

Episode 6: The Minimum Core Obligation

Much of the discussion about economic and social rights focuses on the 'progressive realisation' of those rights over time. However, there are elements of those rights that need to be prioritised within overall implementation. One of these elements is known as the 'minimum core obligation'.

The Committee has made clear that every economic and social right imposes on states a 'minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of that right'. Thus, a country 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 would appear to be failing to discharge this duty.

The Committee has outlined this minimum content in many of its General Comments on the substantive rights in the Covenant. It has said for instance, that the minimum essential level of the right to social security requires the state to ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education. When it comes to the right to food, governments are required to ensure for everyone the minimum essential food which is sufficient, nutritionally adequate and safe to ensure their freedom from hunger.

In principle, these minimum essential levels should be secured immediately – and that is what the Committee urges states to do. That said, there will of course be times when some governments cannot meet their minimum core obligations due to a lack of resources.

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However, if a government is going to be able to claim successfully that its failure to ensure those minimum essential levels of rights is due to a lack of resources, it can't simply assert that this is the case. To be in compliance with the Covenant, it is not enough to say: 'times are tough, we can't do the necessary'. The government has to be able to prove that every effort has been made to use all the resources that are at its disposal in an effort to satisfy, as a matter of priority, those minimum obligations. So, if we for example see policymakers making cuts to healthcare funding that impacts on the healthcare system's ability to provide essential drugs or medicines, policymakers will need to show that they have done everything in their power to prioritise access to these medicines.

Finally, it's important to note that Governments won't always be able to justify a failure to satisfy their minimum core obligations on the ground of inadequate resources. For instance, the Committee won't accept any excuse from a state where there is discrimination in terms of ensuring access to essential rights-related goods, facilities and services.