' (CoE, 2013), at 7.

⁴ E/1990/23, 'ICESCR Committee General Comment No.2: International technical assistance measures', 2 February 1990, at para 9; Council of Europe Commissioner for Human Rights, 'Safeguarding human rights in times of economic crisis' (CoE, 2013), at 7.

⁵ See CRC/C/GBR/CO/5, 'UN Committee on the Rights of the Child, Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 3 June 2016; and CRC/C/GBR/CO/6-7, 'UN Committee on the Rights of the Child, Concluding Observations on the combined sixth and seventh reports of the UK of Great Britain and NI', 2 June 2023, at para 11.

⁶ CEDAW/C/GBR/CO/8. 'UN Committee on the Elimination of Discrimination against Women Concluding Observations on the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland' 8 March 2019, at para 17.

⁷ CRPD/C/GBR/CO/1, 'UN Committee on Rights of Persons with Disabilities Concluding Observations on the Initial Report of the United Kingdom of Great Britain and Northern Ireland', 3 October 2017, at para 59(b).

⁸ Council of Europe Commissioner for Human Rights, 'Safeguarding human rights in times of economic crisis' (CoE, 2013), at 7.

realisation of the rights recognised in the present Covenant". In General Comment No.3, the ICESCR Committee advises that the concept of progressive realisation is an ongoing obligation on governments to "move as expeditiously and effectively as possible" toward full implementation of all economic, social and cultural rights.⁹ Therefore, any retrogressive measures must only be applied in exceptional circumstances and only after careful consideration of all alternatives.¹⁰

2.5 In General Comment No.13, the ICESCR Committee elaborates:

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.¹¹

2.6 Even in times of severe resource constraints, the ICESCR Committee advises there are "minimum essential levels" of each right that States must guarantee. For example, essential foodstuffs, essential primary healthcare, basic shelter and housing, or basic forms of education. Therefore, States 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".¹²

2.7 The Commission reiterates that a fundamental obligation remains on governments "to strive to ensure the widest possible enjoyment" of ICESCR rights.¹³ The ICESCR Committee emphasises that, in particular, "the vulnerable members of society can and indeed must be protected by the adoption of relatively low-cost targeted programmes".¹⁴ This reflects the principle of non-discrimination and equality in Article 2(2) of the ICESCR, as people who face the biggest barriers to realising their rights must be prioritised. The prohibition of discrimination is expressly recognised in all core international human rights treaties and is a non-

⁹ E/1991/23, 'ICESCR Committee General Comment No.3: The nature of State Parties' obligations', 14 December 1990, at para 9.

¹⁰ E/C.12/GC/21, 'ICESCR Committee General Comment No 21: Right of Everyone to Take Part in Cultural Life', 21 December 2009, at para 65; E/C.12/GC/19, 'ICESCR Committee General Comment No 19: The Right to Social Security', 4 February 2008, at para 42; E/C.12/GC/18, 'ICESCR Committee General Comment No 18: The Right to Work', 6 February 2006, at para 21; E/C.12/GC/17, 'ICESCR Committee General Comment No 17: The Right of Everyone to Benefit from the Protection of the Moral and Material Interests Resulting from Any Scientific, Literary or Artistic Production of which He or She is the Author', 12 January 2006.

¹¹ E/C.12/GC/14, 'ICESCR Committee General Comment No.14 on the right to education', 11 August 2000, at para 45.

¹² E/1991/23, 'ICESCR Committee General Comment No.3: The nature of State Parties' obligations', 14 December 1990, at para 10.

¹³ Ibid, at para 11.

¹⁴ Ibid, at para 12.

derogable right. This means it cannot be suspended or limited for any reason, including budget constraints.

- 2.8 Article 3 of the ICESCR requires governments to ensure equality between men and women. The UN Convention on the Elimination of Discrimination Against Women (CEDAW) provides a more detailed elaboration of this obligation, which is supported by guidance from the CEDAW Committee.¹⁵ Through General Recommendation No. 40, the CEDAW Committee emphasises the importance of gender-responsive budgeting, often referred to as gender-budgeting.¹⁶ Gender budgeting is a tool to address human rights inequalities because it demonstrates how budgets can disproportionately affect genders and be affected by gender. Its focus is to allocate and use public finances to achieve the best outcome for everyone thereby better ensuring equality across society. Therefore, the Commission considers gender budgeting an integral aspect of implementing a human rights based approach to budgeting more generally. Rather than competing, these frameworks are mutually reinforcing and can draw from one another in terms of best practice.¹⁷ For example, each approach emphasises the importance of assessing the differential impact of government budgets on different groups, including through the collection and monitoring of disaggregated data.
- 2.9 In response to the 2008 global financial crisis, the then Chair of the ICESCR Committee wrote an open letter to all State Parties advising that any proposed policy change or adjustment should meet the following requirements:

First, the policy is a temporary measure covering only the period of crisis; second, the policy is necessary and proportionate, in the sense that the adoption of any other policy, or a failure to act, would be more detrimental to economic, social and cultural rights; third, the policy is not discriminatory and comprises all possible measures, including tax measures, to support social transfers to mitigate inequalities that can grow in times of crisis and to ensure that the rights of the disadvantaged and marginalised individuals and groups are not disproportionately affected; fourth, the policy identifies the minimum core content of rights, or a social protection floor as

¹⁵ CEDAW/C/GC/40, 'UN CEDAW Committee: General recommendation No. 40 (2024) on the equal and inclusive representation of women in decision-making systems', 25 October 2024.

¹⁶ CEDAW/C/GC/40, 'UN CEDAW Committee: General recommendation No. 40 (2024) on the equal and inclusive representation of women in decision-making systems', 25 October 2024, at para 47.

¹⁷ Office of the UN High Commissioner of Human Rights, 'Realising Human Rights through Government Budgets' (OHCHR, 2017), at 32.

developed by the International Labour Organisation, and ensures the protection of this core content at all times.¹⁸

2.10 In 2016, the ICESCR Committee highlighted serious concerns about the disproportionate and adverse impact of UK austerity measures. It reminded that “such measures must be temporary, necessary, proportionate and not discriminatory, must not disproportionately affect the rights of disadvantaged and marginalised individuals and groups and respect the core content of rights”.¹⁹ It recommended that the UK Government and NI Executive “conduct a comprehensive assessment of the cumulative impact of these measures on the enjoyment of economic, social and cultural rights by disadvantaged and marginalised individuals and groups, in particular women, children and persons with disabilities, that is recognised by all stakeholders”.²⁰

Human Rights Principles

2.11 The Universal Declaration of Human Rights established that all human rights are universal, indivisible and interdependent. This means that all rights - civil, political, economic, social, and cultural – are of equal importance and the full enjoyment of one set of rights depends on the realisation of the other. Accordingly, making progress in civil and political rights makes it easier to exercise economic, social and cultural rights. Similarly, violating economic, social and cultural rights can negatively affect many other rights.

2.12 The NIHRC frequently demonstrates this interdependence in its policy advice. For example, the NIHRC has advised the Department for Communities that cutbacks to social security delivery could interfere with ICESCR obligations, and in certain circumstances, risk interferences with the prohibition of inhuman or degrading treatment (Article 3, ECHR; Article 7, ICCPR; Article 2, UN CAT) the right to private and family life (Article 8, ECHR); and the prohibition of discrimination (Article 14, ECHR).²¹ This underlines the importance of conducting comprehensive assessments of the cumulative impact of budget proposals on the protection of human rights in NI.

¹⁸ Letter correspondence from Ariranga G. Pillay, Chairperson of Committee on Economic, Social and Cultural Rights to Member States, 16 May 2012.

¹⁹ E/C.12/GBR/CO/6, ‘UN Committee on Economic, Social and Cultural Rights, Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 14 July 2016, at para 19.

²⁰ Ibid.

²¹ NI Human Rights Commission, ‘Submission to the Department for Communities on its Budget 2023-24 Allocations’, (NIHRC, 2023).

- 2.13 In addition, there are cross-cutting human rights principles that have specific significance in relation to the more procedural aspects of government budgeting.²² UN General Assembly Resolution 67/218 recognised the critical role that transparency, participation and accountability in fiscal policies can play in pursuit of financial stability, poverty reduction, equitable economic growth and the achievement of sustainable development.²³ The importance of these principles in the effective governance of public budgets has been reaffirmed by key international actors, including the Global Initiative for Fiscal Transparency and the International Budget Partnership.²⁴
- 2.14 International human rights treaty bodies highlight the human rights implications of economic reform policies on one side and promote the relevance of human rights principles for the process and outcomes of public budgets on the other.²⁵ For example, in its latest examination of the UK Government and NI Executive, the UN CRC Committee recommended “transparent and participatory budgeting in which civil society, the public and children can participate effectively”.²⁶ The UN CRC Committee’s General Comment No.19 on public budgeting elaborates that meaningful participation requires “the right to access key budgetary documents such as pre-budget statements, budget proposals, enacted budgets, midterm reports, in-year reports and audit reports”.²⁷
- 2.15 The NIHRC considers that the following human rights principles should inform how NI Executive Departments should allocate, spend and audit the budget:

Participation: Measures should be taken to facilitate the active participation of rights holders.²⁸ This requires providing effective

²² Office of the UN High Commissioner of Human Rights, ‘Realising Human Rights through Government Budgets’ (OHCHR, 2017), at 17.

²³ A/RES/67/218, ‘UN General Assembly Resolution 67/218: Promoting transparency, participation and accountability in fiscal policies’, 20 March 2013.

²⁴ Global Initiative for Fiscal Transparency, ‘Principles and Guidance’. Available at: [Principles and Guidance – GIFT; International Budget Partnership, ‘Open Budget Survey’](#). Available at: [Open Budget Survey - International Budget Partnership](#).

²⁵ A/HRC/55/54, ‘Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Attiya Waris - Fiscal legitimacy through human rights: a principled approach to financial resource collection and allocation for the realization of human rights’, 16 January 2024, at para 14.

²⁶ CRC/C/GBR/CO/6-7, ‘Concluding observations on the combined sixth and seventh reports of the UK of Great Britain and NI’, 2 June 2023, at para 11(e).

²⁷ CRC/C/GC/19, ‘UN Committee on the Rights of the Child General Comment No. 19 on public budgeting for the realisation of children’s rights’, 20 July 2016, at para 55.

²⁸ Article 25, International Covenant on Civil and Political Rights.

opportunities for individuals to participate directly in public debate and discussion with respect to the formulation, implementation and evaluation of budgets. Steps should be taken to proactively engage individuals and groups who may experience exclusion, marginalisation or may be particularly vulnerable to the impacts of specific budgetary decisions.²⁹

Transparency: Closely linked to the right of access to information and essential to ensuring accountability, transparency requires governments to fully disclose timely, comprehensive and accessible information and make essential budget documents available to all key stakeholders.³⁰ This includes pre-budget statements, draft budgetary plans and audit reports. Transparency also requires governments to provide adequate justifications of policy choices to the population, particularly to those most likely to be affected by budgetary decisions.³¹

Accountability: Budgetary processes should not be arbitrary or discriminatory and must include accountability mechanisms for allocating and using the public budget. Individuals should be engaged at various stages of the process, particularly at the monitoring and evaluation stage.³² States should demonstrate that their proposed budgetary measures will realise, and not undermine, their human rights obligations.³³ That implies a duty to carry out human rights impact assessments to evaluate and address any foreseeable effects (including in terms of direct or indirect discrimination) of their budgetary allocations on human rights.³⁴ The

²⁹ A/HRC/55/54, 'Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Attiya Waris - Fiscal legitimacy through human rights: a principled approach to financial resource collection and allocation for the realization of human rights', 16 January 2024, at para 25.

³⁰ Article 19, International Covenant on Civil and Political Rights. See also: A/HRC/55/54, 'Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Attiya Waris - Fiscal legitimacy through human rights: a principled approach to financial resource collection and allocation for the realization of human rights', 16 January 2024, at para 20.

³¹ A/HRC/55/54, 'Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Attiya Waris - Fiscal legitimacy through human rights: a principled approach to financial resource collection and allocation for the realization of human rights', 16 January 2024, at para 20.

³² Office of the UN High Commissioner of Human Rights, 'Realising Human Rights through Government Budgets' (OHCHR, 2017), at 17.

³³ A/HRC/55/54, 'Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Attiya Waris - Fiscal legitimacy through human rights: a principled approach to financial resource collection and allocation for the realization of human rights', 16 January 2024, at para 28.

³⁴ A/HRC/55/54, 'Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Attiya

findings of the human rights impact assessments should be used to inform final budgetary decisions.

Summary

2.16 The following standards from ICESCR should guide the *content* of government budgets and ensure the mobilisation of resources protects the realisation of specific rights:

- Progressive realisation and ensuring the use of maximum available resources.
- Prohibition of retrogression and the responsibility of proving “careful consideration of all alternatives”.
- Protection of the “minimum essential levels” or the “core content” of each right.
- Prohibition of discrimination.

2.17 In addition, the following human rights principles should be reflected throughout the budgeting *process*, including in the development, implementation and monitoring of the budget:

- Participation
- Transparency
- Accountability

3.0 NI Budgetary Context

3.1 The NI Executive receives grants from the UK Government that fund most of its spending. The largest source of funding is known as the Block Grant, which is allocated on the basis of a calculation known as the Barnett Formula. The Barnett Formula calculates the annual change in the block grant and aims to give each nation the same pounds-per-person change in funding each year.³⁵ A much smaller portion of NI’s funding is obtained through other UK government grants, domestic and non-domestic regional rates, the European Union and other charges for services.³⁶

Waris - Fiscal legitimacy through human rights: a principled approach to financial resource collection and allocation for the realization of human rights’, 16 January 2024, at para 28.

³⁵ UK Parliament, ‘House of Lords Library - The Barnett formula: How it operates and proposals for change’. Available at: [The Barnett formula: How it operates and proposals for change - House of Lords Library](#)

³⁶ NI Audit Office, ‘The NI budget process’ (NIAO, 2021), at para 1.5.

3.2 In NI, public expenditure is split between Departmental Expenditure Limits (DEL), set annually by HM Treasury, and Annually Managed Expenditure (AME), primarily covering expenditure that can be difficult to forecast over a number of years, for example spending on pensions and social security.³⁷ AME spending is fully financed by the UK Government outside of the DEL envelope, except where the NI Executive enhances an AME programme beyond the level provided in the rest of the UK, any resulting costs must then be funded from the DEL budget.³⁸ For the purposes of this briefing, the use of the term 'NI Budget' refers to the financing and spending of the NI Executive covered by the DEL. It has three main components:

- Resource Departmental Expenditure Limit (Resource DEL): day-to-day spending on public services and administration (wages, utility bills etc);
- Capital Departmental Expenditure Limit (Capital DEL): investment into assets (infrastructure, buildings etc);
- Financial Transactions Capital: involves equity injections into or loans to private sector entities, including universities.

3.3 After HM Treasury sets a DEL budget for NI, it becomes the responsibility of the NI Executive to determine how these funds should be distributed among NI Executive Departments. This is achieved by preparing budget documents that detail the Executive's spending plans, which may cover a single year or multiple years. The Department of Finance has responsibility for formulating and publishing the NI Budget.³⁹ The process typically reflects the following stages:

- **Confirmation of HM Treasury funding**
- **Departmental Bidding Exercise:** Departments submit spending proposals to Finance Minister
- **NI Executive agree Draft Budget:** Finance Minister develops draft budget, setting out proposed allocations within overall funding envelope
- **Public consultation:** DoF launch an overarching 12 week consultation, which is followed by individual departmental consultations in line with their Equality Schemes

³⁷ NI Audit Office, 'The NI budget process' (NIAO, 2021), at para 1.3.

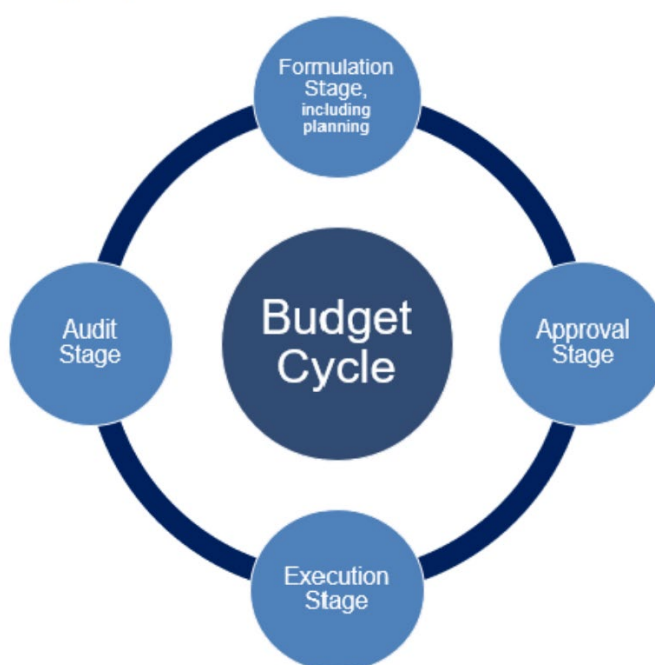
³⁸ Ibid.

³⁹ NI Assembly, 'Research and Information Service Briefing Paper: Executive Budget 2024-25: Allocations Paper 2 of 3 Part Series', (NIA, 2024).

- **NI Executive agree Final Budget:** Revised proposals brought to Ministers, agreement requires the assent of the majority
- **NI Assembly approve Final Budget:** Agreed proposals presented to Assembly for debate and scrutiny, once approved it becomes legal basis for expenditure.

3.4 The Department of Finance also controls a process called 'In-Year Monitoring' which provides an opportunity to review spending plans and Executive priorities during the year – typically occurring in June, October and January.⁴⁰ The Comptroller and Auditor General for NI is responsible for conducting external audits of NI departmental reports and year-end accounts, including financial audit and value for money audit, and the results are reported to the NI Assembly.⁴¹ In addition, the NI Fiscal Council "prepare an annual assessment of the Executive's revenue streams and spending proposals and how these allow the Executive to balance their budget".⁴² **Figure 1** provides an overview of the annual budget cycle, including its key stages.⁴³

Figure 1: Budget Cycle



Source: RaiSe PFSU Public Finance Scrutiny Workshop Series: [Module 1: Northern Ireland Executive Budget Cycle: explaining key concepts to support Assembly scrutiny](#)

⁴⁰ NI Audit Office, 'The NI budget process' (NIAO, 2021).

⁴¹ NI Audit Office, 'Role of Comptroller & Auditor General'. Available at: [Role of Comptroller & Auditor General | Northern Ireland Audit Office](#)

⁴² NI Fiscal Council, 'Terms of Reference'. Available at: [Terms of Reference | NI Fiscal Council](#)

⁴³ NI Assembly, 'Research and Information Service Briefing Paper: Executive Budget 2024-25: Allocations Paper 2 of 3 Part Series', (NIA, 2024), at 5.

4.0 Implementing Human Rights Budgeting

- 4.1 Human rights budgeting means that decisions on how money is raised, allocated and spent are determined by the impact they have on people's rights. The focus is on distributing resources in a way that delivers the most social good by prioritising those most in need and facilitating the progressive realisation of human rights. Rather than maintaining a focus on wealth creation and financing, a rights-based approach considers "the end result ought to be to make lives better today than they were yesterday".⁴⁴
- 4.2 Human rights budgeting also enhances transparency and accountability by ensuring government decision-making is deliberately directed towards the realisation of human rights.⁴⁵ In addition, budgetary allocations and expenditure are subsequently analysed in relation to their impact on human rights, requiring comprehensive and participatory processes.
- 4.3 Human rights standards do not represent precise policy prescriptions, nor will they provide an instant fix to systemic social and economic inequalities.⁴⁶ However, human rights can be used as a tool for guiding and assessing budgetary decisions, helping us to "ask the right questions to support much more effective, transparent, fair, and accountable use of national resources".⁴⁷ The remainder of this section explores some of the questions that key stakeholders involved in the budget cycle may wish to ask and/or reflect on at each stage of the process.

Formulation Stage: Planning

- 4.4 Taking a human rights-based approach to government budgets will require government officials to take proactive measures to embed human rights from the outset of the process. Budget planning will require comprehensive and realistic assessments of the economic situation and of the extent to

⁴⁴ A/HRC/55/54, 'Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Attiya Waris - Fiscal legitimacy through human rights: a principled approach to financial resource collection and allocation for the realization of human rights', 16 January 2024, at paras 1-4.

⁴⁵ A/HRC/55/54, 'Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Attiya Waris - Fiscal legitimacy through human rights: a principled approach to financial resource collection and allocation for the realization of human rights', 16 January 2024, at 35.

⁴⁶ CoE Commissioner for Human Rights, 'Safeguarding human rights in times of economic crisis' (CoE, 2013), at 8.

⁴⁷ Scottish Human Rights Commission, 'Human Rights Budget Work: What, Why, How? Collected Briefing Papers – Briefing Paper 3' (SHRC, 2023), at 5. See also: A/HRC/55/54, 'Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Attiya Waris - Fiscal legitimacy through human rights: a principled approach to financial resource collection and allocation for the realization of human rights', 16 January 2024, at paras 1-4.

which existing legislation, policies and programmes sufficiently respect, protect and fulfil human rights in NI.⁴⁸

4.5 NI Executive Departments will therefore need “reliable, timely, accessible and comprehensive disaggregated information and data in reusable formats” on the macroeconomic, budget and human rights situation in NI, both current and projected.⁴⁹ Departments will also need to give close consideration to the situation of different groups of individuals, particularly those most at risk of marginalisation or exclusion in NI. This may require reviewing existing, or creating new, mechanisms so that those involved in planning, implementing and monitoring budgetary decisions have ongoing access to objective and reliable information.⁵⁰

4.6 To assist with budget planning, key questions for officials to consider include:

- What are the NI Executive’s human rights obligations and commitments?
- What are the human rights concerns facing different individuals and groups within the different sectors (e.g. health, social care, housing, education, etc)?
- What policies and programmes are currently in place that either directly or indirectly address the above human rights concerns?
- What information and data are available in relation to the operation of those policies and programmes and the impact they have had on human rights?
 - Is data appropriately disaggregated to ensure the differential impacts on individuals and groups is comprehensively understood?
- Is this information and data user-friendly, available in a variety of formats and provided in a timely manner to all key stakeholders involved in the budgeting process?
- Does each Department use pre-budget statements and proposals to convey essential information about how it plans to meet its human rights obligations?
 - Are they prepared in such a way to enable effective comparison between past, present and forecasted measures in terms of their impact on human rights?

⁴⁸ CRC/C/GC/19, 'UN CRC Committee General Comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)', 20 July 2016, at para 67.

⁴⁹ Ibid.

⁵⁰ Ibid, at para 69.

4.7 It is acknowledged that the income streams available to fund the NI Executive's activities are limited.⁵¹ However, the following questions may still be useful to consider in relation to resource generation:

- Is the domestic rates system raising the maximum available funds?
- Who are the resources being generated from? Are there particular groups being disproportionately impacted?

Approval Stage: Resource Allocation

4.8 Once each NI Executive Department has identified its human rights obligations and analysed the human rights concerns facing different individuals and/or groups in NI, it should reflect on the following to assist decision-making on allocations:

- Has every effort been made to use all resources at the Department's disposal?
- Has every effort been made to satisfy, as a matter of priority, certain minimum human rights obligations?
- Has particular attention been paid to meeting the needs of marginalised or vulnerable groups, and have measures been taken to prevent or mitigate any adverse human rights impacts?
- Will any restrictive measures taken be rescinded if additional resources are obtained in-year?
- How do allocations compare to other areas of the budget?
 - Are there any individuals and groups experiencing disproportionate and cumulative impacts across the different sectors?

4.9 As outlined above, the process of formulating and deciding on resource allocations should reflect the principles of participation, transparency, and accountability (see paragraph 2.14).

Execution Stage: Monitoring Expenditure

4.10 To ensure accountability, the NI Executive should regularly monitor and report on expenditure in terms of its current and forecasted impact on human rights. If a department has not spent all allocated resources by the end of the year, then it has not made full use of its maximum available

⁵¹ NI Audit Office, 'The NI budget process' (NIAO, 2021), at para 1.5.

resources. Where policies and/or programmes do not reach all intended beneficiaries as planned or have unexpected results, departments should use in-year monitoring to explore why this has occurred and take rapid corrective action where necessary.⁵² The following questions may facilitate the monitoring of resource expenditure in terms of each department's human rights commitments:

- Is the Department on track to deliver its anticipated outcomes?
- If not, was this because the relevant measures were not adequately resourced?
- Has the Department spent its allocated funds as planned?
- If allocated funds have not been spent, how are they being reallocated?
- During the monitoring and reallocation process, how has the Department ensured transparency, public participation, and accountability?

Audit Stage: Impact Assessments

4.11 Evaluations and audits provide valuable insight into the impact of revenue collection and actual spending on the situation of different individuals or groups. They also provide a basis for civil society and government to scrutinise the previous year's budget performance and, where necessary, identify concerns about expenditure and/or its impact. To embed a rights-based approach to budgeting, human rights impact assessments should form a regular part of decision-making processes with respect to budgetary measures and should be carried out at regular intervals.

4.12 In 2019, the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights, presented guiding principles on conducting human rights impact assessments of economic measures.⁵³ It recommends that human rights impact assessments "should be carried out both ex ante – to assess the foreseeable impacts of proposed policy changes – and ex post – that is, looking back to assess the actual impacts of policy change and implementation, in order to address such impacts".⁵⁴ The Independent

⁵² CRC/C/GC/19, 'UN CRC Committee General Comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)', 20 July 2016, at para 96.

⁵³ A/HRC/40/57, 'Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights: Guiding principles on human rights impact assessments of economic reforms', 19 December 2018.

⁵⁴ Ibid, at Principle 18.

Expert further explains:

[Human rights impact assessments] should be incorporated in the policy continuum, from design to monitoring to implementation. They should be started as early as possible in the policymaking process so that they can influence the choice of alternative policy options... They should serve to look back and evaluate the short-term measures already taken and to propose adjustments as well as to provide evidence for medium- to longer-term planning going forward.⁵⁵

4.13 In addition, the Independent Expert advises that:

Capacity-building in conducting human rights assessments is of crucial importance as it would make the exercise less time-consuming, more predictable, less costly, and help assessments to become increasingly accurate and comprehensive. Governments should build the systems to ensure that necessary data and information are produced and published and closely work with members of civil society during “good times” so that they are equipped to participate promptly in human rights impact assessments when necessary, whether on a regular or extraordinary basis.⁵⁶

4.14 In summary, human rights impact assessments should:

- provide empirical evidence to analyse the extent to which budgetary proposals could contribute to fulfilling the NI Executive’s human rights obligations or potentially undermine them;
- demonstrate how proposed measures, jointly with other economic measures and policies currently being planned or implemented, could impact the human rights of the whole population, particularly the individuals and groups most marginalised or at risk;
- identify any prima facie retrogressive measure as well as alternative policy options that could be the least restrictive of human rights and avoid any impermissible retrogression;
- establish a (non-exhaustive) list of preventive and mitigating measures to ensure conformity of budgetary measures with the NI

⁵⁵ Ibid, at para 18.1.

⁵⁶ Ibid, at para 18.6.

- Executive's human rights obligations; and
- seek the broadest possible national dialogue, with the effective, timely and meaningful participation of all individuals and groups, including marginalised groups and those particularly at risk of vulnerability from budgetary measures.

5.0 Recommendations

The NIHRC recommends that all NI Executive Departments systematise a human rights-based approach at all stages of the budgeting process, including in the formulating, allocating, monitoring and auditing of budgets. This should include:

- 1) the development of systems for analysing the impact of budgetary decisions or proposals on human rights, including the provision of data disaggregated by gender, disability, age, ethnicity, region, income segment and any other grounds considered relevant based on risk of marginalisation;
- 2) the development of formal channels of communication and collaboration between NI Executive Departments during the formulation and monitoring of budget allocations;
- 3) the development of a tool for conducting human rights impact assessments – both *ex ante* and *ex post* - that consider the potential and cumulative distribution of impacts to ensure that the most vulnerable are not disproportionately affected by budgetary decisions; and
- 4) embedding the principle of public participation at each stage of the budgetary process, including conducting human rights impact assessments. Participation should be central in the consideration of budgetary allocations, the publication and reporting of information and the assessment, in the execution of budgets, and in the monitoring of the impact of budgets.

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