



**INTERNATIONAL HUMAN RIGHTS**  
**LouvainX online course - prof. Olivier De Schutter**

**READING MATERIAL**  
**related to: section 5, sub-section 1:**  
**Policies aimed at the full realization of human rights**

**Office of the High Commissioner for Human Rights, *Draft Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies* (2003), paras. 49-61 :**

49. The recognition that the full realization of some human rights may have to occur in a progressive manner, over a period of time due to resource constraints, has two implications for policy. First, it allows for a time dimension in the strategy for human rights fulfilment, making the setting of targets and benchmarks an indispensable element of strategies for human rights fulfilment. Second, it allows for setting priorities among different rights and considering trade-offs among them, since the constraint of resources may not permit a strategy to pursue all rights simultaneously, or with equal vigour.

50. The recognition of a time dimension and the need for considering trade-offs and prioritization are common features of all approaches to policymaking. The distinctiveness of the human rights approach is that it imposes certain conditions on those features that the duty-bearers are required to respect. The conditions on the time dimension are aimed at ensuring that the State does not defer or relax the efforts needed to realize human rights. The conditions on trade-offs and prioritization are aimed at ensuring that all trade-offs conform to the human rights norms.

51. In cases where a right cannot be realized immediately due to resource constraints, the State must begin immediately to take steps to fulfil the rights in question as expeditiously as possible. The human rights approach requires that steps taken by States satisfy the following conditions.

52. First, the State must acknowledge that with a serious commitment to poverty reduction it may be possible to make rapid progress towards the realization of many human rights even within an existing resource constraint. Thus, it may be possible to improve the efficiency of resource use—for example, by scaling down expenditures on unproductive activities and by reducing spending on activities whose benefits go disproportionately to the rich.

53. Second, to the extent that the realization of human rights may be contingent on a gradual expansion in the availability of resources, the State is required, as an immediate step, to develop and implement a time-bound plan of action. The plan must spell out when and how the State hopes to arrive at the realization of rights.

54. Third, as the realization of some human rights may take considerable time, the plan must set benchmarks (i.e., intermediate targets) corresponding to each ultimate target. As a prerequisite of setting targets and benchmarks, the State should identify appropriate

indicators, so that the rate of progress can be monitored and, if progress is slow, corrective action can be taken. Indicators should be as disaggregated as possible for each subgroup of the population living in poverty.

55. Fourth, the targets, benchmarks and indicators must be set in a participatory manner, [...] so that they reflect the concerns and interests of all segments of the society. At the same time, appropriate accountability mechanisms must be set up, [...] so as to ensure that the State commits itself fully to realizing the agreed targets and benchmarks.

56. With regard to trade-offs and prioritization, the human rights approach does not in itself offer any hard and fast rules as to which rights are to be given priority. The act of prioritization has to be context-specific, as circumstances differ from country to country. However, the human rights approach imposes certain conditions on the process and substance of prioritization.

57. The *process* of setting priorities must involve effective participation of all stakeholders, including the poor. Value judgements will inevitably enter into the process of setting priorities, but the rights-based approach demands that they should do so in an inclusive and equitable manner. This implies that the process of resource allocation must permit all segments of society, especially the poor, to express their opinions with regard to priorities. It also implies that just institutional mechanisms must be put in place so that potentially conflicting opinions can be reconciled in a fair and equitable manner.

58. The *substance* of prioritization refers to the basis on which priorities are to be decided and the manner in which resources are to be allocated to the rights that have been accorded priority. The following principles must guide the substance of prioritization.

59. First, no right can be given precedence over others on the grounds of intrinsic merit, because from the human rights perspective all rights are equally valuable. However, strategies to ensure effective protection of all human rights may prioritize certain types of intervention on practical grounds. For example, a country may decide to give priority to a right that has remained especially under-realized compared to others, or to a right whose fulfilment is expected to act as a catalyst towards the fulfilment of other rights, or to a right which a country may feel especially well equipped to deal with in view of its traditions or experience.

60. Second, while prioritization entails trade-offs between rights, in an important way the human rights approach circumscribes the nature of such trade-offs. In particular, the principle of equality and non-discrimination rules out any trade-offs which would result in or exacerbate unequal and discriminatory outcomes, e.g., giving priority to providing health and education services to the more affluent parts of society, rather than to the most disadvantaged and marginalized groups. The human rights approach also cautions against making trade-offs whereby one right suffers a marked decline in its level of realization. Such trade-offs would need to be subject to the most careful consideration and to be fully justified by reference to the totality of human rights. In practice, this puts a restriction on the manner in which resources are allocated in favour of the rights that have been accorded priority at any point in time. Additional resources required in order to realize these rights should, as a rule, not be extracted by reducing the level of resources currently allocated to other rights (unless reduced allocation of resources can be offset by increased efficiency of resource use). Instead, as more resources become available to a country over time, increased share of the incremental resources should be allocated to those rights previously allocated fewer resources. In other words, trade-offs should normally be made only in the allocation of incremental resources. For example, if a State decides to accord priority to the right to education, it should devote more of its resources to education than

to other spheres such as food and housing, rather than reducing the level of resources allocated to other rights in a way that might lead to retrogression of those rights.

61. Third, notwithstanding the recognition that resource constraints negatively affect a State's ability to implement its human rights obligations, the international human rights system specifies some core obligations that require States to ensure, with immediate effect, certain minimum levels of enjoyment of various rights. Core obligations must be treated as binding constraints to the allocation of resources, i.e., no trade-offs are permitted with regard to them. These obligations must be met before allocating resources to other purposes. For example, a State has a core obligation, derived from the rights to life, food and health, to ensure that all individuals within its jurisdiction are free from starvation. Therefore, even if the full enjoyment of the right to food—in all its dimensions—may be achieved only progressively over a period of time, the pain of starvation must be removed immediately.