

THE RIGHT TO FOOD IN SCOTLAND WORKSHOP

3 October 2017



Strengthening Economic and Social Rights Series #EcoSocRights



WELCOME AND INTRODUCTIONS

- Shifting framework of human rights protection- Brexit, HRA & British Bill of Rights proposals
- Momentum in debate and in law towards greater recognition of international standards
- Debate around Good Food Nation Bill and right to food approach
- Commission's ESR workshop series July 2017- March 2018; **#EcoSocRights**

A bit about Nourish Scotland

- Nourish Scotland is a **food justice NGO**, advocating for a fairer, healthier and more sustainable food system
- We take a **rights-based approach**, and work across poverty, health, food worker rights, environment, and climate change
- We facilitate **co-production**: with people with lived experience, other NGOs and decision-makers



Nourish's Right to Food Campaign

- Began formally in 2015, but had been in spirit long before:
- Evidencing the **challenge**
 - Committee on Economic Social and Cultural Rights
 - Independent Working Group on Food Poverty – Dignity Report
- Advocating **solutions** - Scottish Food Coalition
 - Vision for a fairer, healthier & more sustainable food system:
[PLENTY](#)
 - Working with national + international experts – [parliamentary series](#)
 - Good Food Nation Bill



Context – rapidly changing landscape

- **International:** First ever [recommendations](#) from UN to UK on right to food:
 - [54] ‘The Committee recommends that the State party develop a comprehensive national strategy for the protection and promotion of the right to adequate food’
 - [6] ‘The Committee...urges the State party to fully **incorporate** the Covenant rights into its domestic legal order and ensure that victims of violations of economic, social and cultural rights have full access to effective legal remedies’
- **National:** Independent Working Group on Food Poverty, [Dignity Report](#):
 - ‘The Scottish Government should explore how the right to food can be enshrined within Scots Law’

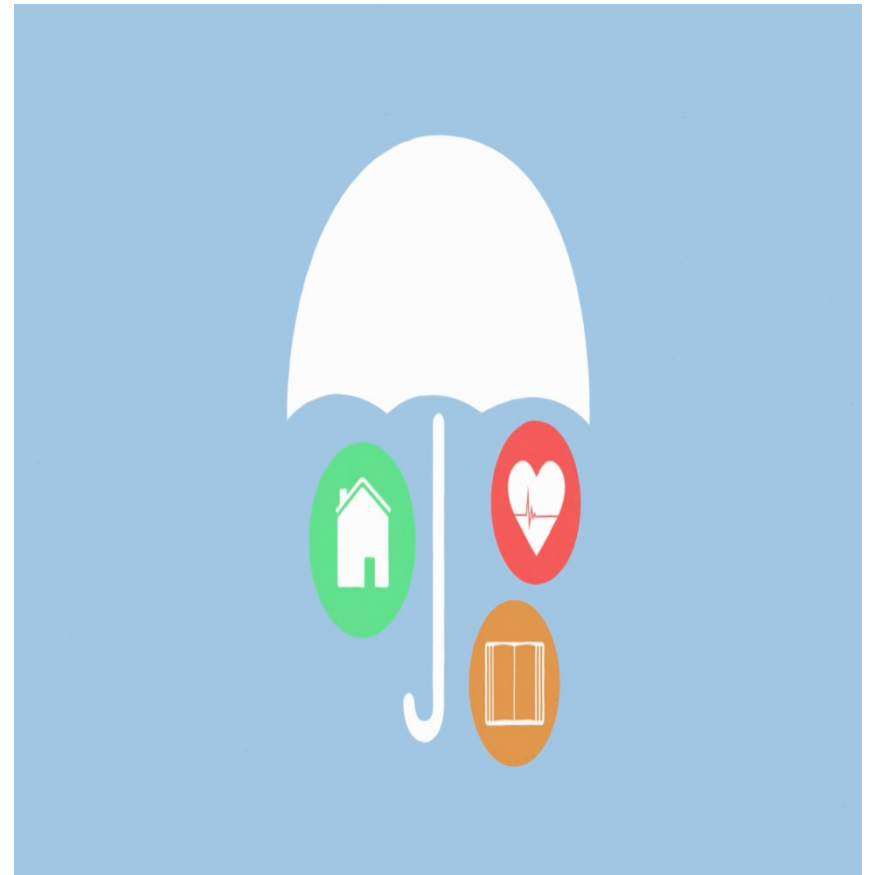


PROTECTING ESR WORKSHOP SERIES

- The right to social security - July 2017
- The right to food - October 2017
- The right to housing - February 2017
- The right to health - March 2017
- How to strengthen ESR protection - April 2017

PROTECTING ESR WORKSHOP SERIES

- What is at stake for ESR such as the right to food?
- Why protect ESR such as the right to food?
- How should protection for ESR be strengthened?





Universal Declaration of Human Rights (1948)

International Covenant on
Civil and Political Rights
(ICCPR, 1966)

International Covenant
on Economic, Social and
Cultural Rights
(ICESCR, 1966)



People from
ethnic
minority
groups
(ICERD,
1965)



Women
(CEDAW,
1979)



Children
(CRC, 1989)



Disabled
people
(CRPD, 2006)



Migrant
workers
(2003)

Torture (CAT, 1984)

Enforced disappearances
(ICCPED, 2006)

ESR- THE BASIC PRINCIPLES



***What are Economic
and Social Rights to
you?***

INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

- **Work**, under "just and favourable conditions", with the right to form and join trade unions (Articles 6, 7, and 8);
- **Social security**, including social insurance (Article 9);
- **Family life**, including paid parental leave and the protection of children (Article 10);
- **An adequate standard of living**, including adequate food, clothing and housing, and the "continuous improvement of living conditions" (Article 11);
- **Health**, specifically "the highest attainable standard of physical and mental health" (Article 12);
- **Education**, including free universal primary education, generally available secondary education and equally accessible higher education. This should be directed to "the full development of the human personality and the sense of its dignity" and enable all persons to participate effectively in society (Articles 13 and 14);
- **Participation** in cultural life (Article 15).

EXERCISE: THE ECONOMIC SOCIAL RIGHTS KNOWLEDGE SPECTRUM

Each person: place yourself on the ESR knowledge spectrum...

1. I'm a beginner *or* "What's this all about anyway?"
2. I know something about economic and social rights but haven't yet really applied it practically *or* "OK, I get it but HOW do you do it?"
3. I know quite a lot and have been applying rights for a while *or* "This is not new to me."

Each group agree on three messages for the others ...

Group 1: 2 x questions you've always wanted to ask on **ECONOMIC SOCIAL RIGHTS**

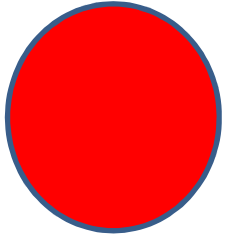
Group 2: 2 x biggest practical challenges to applying **ECONOMIC SOCIAL RIGHTS**

Group 3: 2 x messages on the key elements of **ECONOMIC SOCIAL RIGHTS**

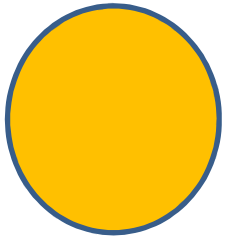
INTRO- ARTICLE 2 OF ICESCR

- Creates a duty on all parties to:
- *take steps... 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.*

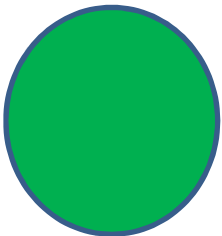
HUMAN RIGHTS OBLIGATIONS OF GOVERNMENTS AND PUBLIC BODIES



- **Respect** – “Hands off” rights.



- **Protect** – Stop other people and organisations breaching rights.



- **Fulfil** – Positive obligation to take steps to provide access to rights.

'TRIPARTITE' FORMULATION OF OBLIGATIONS

RESPECT

- Refrain from interfering with the enjoyment of economic, social and cultural rights.
 - E.g. Forced evictions carried out by the state.

PROTECT

- Prevent violations of such rights by third parties.
 - E.g. Failing to regulate business enterprises that pollute rivers.

FULFILL

- Take appropriate legislative, administrative, budgetary, judicial and other measures to:
 - *Facilitate*: access to goods and services.
 - *Promote*: rights and how to claim them.
 - *Provide*: goods and services to people when, for reasons beyond their control, they are unable to obtain them.

OBLIGATIONS OF CONDUCT AND RESULT

Conduct

- **Action reasonably calculated to realise** the enjoyment of a right.
- E.g. Adopting and implementing a plan of action to reduce homelessness.

Result

- Requires States to **achieve specific targets** to satisfy a detailed substantive standard.
- E.g. Reducing homelessness to agreed levels

In relation to the obligation to fulfil, *results* can generally be achieved progressively, but *conduct* is an immediate duty.

NON-DISCRIMINATION

- Different treatment based on a 'prohibited ground' is discrimination unless the justification for it is **reasonable** and **objective**.
- Treaties lists prohibited grounds, but these are **not exhaustive**.
- The state has an obligation to eliminate **de jure** discrimination by abolishing any discriminatory laws, regulations and practices '**without delay**'.
- **De facto** discrimination, occurring as a result of the unequal enjoyment of rights, should be ended '**as speedily as possible**'.
- Affirmative action or positive measures may be needed to end de facto discrimination.

MINIMUM CORE OBLIGATIONS

- A duty on states to ensure the satisfaction of “**minimum essential levels**” of each right, regardless of their level of economic development.
- Failure to do so amounts to a *prima facie* **presumption** that a state is in **violation of** the Covenant.
- **Unless** it can demonstrate that “**every effort has been made** to use all resources that are at its disposition” to prioritize reaching those minimum levels.
- Concept used in context of austerity-driven roll backs to rights protections (e.g. Spain).

PROGRESSIVE REALIZATION AND NON-RETROGRESSION

- States shall move as **efficiently and expeditiously as possible** towards the full realization of economic, social and cultural rights.
- Conversely, states must not take **deliberately retrogressive** measures.
- States must “fully” justify the adoption of policies that decrease people’s enjoyment of a right. Must be:
 - ❑ Temporary
 - ❑ Necessary and proportionate (other options more detrimental)
 - ❑ Not discriminatory and mitigate inequalities
 - ❑ Ensure the protection of minimum core content of rights
 - ❑ Considers all other options, including financial alternatives

OBLIGATION TO TAKE STEPS

Steps can be:

- legislative,
- judicial,
- administrative,
- financial,
- educational, and
- social

GOODS AND SERVICES ON THE GROUND



MAXIMUM AVAILABLE RESOURCES

- **Important qualification** of the obligation to take steps to realize economic and social rights.
- Governments frequently claim their failure to fulfil economic, social and cultural rights is due to lack of resources. So, it is necessary to interrogate such a claim.
- In doing so, attention should be paid to **equitable and effective use of existing resources** and to **efforts to generate additional resources**.
- Available resources refer to: existing resources within a country, as well as those potentially available through reasonable measures (e.g. from international cooperation and assistance).
- Resources are not only financial, but also human, natural, technological, etc.

PANEL PRINCIPLES



Participation



Accountability



Non-discrimination



Empowerment

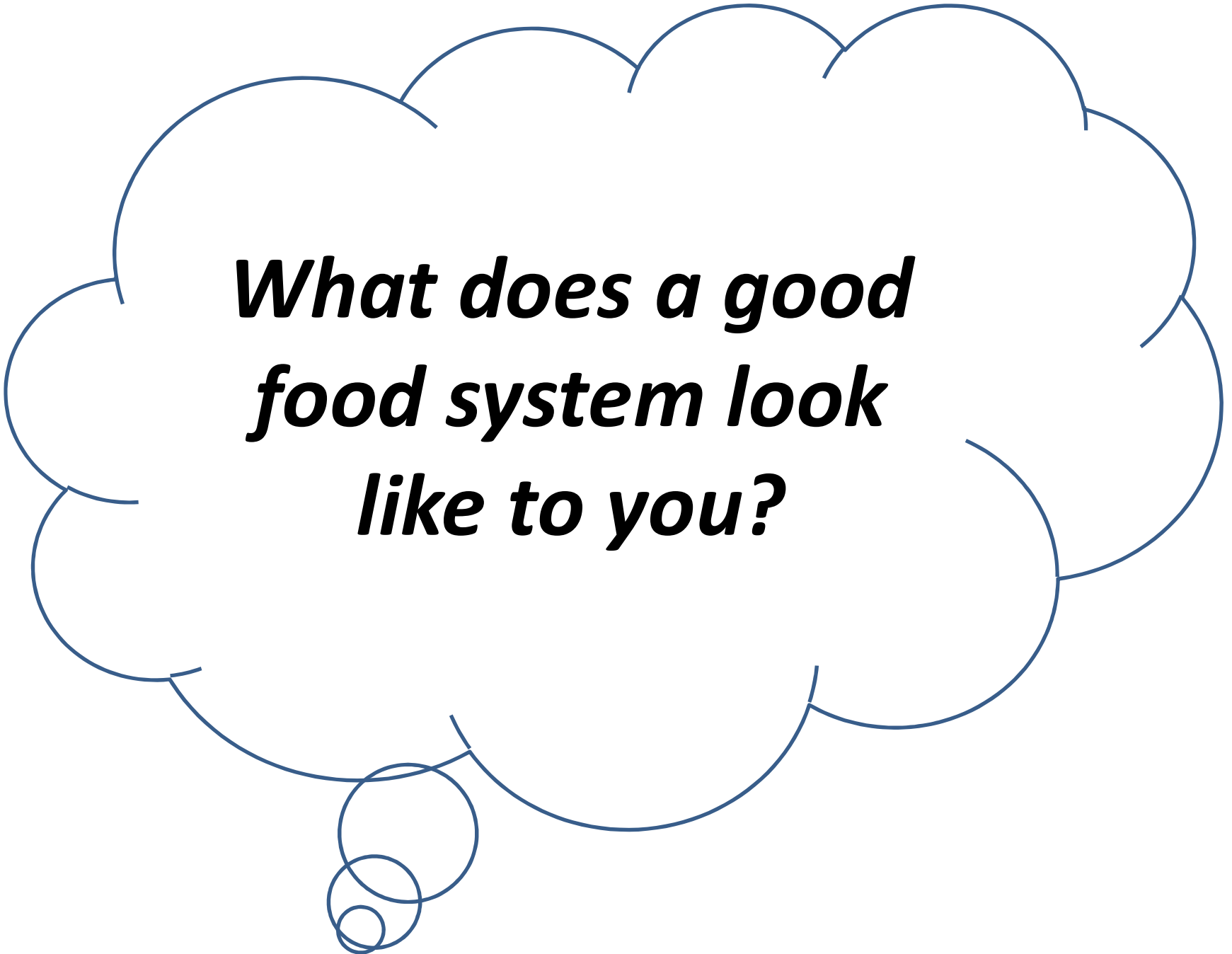


Law

DISCUSSION

- What ideas and concepts were new? Which were most interesting? Which were most confusing?
- How do these standards and principles deepen our understanding of policymaking and vice versa?
- What questions does this discussion raise for you in terms of advancing the right to food in Scotland?

THE RIGHT TO FOOD



***What does a good
food system look
like to you?***

THE RIGHT TO FOOD IN INTERNATIONAL HUMAN RIGHTS LAW

Universal Declaration of Human Rights 1948

- Art 25 – “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food...”

INTERNATIONAL HUMAN RIGHTS LAW

- International Covenant on Economic, Social and Cultural Rights (ICESCR) – Art 11
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) – Art 12
- Convention on the Rights of the Child (CRC) – Arts 24 & 27
- Convention on the Rights of Persons with Disabilities (CERD) – Art 25 & 28
- FAO Right to Food Guidelines 2004

ICESCR – Article 11

- **International Covenant on Economic, Social and Cultural Rights – Art 11(1)**
 - “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions...”
- **Committee on Economic, Social and Cultural Rights – [General Comment 12, 1999](#)**

ELEMENTS OF THE RIGHT TO FOOD

- CESCR Committee, General Comment 12
 - “The right to adequate food is realised when everyone has physical and economic access at all times to adequate food or means for its procurement. The right will be realised progressively; however, States have a core obligation to take the necessary action to mitigate and alleviate hunger”

ELEMENTS OF THE RIGHT TO FOOD

- Core content of right to food:
 - The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture;
 - The accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.
- **Accessibility; adequacy; availability**

ELEMENTS OF THE RIGHT TO FOOD

- **Accessible**— both financial and geographical
 - Financial. Household cost for food to maintain an adequate diet should be at a level where other basic needs are not compromised. Special attention to socially vulnerable groups.
 - Geographical. Must be accessible to everyone.

ELEMENTS OF THE RIGHT TO FOOD

- **Adequate**

- “Availability of food in a quantity and quality sufficient to satisfy the **dietary needs** of individuals, **free from adverse substances**, and **acceptable within a given culture.**”

- *Dietary needs* – Mix of nutrients for physical and mental growth, development maintenance and physical activity.
- *Free from adverse substances* – Food safety. Protective measures by both public and private means to prevent contamination of food.
- *Cultural or consumer acceptability* – Non-nutrient-based values attached to food.

ELEMENTS OF THE RIGHT TO FOOD

- **Available**

- Feeding yourself directly from land or well-functioning food distribution system.

- **Sustainable**

- Adequate food must be accessible for both present and future generations.

RELATIONSHIP WITH OTHER RIGHTS-

- **Interdependent, indivisible and interrelated**
 - Right to health
 - Right to work and to social security
 - Right to education

LEGAL OBLIGATIONS

- Article 2 ICESCR – Take steps to progressively realise the right to food. [General Comment 3, 1990](#)
- Obligated to ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure freedom from hunger.

LEGAL OBLIGATIONS

Respect, protect, fulfil

- **Respect**
 - States must not take any measures that result in preventing existing access to food.
- **Protect**
 - State to ensure business don't deprive people of their access to adequate food.
- **Fulfil**
 - Facilitate access. When a person or group cannot enjoy the right for reasons beyond the control, States must provide the right directly.
- **Non-discrimination**
 - 'Any discrimination in access to food...with the purpose or effect of nullifying or impairing the equal enjoyment or exercise of economic, social and cultural rights constitutes a violation of the Covenant'.

LEGAL OBLIGATIONS

- Violations when a State fails to ensure the satisfaction of, at least, the minimum essential level required to be free from hunger.
Important to distinguish inability from the unwillingness of State to comply with the right.
- **Non-discrimination**

IMPLEMENTATION AT NATIONAL LEVEL

- **National strategy based on human rights principles**
 - Production, processing, distribution, marketing and consumption of safe food
 - Parallel measures in fields of health, education, employment and social security
 - Sustainable management and use of natural and other resources for food at all levels

IMPLEMENTATION AT NATIONAL LEVEL

- **Benchmarks and framework legislation**
 - Set benchmarks for monitoring
 - Adoption of a framework law
 - Purpose
 - Targets or goals to be achieved and the time frame for those achievements
 - How targets will be achieved (involvement of private sector and civil society)
 - Institutional responsibility
 - National monitoring mechanisms and recourse procedures
- **Effective judicial or other appropriate remedies**
- **Incorporation**

Expectation if a Good Food Nation...

- We are all able to **eat well**
 - *Financial, geographical, health, culture – dignity*
- Our food system treats **people and planet** fairly
 - *Worker rights, access to land and other resources, market infrastructure*
 - *Soil, water, air, biodiversity, climate*

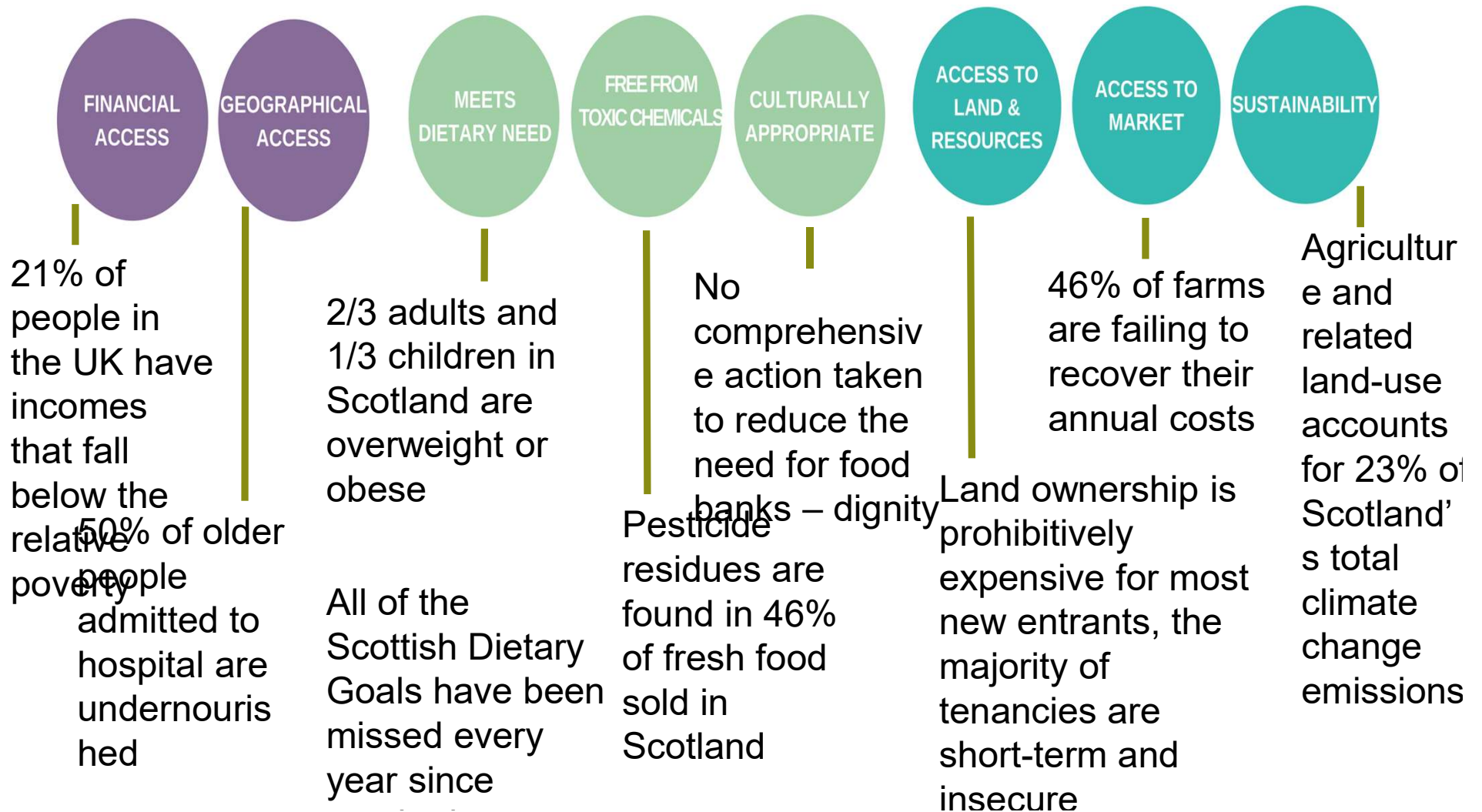


What's holding us back?

- Food policy **fragmentation**
- Limited overarching **responsibility**
- Limited opportunity for **participation**
- Limited overarching **accountability**



Context: the Right to Food in Scotland



Right to Food for policy coherence

- A solid legal **framework** that cuts across food system challenges
 - Embedding in to policy
 - Accountability
- Important **principles**:
 - Non-regression
 - Non-discrimination
 - Realisation to the maximum of available resources
- Complemented by other frameworks:
Sustainable Development Goals





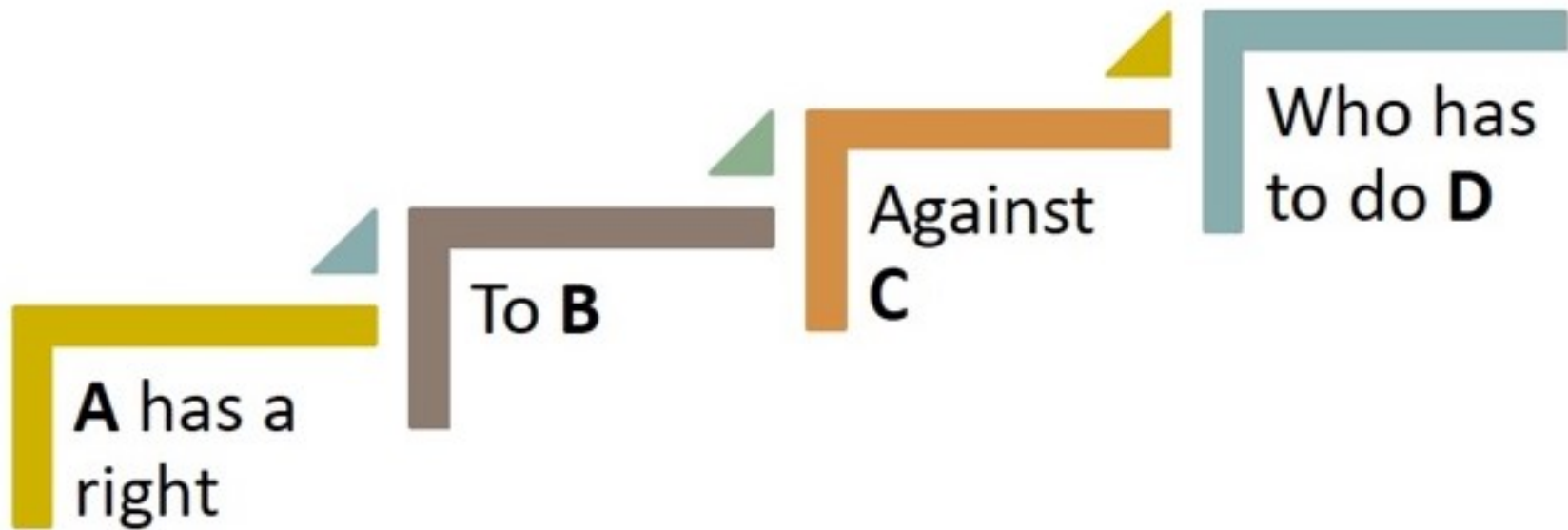
‘OPERA:101’

A FRAMEWORK FOR
MONITORING ECONOMIC
AND SOCIAL RIGHTS



**CENTER FOR ECONOMIC
AND SOCIAL RIGHTS**

THE CAUSALITY CHALLENGE



A = Rights Holder
B = Right
C = Duty Bearer
D = Obligation

THE NORMATIVE CHALLENGE

Obligations of Result

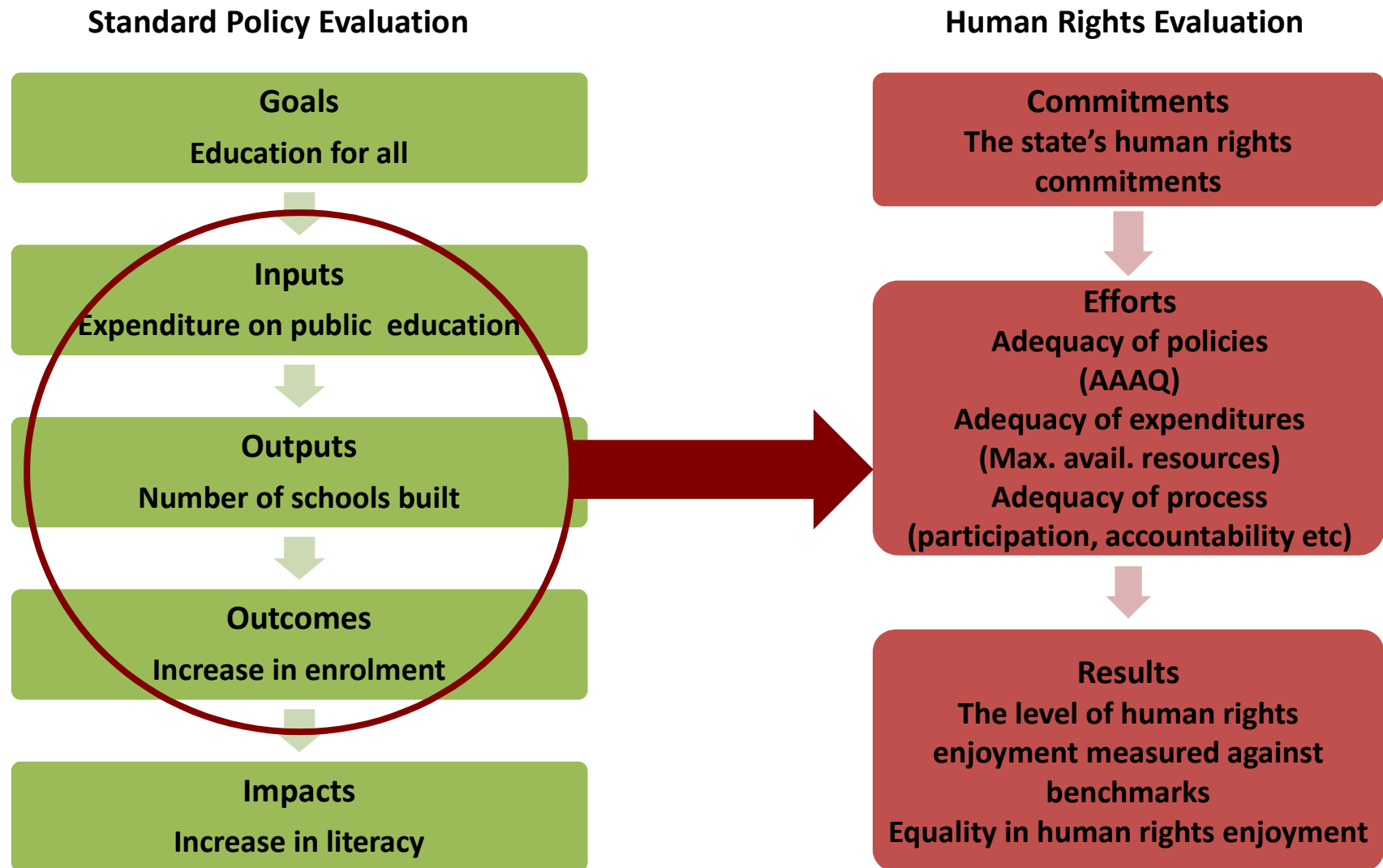
- **Minimum core obligations:** immediate duty to prioritize achieving minimum essential levels of rights enjoyment universally
- **Progressive realization:** move swiftly towards increased levels of rights enjoyment, with **no deliberate retrogression**

- To ensure relevant infrastructure, goods and services are increasingly **available**, **accessible** to all, **acceptable** and of **adequate quality**
- **Non-discrimination:** duty to ensure substantive equality


Obligations of Conduct

- To **take steps** (legislative, judicial, budgetary, administrative and other) to fulfill ESCR
 - To use **maximum available resources** to ensure progressive realization, including resources provided through international cooperation
- To ensure **participation, accountability and transparency** in the policy-making process

THE 'MISSING MIDDLE' IN HUMAN RIGHTS ANALYSIS




OPERA: A FOUR-STEP FRAMEWORK




Outcomes From the perspective of rights holders, what is the problem?



Policy Efforts How have the government's actions affected the problem?



Resources How has the use of resources affected the problem?



Assessment In light of the broader context, is the government responsible for the problem?

OPERA: A FOUR-STEP FRAMEWORK

Outcomes

Measure rights enjoyment overall

Measure differences between populations

Measure changes over time

Policy Efforts

Identify legal and policy commitments

Evaluate how policies have been implemented

Analyze the policy-making process

Resources

Analyze how resources are allocated and spent

Analyze how resource are generated

Analyze budget processes

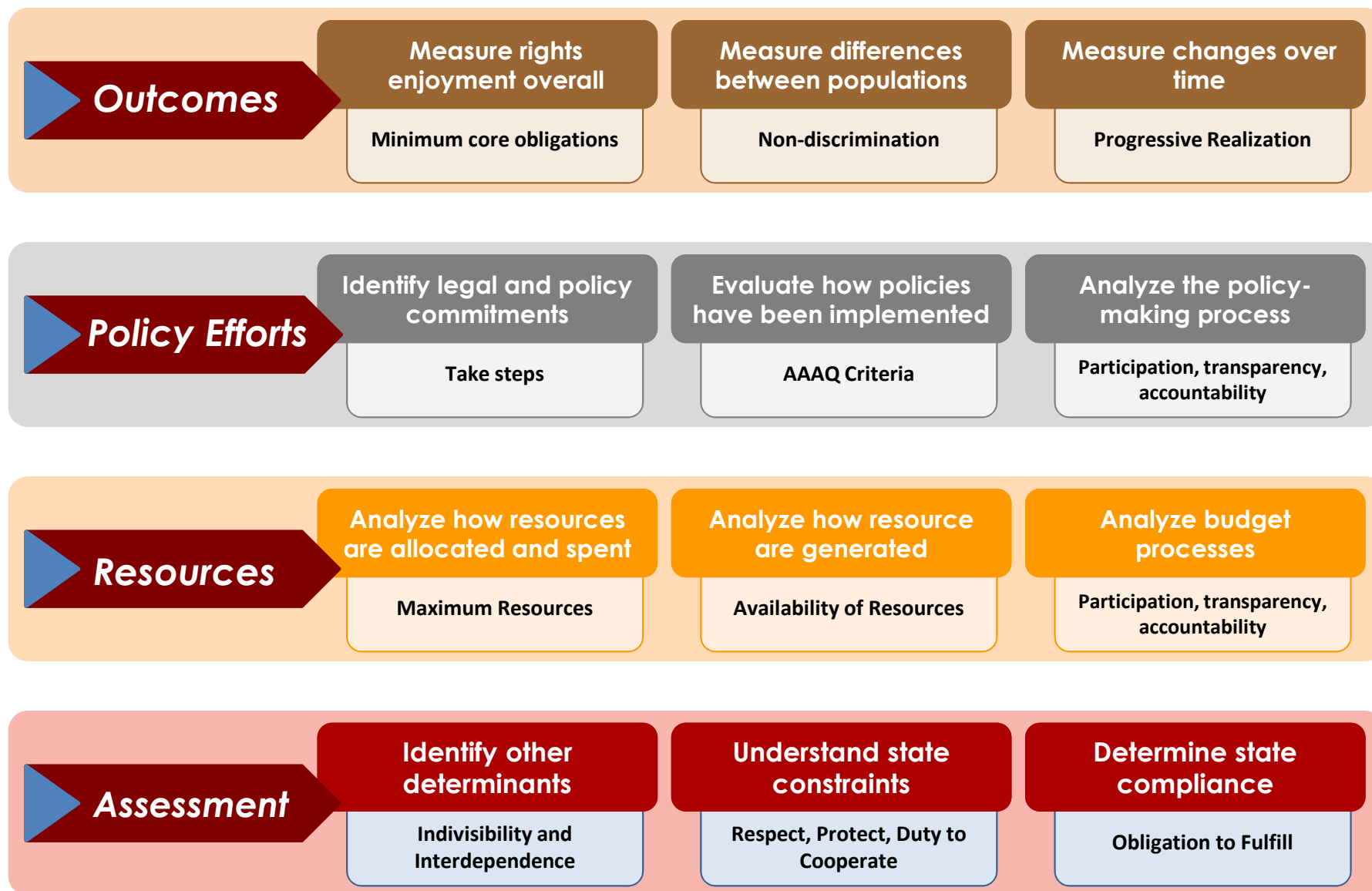
Assessment

Identify other determinants

Understand state constraints

Determine state compliance

LINKING PRINCIPLES WITH WAYS TO MEASURE



TOOLS TO USE WITH OPERA

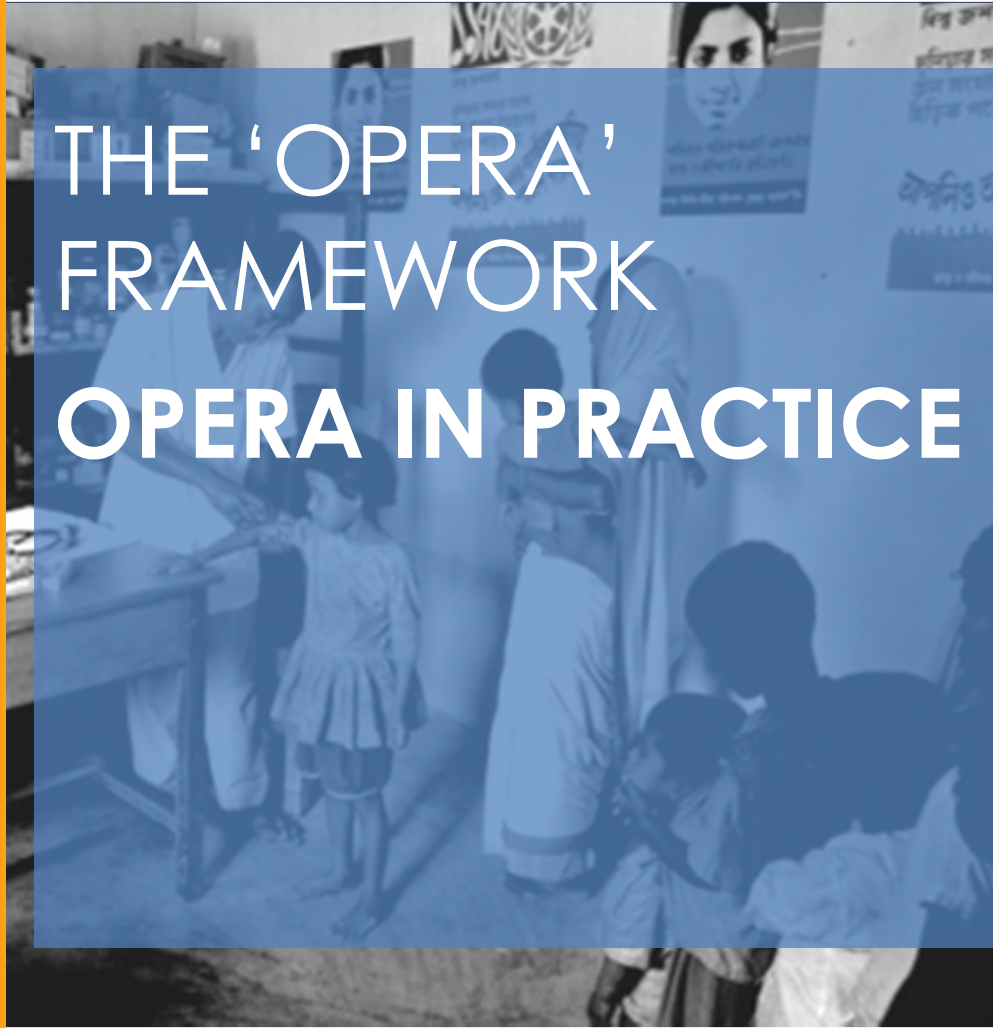
- Questions expressed as **indicators**
 - OHCHR's 'structure, process, outcome' framework helpful source of human rights indicators
- **Data** on indicators gathered from:
 - Secondary sources (e.g. socioeconomic statistics, administrative records)
 - Primary sources (e.g. community audits, surveys)
- Data compared against **benchmarks**, such as:
 - Other population groups, regions, or countries
 - Political commitments (national, regional or international)
 - Recommendations from sector experts

TOOLS TO USE WITH OPERA

- **Quantification** especially helpful for norms, such as:
 - Temporal data for non-retrogression and progressive realization
 - Budgetary data for maximum available resources
 - Disaggregated data for non-discrimination
 - Spatial data for availability and accessibility (as part of AAAQ) of goods and services
- But, also need to **balance quantitative and qualitative analysis** and **personal testimonies**.



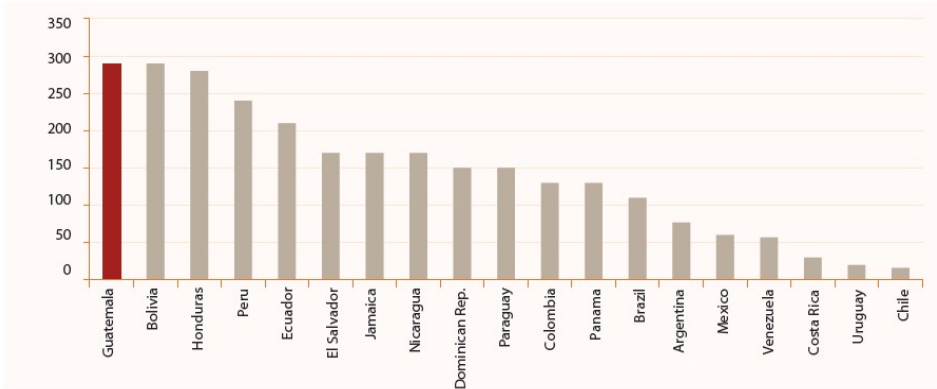
THE 'OPERA' FRAMEWORK OPERA IN PRACTICE





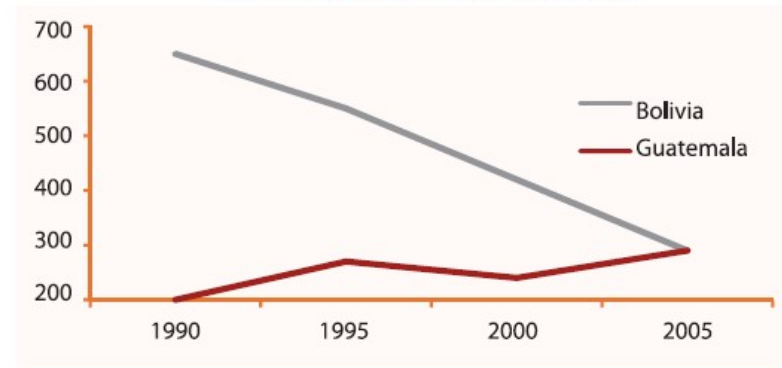
Outcomes

Maternal Mortality Rates (adjusted) per 100,000 live births in Latin America (2005)



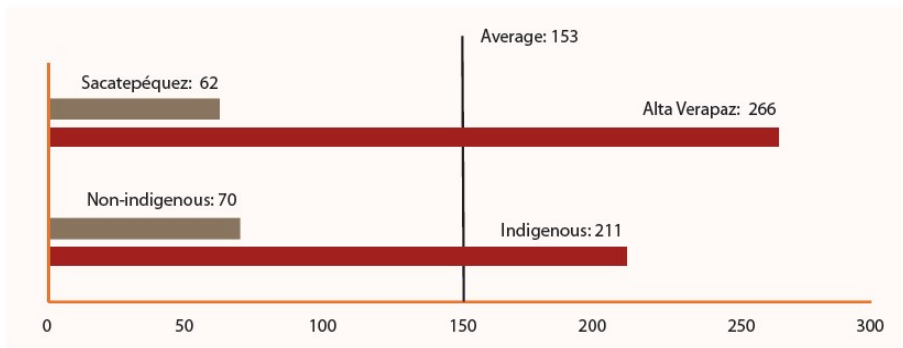
Source: Own calculations based on data from World Bank 2008

Maternal Mortality Rates (adjusted) per 100,000 live births: Guatemala and Bolivia (1990-2005)



Source: Own calculations based on ECLAC and UN Statistic

Maternal mortality rate (reported) per 100,000 live births, by ethnicity and selected departments



Source: Own calculation based on Ministerio de Salud Pública y Asistencia Social (2003)

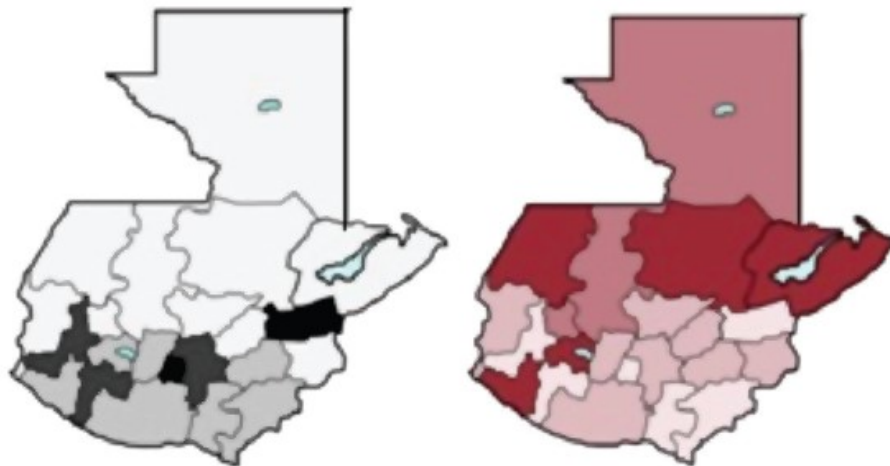
Maternal mortality rates were the highest in the region, extremely unequal and had gotten worse over time.



Policy Efforts

Despite an exemplary legal and policy framework for maternal health, many problems in practice e.g. lack of gynecologists, unaffordable cost of treatment, poor treatment by service providers.

Concentration Of Obstetricians And Gynecologists Per 100,000 Women Of Reproductive Age (Left)
And Maternal Mortality Rate, By Department



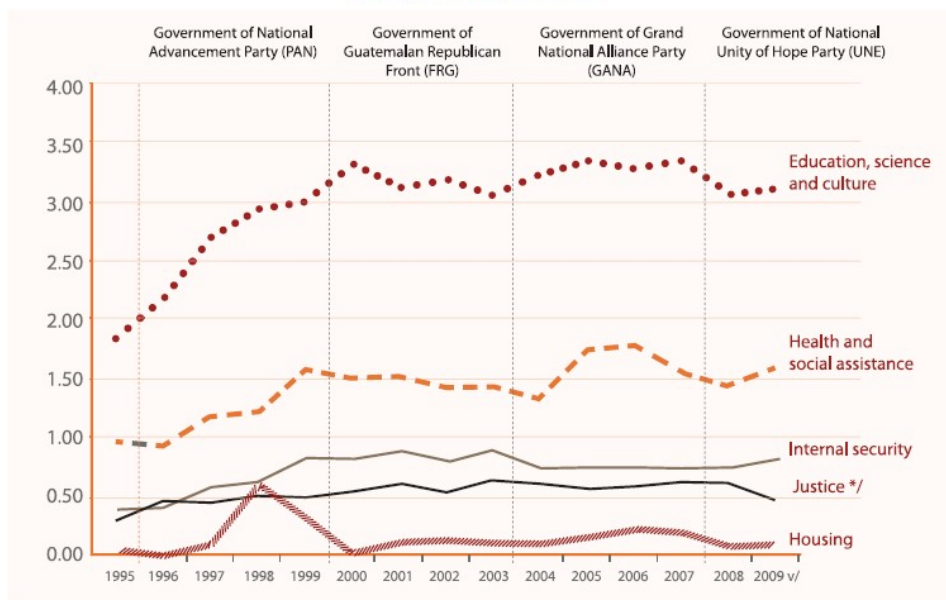
Darker shades represent higher numbers of obstetricians and gynecologists (left) and higher rates of maternal mortality (right).

Source: own design based on data from epidemiological reports by MSPAS and USAID, 2009



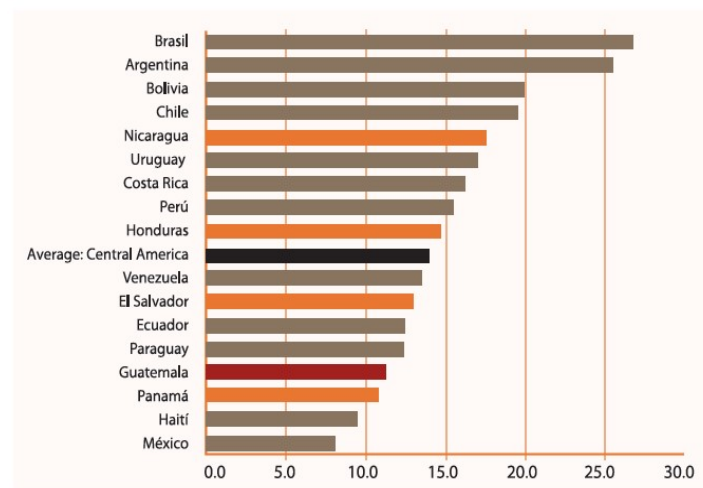
Resources

Central government social spending since the Peace Accords by sector
(as a percentage of GDP)



Source: own calculations based on statistics from the Ministry of Public Finance and the Central Bank

Tax as a percentage of GDP in Selected Countries in Latin America and the Caribbean
(2008, preliminary figures)



Source: own calculations based on statistics from CEPAL

Analysis of expenditures and revenues showed that social spending was low and that the poorest benefit least. The low generation of resources could be explained by the country's highly regressive tax system.



Assessment

There were many national and international constraints on the government, including elite resistance to fiscal reform. Overall, compliance with human rights commitments was inadequate. Low levels of maternal health was not linked to a *lack* of resources, but rather their *distribution*.



VISUALIZING RIGHTS IN SPAIN: KEY FINDINGS

Outcomes

Used socio-economic outcome indicators to show how rising unemployment is resulting in a deterioration, not only of the population's right to work, but of the right to an adequate standard of living, which depends on it.

Policy efforts

Assessed laws and policies against AAAAQ criteria. Found that inadequate regulation of different markets (e.g. housing, labor) had helped fuel the economic crisis and that insufficient steps had been taken to mitigate the effects of the crisis on vulnerable groups.

Resources

Conducted budget analysis (expenditures and revenues). Found social spending cuts target key social sectors. Low generation of resources and large shadow economy.

Assessment

Many national and international constraints on the government. Overall inadequate compliance: low ESCR enjoyment not linked to LACK of resources, but rather their DISTRIBUTION.

KENYA MENTAL HEALTH AUDIT: KEY FINDINGS

Outcomes

Referred to academic research that estimated that Kenya had a high disease burden of mental illness.

Policy efforts

Reviewed steps taken; found that law out of date and policy non-existent. Assessed services against AAAQ criteria; found inpatient and outpatient services were not available to majority of population; were inaccessible; and were poor quality.

Resources

Conducted budget analysis and found that allocation to mental health was a tiny fraction of the health budget (0.1%) and had not increased in past five years.

Assessment

Looked at underlying social factors and found that stigma and discrimination was a major cause of the neglect of mental health.

FEATURES OF OPERA IN SUMMARY

- **Brings together standards and principles** into **four dimensions** (but **not rigid**).
- Provides a **checklist of questions** that can be used to measure norms.
- Tools and techniques used to answer those questions can be **interchangeable** and adapted to particular context of project.
- Can be used in different contexts to secure accountability (e.g. as a monitoring framework, as a research guide).
- Evolves and advances each time it's applied and adapted.
- More information <http://www.cesr.org/opera-framework>

ACCOUNTABILITY AND INCORPORATION

ACCOUNTABILITY HAS VARIOUS COMPONENTS

- **Responsibility:** clearly defined duties and performance standards, enabling their behavior to be assessed transparently and objectively.
- **Answerability:** provide reasoned justifications for actions and decisions to those they affect, including the public at large, and institutions mandated to provide oversight.
- **Enforcement:** mechanisms in place that monitor the degree to which public officials and institutions comply with established standards; impose sanctions on officials who do not comply; and ensure that appropriate corrective and remedial action is taken when required.

ACCOUNTABILITY IS MULTIDIMENSIONAL

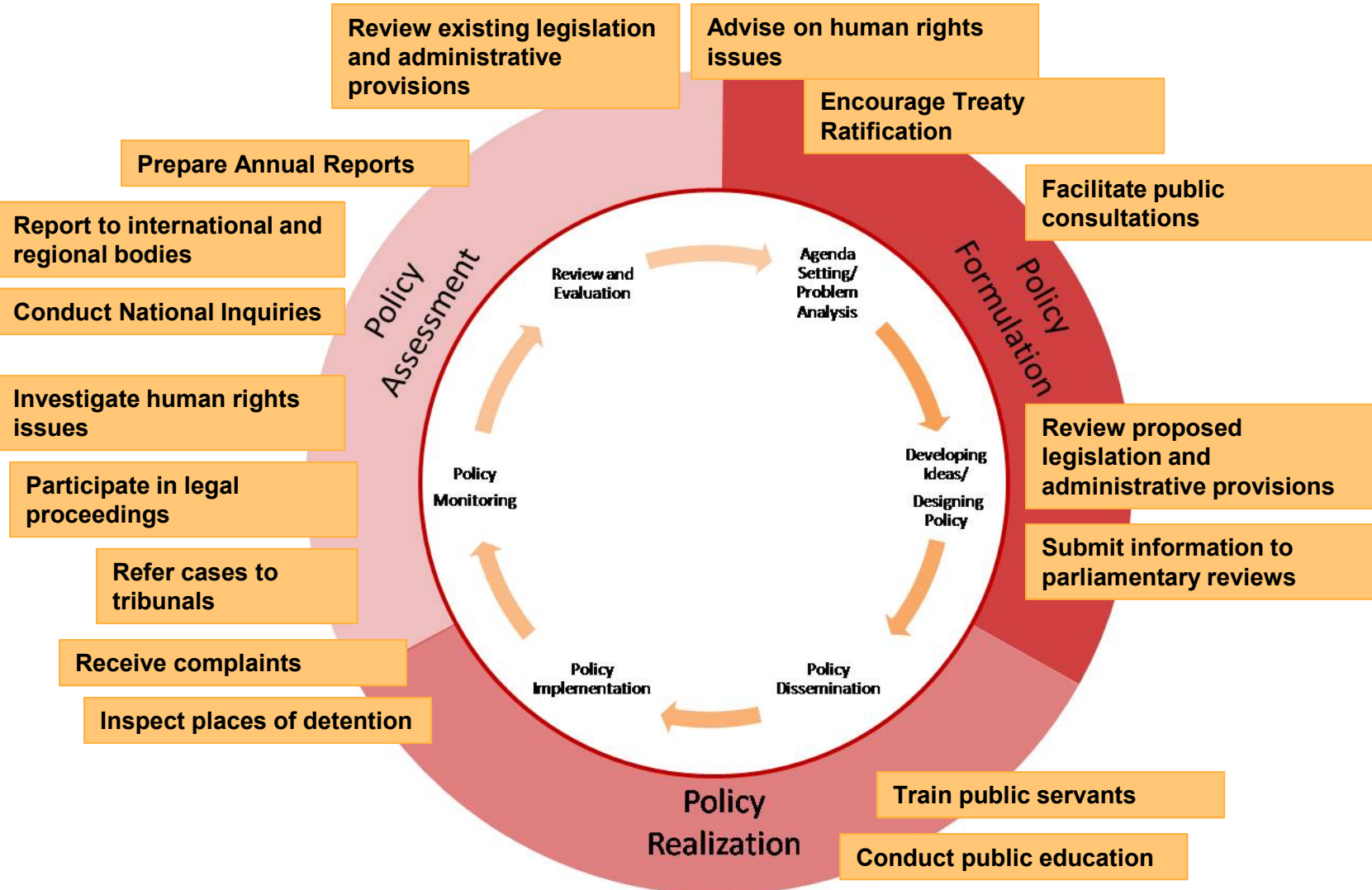
National accountability

- Social: e.g. community-based auditing, media, movement building
- Political: e.g. parliamentary committees
- Administrative: e.g. codes of conduct, citizen consultation groups
- Judicial: national courts
- Independent oversight bodies: e.g. national human rights institutions

International accountability


- Independent oversight bodies: e.g. treaty bodies, special rapporteurs
- Political: intergovernmental political bodies, e.g. Human Rights Council
- Administrative: e.g. transnational regulatory frameworks, mechanisms of international financial institutions
- Social: e.g. global social movements
- SDG-specific initiatives

ACCOUNTABILITY IS CYCLICAL



WEAK ACCOUNTABILITY FOR ESCR

- Both at national and international level, accountability for economic and social rights is weakened when:
 - Responsibilities are not clearly defined;
 - Public officials are not required to give reasoned justifications for decisions;
 - Sanctions are not imposed for improper conduct.



***What should
accountability for
the realisation of
the right to food
look like?***

Good Food Nation Bill

- Scottish Parliament Election 2016
 - *SNP, Scottish Labour, Scottish Greens*
- Programme for Government 2016 + 2017
 - **2016:** *‘Begin work in 2017 on a consultation on a Good Food Nation Bill to provide the potential for a statutory framework to join up the Government’s approach on food’*
 - **2017:** *‘Consult on proposals for the Good Food Nation Bill and appoint a National Chef to promote Scotland’s produce and the associated health benefits’*



Good Food Nation Bill

- June 2016, Cabinet Secretary for Rural Economy and Connectivity, Fergus Ewing MSP:
 - “We are going to consult on a good food nation bill in 2017 and, in doing so, I hope to **build a cross-party and stakeholder consensus**. We want to enhance the national food policy with the vision of Scotland becoming a good food nation, where people from every walk of life take pride, pleasure and benefit from the food that they buy, serve and eat day by day.
Work in shaping the course of the bill will involve colleagues and stakeholders in a number of areas across Government, including **health, food standards, waste, social justice, agriculture, education and procurement.**”



Good Food Nation Bill

- November 2016, Cabinet Secretary for Social Justice, Equalities and Communities, Angela Constance MSP:
 - **“Tackling food poverty will be vital** to achieving this aspiration and in doing so our actions **must also be coherent across a wide range of policy areas including health and nutrition, tackling food waste and working with the food and drink sector.** In this context, I would particularly welcome continuing to work with your Group and its members to develop a coherent, partnership-led approach that tackles food poverty and supports the delivery of our wider Good Food Nation objectives. A key part of this engagement would be exploring further your recommendation regarding the right to food and **whether this ought to be considered for inclusion within the Good Food Nation Bill.**”



Overview of priorities for the Bill

- Incorporation of the Right to Food
 - **Embedded:**
 - Food Rights & Responsibilities Statement
 - Good Food Nation Charters – central + local government, public bodies
 - **Accountability:**
 - Statutory and independent Food Commission
 - Statutory targets + monitoring
 - **Progression:**
 - Programmatic measures



Legislative process

- Pre-Consultation Summit – 28 September 2017
- Consultation – 2017/18
- Bill introduced: Jan 2019
- Good Food Nation (Scotland) Act 2020



“There is a growing acceptance all over the world that certain core fundamental values of a universal character should penetrate and suffuse all governmental activity, including the furnishing of the basic conditions for dignified life for all.

I believe that 21st century jurisprudence will focus increasingly on socio- economic rights”

Justice Albie Sachs,

Constitutional Court of South Africa



LEGAL ENFORCEABILITY AND INCORPORATION

Why incorporate?

- Access to justice for individuals and strengthening direct accountability
- Mainstreaming of all rights into law and wider policy and decision making
- More comprehensive framework recognising the indivisibility and interdependence of rights
- Better meet our international legal obligations

LEGAL ENFORCEABILITY AND INCORPORATION

- ICESCR Committee:

“While the Covenant does not formally oblige states to incorporate its provisions in domestic law, such an approach is desirable...Direct Incorporation avoids problems that might arise in the translation of treaty obligations into national law, and provides a basis for the direct invocation of the Covenant by individuals in national courts”

LEGAL ENFORCEABILITY AND INCORPORATION

How?

- Range of models, within which a range of options:
- “Constitutional” mode- like the HRA, interpretative obligations, duties on public bodies etc
- Interpretative obligation
- Process obligation- “due regard” “keep under consideration”
- Parliamentary legislative scrutiny model

HOW TO STRENGTHEN ESR PROTECTION - MARCH 2017 WORKSHOP

- Benefits?
- Challenges?
- Models of enforceability?
- What's happening elsewhere in the world?



dignity



fairness



respect

FINAL REFLECTIONS AND NEXT STEPS

- Nourish Scotland's Right to food briefing
- Workshop reports
- Evaluation and feedback



**Strengthening Economic and Social Rights
Series #EcoSocRights**