

Reading the books: Governments' budgets and the right to education



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Since 2001 the International Budget Partnership (IBP) and IHRIP, together with Fundar, ESCR-Net and other organizations, have sought to develop and encourage the use of applied budget work as a tool in the struggle to advance human rights. *Reading the books: Governments' budgets and the right to education* is the latest fruit of this collaborative effort.

Reading the books has been developed primarily for human rights groups that focus on the right to education, to assist them in adding budget work to their research and advocacy "toolset," and for applied budget groups that are interested in integrating a human rights framework into their work. We also hope that it will be of use to government bodies and agencies that want to ensure that their government's budget is being used in the best way possible to advance the right to education.

There is already considerable helpful literature on the right to education and on education budgets, reference to some of which is made at different points in this booklet. There is, however, a gap in the literature which we hope these pages will help fill. While some materials on education budgets make reference to the right to education, none takes an in-depth look at how to relate international human rights standards on the right to education to government budgets and budget processes, and how to use these standards in research and advocacy. *Reading the books* seeks to do this. We are convinced that these standards, which represent detailed, agreed-upon, legal obligations of governments, can add significant strength and clarity to work on education budgets.

Reading the books draws heavily on the work of a number of organizations and individuals, some of whom are noted in the following pages. Of particular assistance in the development of this booklet were participants at an international roundtable on the right to education and government budgets that was held in November 2009. They included Nicholas Adamtey (ISODEC, Ghana), Dalile Antunez (ACIJ, Argentina), Emily Banda (CSCQBE, Malawi), Ilham Cendekia (Pattiro, Indonesia), Jay Kruuse (CSA, South Africa), Akanksha Marphatia (ActionAid International), Elizabeth Missokia (HakiElimu, Tanzania), Iara Pietricovsky (INESC, Brazil), and Duncan Wilson (right to education expert, Scotland). We gratefully acknowledge their invaluable contributions to this project.

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Stories from country after country paint the same painful picture, of children and young people struggling to get an education. If they are lucky enough to be in school, they sit elbow to elbow in overcrowded classrooms, being taught by teachers who, even when their hearts are with their students, often lack the necessary knowledge of the subjects they are called upon to teach.

The national constitutions and laws in many countries would tell these same young people that, despite what they may think, they are guaranteed a right to education. Even in countries where national laws contain no such explicit guarantees, their governments have agreed to be bound by international treaties that ensure the right. In other words, the rights guarantees are there, but the reality falls far short. Existing legal standards on the right to education are good (if not perfect), but implementation trails far behind. Bridging this gap is a critical challenge facing all of us.

Legal standards guaranteeing the right to education

Many national constitutions guarantee the right to education. Information on these national standards is available on the web site of the Right to Education Project:
<http://www.right-to-education.org/>

The principal international standards are:

- Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR): www2.ohchr.org/english/law/cescr.htm
- General Comments 11 and 13 issued by the UN Committee on Economic, Social and Cultural Rights (CESCR): <http://www2.ohchr.org/english/bodies/treaty/comments.htm>
- Article 28 of the Convention on the Rights of the Child (CRC): <http://www2.ohchr.org/english/law/crc.htm>
- Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): <http://www2.ohchr.org/english/law/cedaw.htm>

How does a government implement standards it has agreed to live up to? It needs to employ a multi-pronged strategy, one which includes adopting well-conceived policies, developing and pursuing sound plans, implementing relevant and effective programs, as well as developing a carefully designed budget and ensuring effective revenue-raising as well as expenditure of the budget.

Undoubtedly one of the chief obstacles to implementation of human rights standards is a

lack of political will. With the requisite political will, a government can make great strides. However, even when a government is serious about realizing rights, such as the right to education, challenges remain.

One challenge that is specific to developing and implementing a budget designed to realize human rights is that of “translating” human rights standards into budget concepts, language, processes and figures. Civil society groups wishing to monitor government implementation of their promises face this same challenge. What do human rights look like in a government’s budget? Where do you look for human rights in the budget?

Reading the books focuses on the government’s budget. At the same time, it is important to remember that the budget does not stand alone. Anyone committed to advancing human rights needs also to assess the soundness of the relevant governmental policies, plans and programs, and understand their relationship to the budget.

Reading the books is an effort to answer these questions with respect to the right to education. It suggests how the legal guarantees related to the right to education are (or should be) translated into the government’s budget, and some ways to assess whether this is happening.

The creators of this booklet believe that international legal standards guaranteeing the right to education are not only directly relevant to the development of a government’s budget, but can shape and greatly strengthen budget analysis and other forms of budget work, as well as budget advocacy, undertaken by civil society related to education budgets. *Reading the books* builds on work that has previously been done, and assumes that the reader is either familiar with this work or can readily refer to it as needed. Resources of particular relevance are mentioned in the box on the next page.

This booklet has the following four parts:

- Section 1 looks at elements of the right to education and where these might be found in governments’ budgets
- Section 2 discusses governments’ rights obligations and suggests questions these raise about a government’s budget
- Section 3 sets out a process for using a rights framework to analyze a government’s education budget
- Section 4 contains a short discussion of costing related to the right to education

Key resources for budget work related to the right to education

Commonwealth Education Fund, *A Budget Guide for Civil Society Organisations Working in Education* (2009), available at <http://www.commonwealtheducationfund.org/downloads/documents/A%20Budget%20Guide%20for%20Civil%20Society%20Organisations%20Working%20in%20Education.pdf>

This Guide provides CSOs with basic, very practical information they need to get started on budget work related to education issues. The Commonwealth Education Fund, which is jointly managed by ActionAid, Oxfam and Save the Children, has also produced other very useful publications on education budgets.

UN Food and Agriculture Organization (FAO), *Budget Work to Advance the Right to Food: “Many a slip...”* (2009), available at http://www.fao.org/righttofood/publi09/budget_guide_en.pdf

While this book focuses on the right to food, it sets out a methodology that is valid for other human rights, including the right to education. It demonstrates how to use international legal standards related to a specific right to assess a government’s budget to determine the extent to which the budget is helping to realize people’s rights.

Vivek Ramkumar, *Our money, Our responsibility: A Citizen’s Guide to Monitoring Government Expenditures* (2008), available at <http://www.internationalbudget.org/resources/expenditure/IBP-Expenditure-Monitoring-Guide.pdf>

While the CEF and FAO publications focus their attention primarily on budget analysis, this Guide, produced by the International Budget Partnership, provides information about a number of methodologies used by civil society groups and communities in countries around the world to monitor and track expenditures, often at the provincial and local levels.

Budget work on the right to education Malawi

The education sector in Malawi has faced many challenges since the introduction of Free Primary Education in 1994. These include shortages of well-qualified teachers as well as teaching and learning materials, classrooms, and teachers' houses; low salaries for teachers; poor maintenance of infrastructure; lack of adequate community support to school governance; and inconsistent school inspection. The result is poor quality education, absenteeism in schools, and high dropout and repetition rates.

The Civil Society Coalition for Quality Basic Education (CSCQBE) works to achieve measurable change in the quality of basic education in Malawi through supporting and influencing the implementation and monitoring of the government's education policies, strategies and plans. CSCQBE was formed in July 2000 as a nationwide coalition of independent, voluntary organizations, each having its own activities and constituencies, but united in a common pursuit of quality education in the country.

CSCQBE monitors the budget at all levels (national, district and school) to determine if education funding is adequate. It tracks allocations and expenditures to see if they are reaching their intended beneficiaries and to identify any deviations from the goals set out in the approved budget. Its budget monitoring focuses on funds for teaching and learning materials, teacher training and welfare, inspection, special needs education, and cross-cutting issues of gender and HIV/AIDS. It also works to build the capacity of member CSOs in research, advocacy, policy analysis, communication, project management, monitoring and evaluation. It sensitizes and mobilizes these groups and communities on policy and educational content issues, in order to enhance their participation in policy formulation, implementation, monitoring and review at all levels.

When the budget is released, CSCQBE does a quick analysis and provides simple materials to legislators to assist them in posing appropriate questions to the government. It is also able to provide input during national-level formulation of the budget, because of the reports and analyses it has produced on the budget over the years. Every year, prior to the passage of the national budget, CSCQBE convenes stakeholder meetings (comprising its member organizations and other strategic education stakeholders) to solicit each of their perspectives on education financing in Malawi.

The Coalition's strength derives from its 75 members' speaking with one voice as well as from its evidence-based advocacy. The Coalition has succeeded in creating greater awareness about education and spending on education in the country. Recently, the education budget was increased slightly as a share of the overall budget (13%). Although that still falls considerably short of international standards (20%), the Coalition sees this increase as, in part, a response to its work.

Section 1: Elements of the right to education and governments' budgets

The specific problems facing education in one country are different from those in another, but certain problems are repeatedly mentioned by children, parents and educators in country after country. They are

- overcrowding in classrooms
- poor quality teaching
- a lack of, or poor quality, textbooks and equipment
- a lack of schools near the home and problems of transportation to schools that are at a distance
- difficulties in paying school fees
- high drop-out rates, particularly in secondary school
- girls' lower levels of attendance at and completion of school

These problems are obstacles to the right to education of a child or a young person, and international standards related to the right to education speak to each of them.

But what does the right to education mean? As was and continues to be true with civil and political rights, our understanding of the elements and dimensions of the right to education has and will evolve over time, as we debate, discuss and decide on particular cases, situations, policies and practices. The chart, opposite, sets out elements of the right to education as they have been articulated by the UN Committee on Economic, Social and Cultural Rights (CESCR) on the basis of its experience with situations in and reports from the governments of a large number of countries.¹ This type of more detailed treatment of the right to education is invaluable in enabling a thorough examination of a government's actions (including its budget) and how they might advance or inhibit the right to education.

¹ The CESCR has responsibility for overseeing implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and from time to time issues authoritative interpretations of different articles in the Covenant in the form of "General Comments." The Committee has issued two General Comments on the right to education, General Comments 11 and 13. The chart on the next page incorporates the principal points made in the General Comments.

Elements of the right to education under international law*

Equality and non-discrimination: Education must be guaranteed to all, especially the most vulnerable groups, in law and in fact, without discrimination.

Availability: Functioning educational institutions and programs must be available in *sufficient quantity*. What they *require to function* depends upon numerous factors, but these are likely to include buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, etc. Some schools will require facilities such as libraries, etc.

Accessibility

Economic: Education has to be affordable to all. Primary education must be available free of charge and governments that have ratified the ICESCR are required to progressively introduce free secondary and higher education.

Physical: Education has to be within safe, physical reach.

Acceptability: The form and substance of education, including curricula and teaching methods, must be acceptable (e.g. relevant, culturally appropriate, of good quality).

Adaptability: Education must be flexible, so it can adapt to the needs of changing societies and communities, and respond to the needs of students within diverse social/cultural settings.

International assistance: If it is required to realize the right, governments must ask for international assistance, and UN bodies, international agencies and bilateral agencies must provide it.

There must be **transparent and effective systems to monitor** educational standards, etc.

Primary education must be compulsory.

* This table has been developed drawing on the legal standards cited in the box on p. 2.

Being able to relate these guaranteed elements of the right to education to specific education problems, such as those mentioned on the previous page, will help strengthen advocacy directed to the problems by underscoring that, in addition to any obligations arising out of guarantees in the national constitution, the government has international legal obligations to address the problems.

How do these international guarantees relate to the problems highlighted on the previous page? Let's add a column to this chart and try "matching" those problems with elements of the right. The results are in the expanded chart on the next page.

<p>Elements of the right to education</p>	<p>Problems in education & how they might relate to elements of the right</p>
<p>Equality and non-discrimination: Education is guaranteed to all, especially the most vulnerable groups, in law and in fact, without discrimination.</p>	<p>Girls' lower attendance at and completion of school may be due to discrimination.</p>
<p>Availability: Functioning educational institutions and programs must be available in sufficient quantity. What they require to function depends upon numerous factors, but these are likely to include buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, etc. Some schools will require facilities such as a library, etc.</p>	<ul style="list-style-type: none"> • Overcrowding in classrooms is likely due to an insufficient number of schools. • A lack of textbooks and equipment would also contravene this guarantee.
<p>Accessibility</p>	
<p>Economic: Education has to be affordable to all. Primary education shall be available free of charge and States parties are required to progressively introduce free secondary and higher education.</p>	<p>If parents cannot pay school fees and/or must send children to work to help support the family, then education is not affordable to them.</p>
<p>Physical: Education has to be within safe physical reach.</p>	<p>When schools are not near home and transportation is not readily available, education is not physically accessible.</p>
<p>Acceptability: The form and substance of education, including curricula and teaching methods, must be acceptable (e.g. relevant, culturally appropriate, of good quality).</p>	<p>Poor teaching and poor quality textbooks contravene the guarantee of a good quality education.</p>
<p>Adaptability: Education must be flexible, so it can adapt to the needs of changing societies and communities, and respond to the needs of students within diverse social/cultural settings.</p>	<p>School drop-out may be due to a number of reasons, but one could be that the education does not address the needs of specific groups of students.</p>
<p>International assistance: If it is required to guarantee the right, governments must ask for international assistance, and UN bodies, international agencies and bilateral agencies must provide it.</p>	
<p>There must be transparent and effective systems to monitor educational standards, etc.</p>	
<p>Primary education must be compulsory.</p>	

After developing this chart, the next step is to consider how these problems and the corresponding elements of the right to education relate, in turn, to the government's budget. There are normally multiple causes of a problem—of, for example, poor quality teaching—and our ability to relate a problem to an element of the right and then to the budget will depend upon our understanding of these causes. Let's look again at the chart we just constructed, and add potential budget dimensions. The resulting amended chart (on page 10) provides just some examples of possible relationships of the problems to the government's budget. They are by no means exhaustive.

The chart on p. 10 is one step of a process for answering the question: "What does the right to education look like in the government's budget?"

Elements of the right to education	Problems in education & how they might relate to elements of the right	How the problems might relate to the government's budget
<p>Equality and non-discrimination: Education is guaranteed to all, especially the most vulnerable groups, in law and in fact, without discrimination.</p>	<p>Girls' lower attendance at and completion of school</p> <ul style="list-style-type: none"> • Overcrowding in classrooms is likely due to an insufficient number of schools. • A lack of textbooks and equipment would also contravene this guarantee. 	<p>The Ministry of Education (MoE) may not have budgeted for adequate sanitary facilities to allow privacy to girls.</p> <ul style="list-style-type: none"> • There may be an inadequate infrastructure allocation in the budget, that is, an allocation for building schools. • Contracts for purchase and delivery of textbooks may have been given to a crony of the local education official, who did nothing when the books did not appear.
<p>Availability: Functioning educational institutions and programs must be available in sufficient quantity. What they require to function depends upon numerous factors, but these are likely to include buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, etc. Some schools will require facilities such as a library, etc.</p>		
<p>Accessibility</p>		
<p>Economic: Education has to be affordable to all. Primary education shall be available free of charge and States parties are required to progressively introduce free secondary and higher education.</p>	<p>If parents cannot pay school fees and/or must send children to work to help support the family, then education is not affordable to them and their children.</p>	<p>Schools may be charging fees, because they are getting inadequate funding from the MoE. The MoE may not have budgeted for incentives to encourage poor families to send children to school.</p>
<p>Physical: Education has to be within safe physical reach.</p>	<p>When schools are not near home and transportation is not readily available, education is not physically accessible.</p>	<p>The MoE may not have budgeted for transportation.</p>
<p>Acceptability: The form and substance of education, including curricula and teaching methods, must be acceptable (e.g. relevant, culturally appropriate, of good quality).</p>	<p>Poor teaching and poor quality textbooks contravene the guarantee of a good quality education.</p>	<p>The MoE may pay such low salaries that the most qualified teachers go to better-paying private schools.</p>
<p>Adaptability: Education must be flexible, so it can adapt to the needs of changing societies and communities, and respond to the needs of students within diverse social/cultural settings.</p>	<p>School drop-out may be due to a number of reasons, but one could be that the education does not address the needs of the specific groups of students.</p>	<p>This problem may have a budget dimension, but not all problems do. This problem may instead, for example, be the result of poor policies and planning in the MoE.</p>

Budget work on the right to education Indonesia

Part of the work of Pattiro–Centre for Study and Regional Learning focuses on the right to education in Indonesia. The organization analyzes national as well as local education budgets, with greater attention to the latter. The organization also undertakes

- Capacity-building for policymakers on how to develop education policies in line with the government’s rights obligations, and encourages the development of regulations and budgets in line with these obligations;
- Research on efficiency of education spending, specifically using the PETS (Public Expenditure Tracking System)* methodology; and
- Capacity-building for communities in monitoring education budgets at the school level as well as technical assistance to schools on budget transparency.

As part of the decentralization process in the country, the central government allocates both general funds and funds earmarked for education to local governments. Local governments make a decision as to the share of the general funds that will go towards the first 9 years of education. (Provincial governments are responsible for funding upper secondary education, while the central government funds go to the university level). Pattiro analyzes the sufficiency of allocations to education as well as the efficiency of expenditures.

Through its work Pattiro has identified poor quality school infrastructure as well as an insufficient number of schools as central problems in education in the country. It has concluded that the allocations for infrastructure in the government’s budgets are inadequate, and that expenditures of these too-limited funds are also hampered by both inefficient and corrupt procurement processes. It has recommended an increase in allocations for infrastructure as well as the development and implementation of a more efficient selection process for construction contracts.

Pattiro has been successful in persuading the government to adopt more rights-friendly policies and to change regulations bearing on education at the local level.

* For more information on this methodology, refer to *Our money, Our responsibility* (for details on this publication, see p. 4).

Section 2: Governments' human rights obligations and the budget

While individuals are guaranteed certain rights under national and international laws, governments, in turn, have specific responsibilities for ensuring that people are able to enjoy their rights. Governments' responsibilities—or obligations—under international law have been detailed by the Committee on Economic, Social and Cultural Rights (CESCR) and others. Understanding these obligations can allow analysts to better assess the government's budget to determine if, through the way it is raising, allocating and spending the budget, the government is doing the best it can to realize the right to education.

The text boxes on the next two pages summarize these obligations, with examples of what each obligation means with regard to the right to education. If you are already well familiar with these obligations and how they relate to education, you can skip the boxes.

*Government obligations under international law**

Governments have an obligation of **non-discrimination**, which requires that in all their actions they do not discriminate against individuals or groups on the basis of a number of characteristics, including ethnicity, religion, belief, sex or property. Thus, for example, if a government excludes (by policy or practice) the children of a specific ethnic group from access to primary education, it would be violating this obligation.

The obligation of **respect** has a particular “legal” meaning; it is a short way of saying, “Do no harm.” That is, a government should take no action that diminishes or interferes with an individual's current enjoyment of a right. If, for example, the government evicts a community so that children can no longer attend the local school, this would be a violation of the obligation of respect.

The obligation to **protect** means that the government must protect individuals from actions of a third party who would interfere with or diminish the individuals' rights. Thus, if the government has not established a system for monitoring the quality of education provided in private schools, it would be failing to “protect” the students attending those schools.

The obligation to **fulfill** has three dimensions: provide, facilitate and promote.

- *Provide*: When individuals are themselves unable to access education, the government must ensure that access. So, if a student cannot attend primary school because the family cannot afford the uniform, the government must step in and provide funding for the uniform.
- *Facilitate* requires that the government, through its policies, programs, projects and budgets, enables individuals to have access to education. This is a sweeping obligation, one that typically comes into play with regard to the education problems already

identified (above, p. 6).

- *Promote* requires that governments work to ensure that people know about their rights and what to do when those rights are violated. If, for example, the government makes scholarships available to poor children to attend secondary school, it must also ensure that qualified students are made aware of this opportunity.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) adds some additional obligations with regard to the rights in that treaty (which include the right to education). The two most often relevant to budget work are:

- The government's obligation to use the **maximum of its available resources** to realize rights, in this case, the right to education. In other words, even when a government's resources are very limited, it has an obligation to prioritize economic, social and cultural (ESC) rights (such as the right to education). It must also use those resources in a way that will have the maximum impact on the enjoyment of the right to education (and other ESC rights). The government has to use resources available in an effective and efficient manner, and must not divert funds allocated to education to other, non-essential, areas.
- Governments are also obligated to **achieve progressively** the realization of rights, which means that they have to move consistently to expand and extend the enjoyment of the right to education and cannot take backward steps (known as retrogression).

International law looks not only at what a government does, but at the impact of its actions. This two-pronged approach is embodied in what is called:

- The **obligation of conduct**, which requires that governments undertake actions reasonably calculated to realize the enjoyment of a right, in this case, the right to education. It focuses on what the government *does*; and
- The **obligation of result**, which requires that the steps a government has taken and the measures it has adopted actually enhance enjoyment of, again, the right to education. This obligation focuses on the *outcome* of government actions.

There are also two civil and political rights whose fulfillment is very important to budget work. They are:

- the **right to information** (often called "access to information"), guaranteed by the Universal Declaration of Human Rights (UDHR), article 19, and the International Covenant on Civil and Political Rights (ICCPR), article 19(2); and
- the **right to participate** in public affairs (typically called participation), cited in UDHR article 21 and guaranteed by ICCPR article 25.

* This summary is based on *Budget Work to Advance the Right to Food: "Many a slip..."* (see p. 4)

How might these obligations relate to the education problems first mentioned on p. 6? Let's take an example: poor quality teaching. We saw above (p. 8) that this problem seems inconsistent with the guarantee that education will be of acceptable quality. Now, if we consider this problem in light of the obligations, a number of questions arise, including:

- Has the government adopted policies, plans and programs designed to enhance teachers' knowledge and capacities? This is a question about whether the government is meeting its obligation to fulfill (through facilitating) the right to education.
- Has the government done everything it can to help improve the quality of teaching in the schools? "Done everything" translates into doing the maximum it can, including using the "maximum of available resources" to improve the quality of teaching.
- Has the quality of teaching actually been improving over the years—or has it stayed the same, perhaps even gotten worse? This relates to the obligation of "progressive achievement" and non-retrogression.
- Has the government asked communities about the quality of teaching in local schools and what the government should do to enhance it? This is a question related to the government's responsibility to ensure participation.

These are examples of how human rights obligations relate to specific problems in education.² But how do we at the same time relate these obligations to the government's budget?

To repeat what was mentioned earlier, the government's budget will not be implicated in all problems in an educational system. Girls' low attendance at schools may, for example, be due more to cultural constraints than to the government's budget. At the same time, civil society groups working on education issues often find a direct connection between the problems that most plague education in their countries and their governments' budgets.

Let's revisit the bulleted questions just posed at the top of this page and add some questions that suggest how the government's budget might possibly be related to the problem and the governments' obligations. The results are set out in the box at the top of the next page (budget questions are in red).

You will notice that the questions in the box touch on all dimensions of the government's budget: revenue, allocations and expenditures as well as the impact of expenditures. This is not accidental, as human rights are related to and potentially have something to say about all of these areas.

² It would, of course, be possible to come up with similar questions related to the other problems mentioned: overcrowding in classrooms; a lack of, or poor quality, textbooks and equipment; a lack of schools near the home and problems of transportation to schools that are at a distance; difficulties in paying school fees; high drop-out rates, particularly in secondary school; and girls' lower attendance at and completion of school.

Relating a government's rights obligations to the budget

- Has the government adopted policies, plans and programs that are designed to enhance teachers' knowledge and capacities? This is a question about whether the government is meeting its obligation to fulfill (through facilitating) the right to education. *Has the government allocated sufficient funds to realize the plans and programs the Ministry of Education has put into place to improve teaching?*
- Has the government done everything it can to help improve the quality of teaching in the schools? "Done everything" translates into doing the maximum it can, including using the "maximum of available resources" to improve the quality of teaching. *Has the government's tax collection been efficient and effective, so that there are significant resources to direct to education in general, and teacher training in particular?*
- Has the quality of teaching actually been improving over the years—or has it stayed the same, perhaps even gotten worse? This relates to the obligation of "progressive achievement" and non-retrogression. *Have government expenditures on teacher training over the years brought about noticeable improvements in the quality of teaching?*
- Has the government asked communities about the quality of teaching in local schools and what the government should do to enhance it? This is a question related to the government's responsibility to ensure participation. *Has the government involved the community in deciding how much of local education expenditures should be directed to training teachers?*

The matrix on pp. 17-20 illustrates some of the many implications for civil society budget work of these obligations as they relate to the right to education. A few blocks in the matrix are blank, but most have a general question that articulates the relationship between the human rights obligation and the corresponding aspect of the budget process. When feasible and desirable, there is, in addition, an example in the education sphere of compliance or failure of compliance with the respective obligation. Many more such examples could be provided.

The matrix is useful not simply to elucidate the many connections between governments' human rights obligations and their budgets, but as a potential "checklist" for researchers and analysts to ensure that in their budget work they consider the many possible questions that should be asked of the government with regard to how its budget advances the right to education.

Budget work on the right to education Argentina

The Asociación Civil por la Igualdad y la Justicia (ACIJ)'s work on the right to education is centered on the City of Buenos Aires. Its primary focus has been overcrowding in the schools and the lack of spaces in pre-school for a significant number of children, particularly those living in poor neighborhoods. When the organization first started its Equality of Education Program (EEP), it gathered information primarily through observation and speaking with principals and teachers. Since its work has become better known, parents from poorer neighborhoods have approached the organization with their concerns about scholarships, transportation (to schools in wealthier neighborhoods that have classroom space) and other issues.

Early in its work ACIJ identified the neighborhoods in the City where overcrowding was most severe, and determined that those same areas suffer from lower educational infrastructure spending than do richer areas. In addition, through its budget work ACIJ has documented that since 2002 the City Department of Education has consistently and significantly under-spent its infrastructure budget despite the crying need for more classroom space. Its current research also indicates that the formula for allocating funding for school maintenance does not take the number of students at a school into account, and thus discriminates against the schools in the poorest neighborhoods, which are the most overcrowded.

The principal problem ACIJ faces is that the data the Department compiles are insufficiently detailed and complete, and thus ACIJ has had to limit its analysis of infrastructure funds to the 50% of expenditures that are clearly designated in government reports. In partial response to this situation, the organization has presented a draft law to the local legislature proposing mechanisms whereby the government would generate complete, precise data on educational problems and needs.

Prior to 2006 neither legislators nor the public knew what the city's education budget was being spent on or where it was being spent. Although many politicians were concerned about social spending, because of the lack of readily-accessible information in the budget, it was difficult for them to understand where the funding was going. Now ACIJ analyzes the executive's budget by geographical areas (neighborhoods in the City) and spending areas. It also tracks spending over time, to determine whether the government is working to progressively realize its obligations. It presents its findings to the legislature and members of the executive branch. Its use of the media has been effective in pressuring the government to build additional classrooms in poor neighborhoods.

The right to education, governments' obligations and budget work

		Questions re: obligation of conduct			Questions re: obligation of result
		Analyzing revenue	Analyzing allocations	Tracking expenditures	Assessing the impact of revenue and expenditures
Budget work Obligations	respect	<p>Is the government raising revenue in a way that will likely diminish individuals' current enjoyment of the right to education?</p> <ul style="list-style-type: none"> Are increased taxes or user fees likely to impinge on individuals' current enjoyment of the right to education? <p>Example of failure of respect: Increased taxes mean that poor families have less available to pay for school fees, supplies, uniforms.</p>	<p>Is the government allocating funds in a way that will likely diminish individuals' current enjoyment of the right to education?</p> <ul style="list-style-type: none"> Has the government allocated funds for programs the likely result of which is that some people's current enjoyment of the right to education will be curtailed? <p>Example of failure of respect: Allocation for a government project that will displace a community, with the result that displaced students will not have access to a school.</p>	<p>Is the government expending funds in a way that will likely diminish individuals' current enjoyment of the right to education?</p> <p>Example of failure of respect: Expenditures for a government project that displaces a community, with no corresponding expenditures to ensure that displaced students have access to a school.</p>	<p>Have revenue increases actually interfered with someone's prior enjoyment of the right to education?</p> <p>Have specific expenditures actually interfered with someone's prior enjoyment of the right to education?</p> <p>Example of failure of respect: The impact of government expenditure for a project is to displace a community, and by the displacement, disrupt students' access to schooling.</p>
		<p>Does the government have an effective system in place to monitor and prevent tax evasion?</p> <p>Example of compliance with obligation to protect: The government is diligent in ensuring that specific excise taxes that are earmarked by law for education are efficiently and fully collected.</p>	<p>Has the government allocated sufficient funds to ensure that supervisory bodies or regulatory agencies can operate effectively?</p> <p>Example of compliance with obligation to protect: Allocations to allow for monitoring of private schools, to ensure they are up to standards, are adequate.</p>	<p>If properly allocated, are the regulatory agencies spending their funds in line with allocations?</p> <p>Example of compliance with obligation to protect: Expenditures to ensure monitoring of private schools, to ensure they are up to standard, are adequate.</p>	<p>Are the regulatory agencies spending their funds in a way that is actually controlling third parties?</p> <p>Example of compliance with obligation to protect: Government expenditures on oversight of private schools result in the monitoring bodies' spotting instances of failure by those schools to meet standards for quality education.</p>
	protect				

		Questions re: obligation of conduct			Questions re: obligation of result
Budget work Obligations	Analyzing revenue	Analyzing allocations	Tracking expenditures	Assessing the impact of revenue and expenditures	
fulfill (facilitate)	Is the government raising revenue in a way that will likely facilitate people's enjoyment of their right to education?	Is the government allocating funds in a way that will likely facilitate people's enjoyment of their right to education? Example of a key question: Is the government providing sufficient allocations to ensure access to free primary education for all?	Are the allocated funds actually being spent? In not spending funds that have been appropriately allocated, a government may be failing to facilitate someone's enjoyment of their right to education. Example of failure to fulfill: Education funds for a year are not fully expended. (This overlaps with the failure to use maximum available resources, below)	Did the government raise revenue in a way that has facilitated people's enjoyment of their right to education? Are people actually experiencing greater enjoyment of their right to education as a result of government expenditures? Key question: Did adequate government funding enhance people's access to quality education?	
	Fundamental question: Is the government raising enough revenue to provide adequate funding for education?	Is the government allocating funds to provide goods and services that are necessary to ensure individuals' basic enjoyment of the right to education? Example of compliance with obligation to fulfill (provide): Government makes allocations for education for disadvantaged communities.	Is the government spending funds intended to provide the goods and services necessary to ensure individuals' basic enjoyment of the right to education? Example of compliance: Government spends the funds earmarked for education for disadvantaged communities for that purpose.	Do people have the goods and services necessary to ensure their basic enjoyment of the right to education as a result of government expenditures? Example of compliance: Students in disadvantaged communities enjoy greater access to quality education.	
fulfill (promote)		Is the government allocating funds designed to ensure that people are aware of their right to education? Example of compliance: Allocations for outreach to enhance girl child school attendance.	Is the government expending funds on programs and projects designed to ensure that people are aware of their right to education? Example of compliance: Expenditures for outreach to enhance girl child school attendance.	Is people's awareness of their right to education increasing as a result of government expenditures? Example of compliance: Increased girl child education as a result of government outreach efforts.	

		Questions re: obligation of conduct			Questions re: obligation of result
		Analyzing revenue	Analyzing allocations	Tracking expenditures	Assessing the impact of revenue and expenditures
Budget work obligations	progressive achievement	<p>Is the government increasing revenues to the extent necessary to enable it to progressively increase allocations to the right to education?</p> <p>Key question: Are revenue increases at a minimum keeping pace with inflation and population growth?</p>	<p>Is the government allocating increasing funds (where necessary), in real terms, towards the fulfillment of people's right to education?</p> <p>Key question: Are shares of the budget devoted to the right to education growing larger (where necessary) over time?</p> <p>Key question: Are per capita allocations on (necessary) right to education programs, etc., increasing, in real terms, over time?</p>	<p>Are relevant expenditures increasing in real terms over time?</p> <p>Key question: Are per capita expenditures on education increasing in real terms over time?</p>	<p>Are the expenditures having the effect of increasing people's enjoyment of their right to education over time?</p> <p>Example of evidence of compliance: A growing proportion of children are attending primary school.</p>
		<p>Is the government doing everything it reasonably can to increase revenue to secure funds to direct to right to education concerns?</p> <p>Key question: Is revenue keeping pace with growth in the GDP? Could more revenue be raised?</p> <p>Key question: Is the government seeking support from bilateral or multilateral agencies where domestic resources are inadequate?</p>	<p>Are government allocations towards right to education-related matters using the maximum of available financial resources?</p> <p>Key question: Are right to education-related areas allocated an appropriate share of the budget compared to lower priority areas?</p>	<p>Are budget allocations being fully and efficiently expended—and are any added revenues in mid-year being directed to priority right to education concerns?</p> <p>Key questions: Is the Ministry of Education getting its allocations early in the fiscal year so that it can fully and effectively spend its allocation during the year?</p> <p>Are full funds making their way from central government to schools?</p>	<p>Are expenditures being used in such a way as to have the maximum beneficial impact on the enjoyment of human rights?</p> <p>Example of compliance with obligation: Good and reasonably priced textbooks are being made widely available to students who need them.</p>
	use of maximum available resources				

		Questions re: obligation of conduct			Questions re: obligation of result
Budget Obligations non-discrimination to ensure participation to ensure access to information	Analyzing revenue in the budget Is the government raising revenue in a way that is discriminatory?	Analyzing allocations Is the government allocating funds in a way that is discriminatory? <i>Key question: Are certain socio-economic groups being treated in a discriminatory fashion in budget allocations related to the right to education?</i>	Tracking expenditures How are the allocated funds actually being spent? Allocations that are neutral on their face could be spent by government authorities in a discriminatory fashion. <i>Key question: Are certain socio-economic groups receiving less in education than other groups as a result of discrimination?</i>	Assessing the impact of revenue and expenditures Does the revenue system actually burden certain socio-economic groups in a discriminatory fashion? Are the benefits of government expenditures spread unevenly among different socio-economic groups as a result of discrimination? <i>Example of evidence of compliance: Education test scores of historically disadvantaged groups improve.</i>	
	Has the government established structures and processes to facilitate civil society participation in commenting on/proposing/ effecting modifications in revenue at the national and local levels?	Has the government established structures and processes to facilitate civil society participation in commenting on/proposing/ effecting modifications in budget allocations related to the right to education at the national and local levels?	Has the government established structures and processes to facilitate civil society initiatives designed to track expenditures on the right to education in national and local government budgets?	As a result of government action, does civil society have an effective voice and role in the development of revenue schemes and budget allocations as well as in tracking of expenditures and assessing impact related to the right to education?	
	Has the government established structures and processes to facilitate civil society access to information on revenue in national and local budgets?	Has the government established structures and processes to facilitate civil society access to information on allocations related to the right to education in national and local budgets?	Has the government established structures and processes to facilitate civil society access to information about expenditures related to the right to education at the national and local levels?	As a result of government action, is civil society able to get access to budget-related information related to the right to education in a way that enables it to be well-informed about government budget issues?	

How does this two-part right to education analysis fit into budget work? Various organizations have developed their own processes for pursuing budget work within a human rights framework. The experiences of some of these groups served as the basis for the process proposed in a recent publication, *Budget Work to Advance the Right to Food: "Many a slip..."* (see p. 4). That process can be used to address issues involving rights other than the right to food, and so the flow chart on the next page, adapted from that publication, refers to the right to education.³

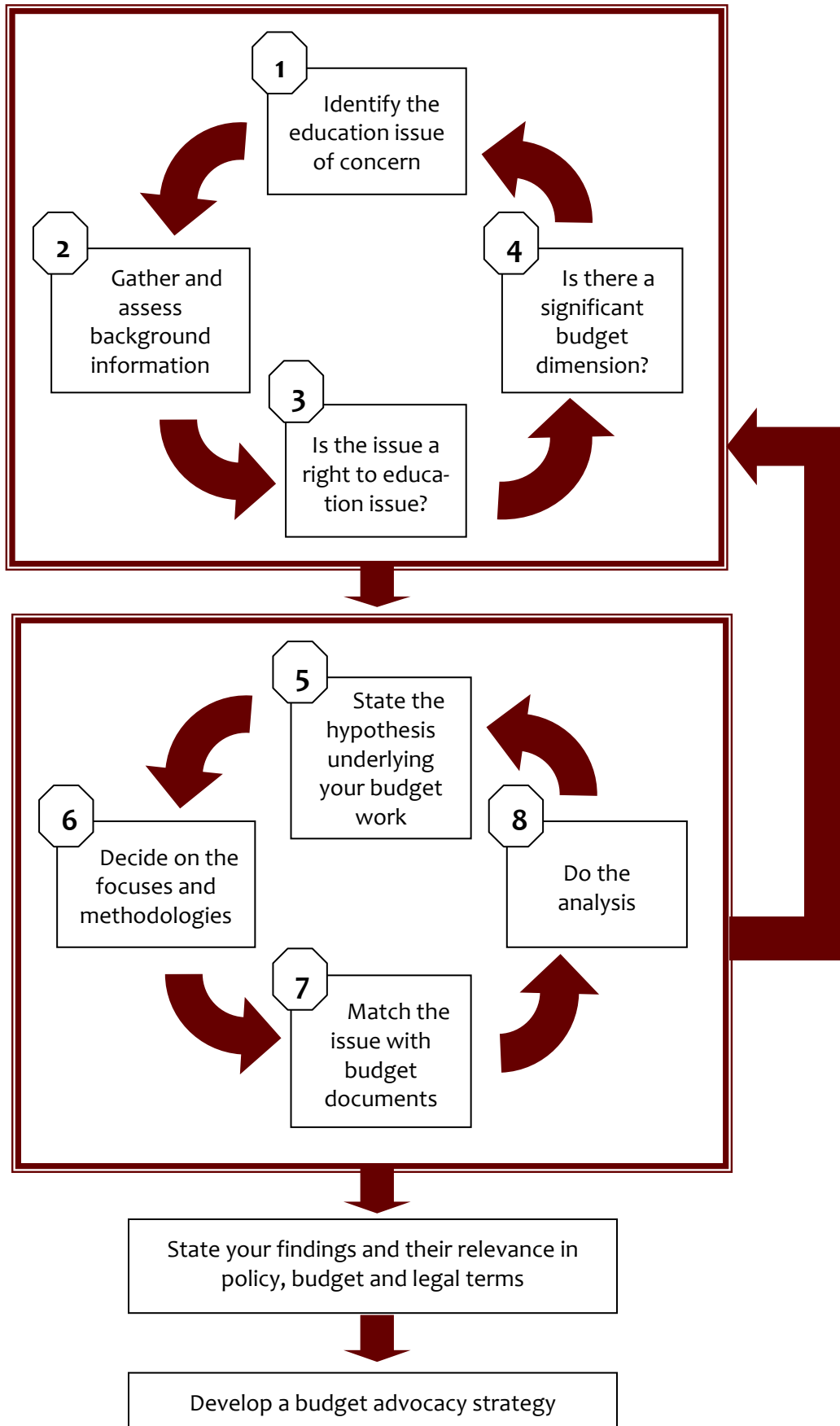
How does the process work? Let's take one of the problems mentioned on p. 6 that confronts students in many countries—poor quality of textbooks and equipment. Indeed, by picking this issue, we have already taken Step 1 of the process: *Identifying the education issue of concern*.

Step 2: *Gather and assess background information:* The background information to be gathered will depend upon the particular problem. In all cases, information about the rights standards in the country (in the constitution and in treaties ratified by the country) as well as relevant educational policies and plans would be basic. (In this case, of particular use would be any policy or plan that deals with textbooks and equipment). Data about the actual quality of textbooks and equipment, whether gathered by the government, academic institutions, civil society groups or others, would be essential. In addition, basic information relevant to the education budget would be important. The purpose of gathering this initial information is to be better able to gain insights into the causes of the poor quality of textbooks and equipment.

Step 3: *Is the issue a right to education issue?* To answer this, we must first ask whether the government is involved in the problem, through its action or inaction. Since the problem arises in government-funded schools, the government is clearly involved. Now we can turn to the right to education analysis already set out on p. 8. There, poor quality of textbooks and equipment fell under the element of "acceptability." Because we have some (as yet unclear) government actions or inactions that have resulted in textbooks and equipment being of unacceptable quality, it is possible to answer the initial question: Yes, this is a right to education issue.

Step 4: *Is there a significant budget dimension to the problem?* This question could be reworded to ask instead: Would the problem we are concerned about be substantially addressed if there were changes in the government's budget allocations or expenditures; that is, if more money were directed to textbooks and equipment, or if available funds were spent more efficiently and effectively? This is an important question, because there is

3 To understand this process well, it would be important to read carefully through Part I of "*Many a slip....*"



little point in doing budget analysis or other forms of budget work if the government's budget plays no significant role in the problem. If it does, then move on to step 5.

Step 5: State the hypothesis underlying your budget work: At this point you should be ready to say what you think the budget problem is and what you would be looking for in your budget analysis. Let's assume that on the basis of all the information you have thus far, your best guess of the cause of the problem is not the amount of money available for textbooks and equipment, but incompetence or corruption in the procurement processes at the local level (that is, the processes for buying the textbooks and equipment). You hope to show through your budget work that the money allocated for textbooks and equipment is not being properly spent.

Step 6: Decide on the focuses and methodologies of your budget work: Given the hypothesis, the "focuses" in this case would be *expenditures* at the *local* level (rather than, say, *allocations* in the *national* budget). The methodologies to be used in budget work depend on the problem being addressed, the context, and the capacities of the organization seeking to address the problem. In this case, a methodology appropriate to the hypothesis and the focuses chosen would be assessing the local procurement processes and outcomes. (A methodology for monitoring and analyzing procurement processes is described in *Our money, Our responsibility*; see p. 4 for further information).

Step 7: Match the issue with budget documents: In this case, the relevant documents would be those related to the local government budget for textbooks and equipment, information about the local government's procurement processes together with its procurement records for recent years.

Step 8: Do the analysis: The analysis you do will, of course, depend upon the focuses and methodologies chosen. Here you would apply the methodology just mentioned to the information and budget documents you have gathered.

Step 9: State your findings and their relevance in policy, budget and legal terms: Suppose your analysis tells you that the government has fully spent all of the funds allocated for textbooks and equipment, and thus the problem does not lie in under-expenditure. The relevant invoices show that standard prices have been paid for both textbooks and equipment, while the teachers, students and parents you have interviewed all confirm that both are of very poor quality. Your analysis therefore points you in the direction of either incompetence or corruption in the purchase of textbooks and equipment. Upon further research you learn that the company that has the contract for providing both textbooks and equipment is owned by relatives of a powerful local official. You thus conclude that the problem is probably rooted in corruption.

What do these conclusions imply with respect to the government's human rights obligations? At this point it might be useful to consult the matrix on pp. 17-20. The focus of the analysis has been expenditures, so look at the column in the matrix relevant to expenditures. The government has spent the relevant funds, but, you conclude, they did not "protect" the students' right to education, because they did not properly monitor the procurement process; they allowed the provider to supply poor quality goods. They also did not spend the available funds efficiently, because they could have gotten better books and equipment for the same money. In other words, they did not use the resources available to them to maximum effect, and thus failed to "use the maximum of available resources" as required by international law.

How you state your conclusions and what your advocacy strategy will be (step 10) will depend on the political context within which you work, provisions in your constitution and education policies, where you believe points of political leverage are, and so on. However, having identified these failures by the government to meet its right to education obligations, on the basis of your budget analysis you can, in any case, say that *the government, by not having in place a good system for monitoring the procurement process and allowing funds for textbooks and equipment to be spent in an inefficient manner, is failing to realize the students' the right to education.*

These brief examples illustrate how budget work can be a powerful tool for monitoring and assessing a government's compliance with its rights obligations. It has an added advantage: In many cases your analysis can identify for you the root causes of the problem you are addressing and enable you to make specific recommendations to the government that would help address the problem. In this case, for example, a recommendation would be that the government should establish an effective structure and process for monitoring procurement of textbooks and equipment at the local level.

Budget work on the right to education South Africa

The Centre for Social Accountability (CSA) works for the realization of social and economic rights through the effective management of public resources, with a particular focus on the Eastern Cape Provincial Administration. Education has always been a central focus for CSA's work, because education has the largest single allocation in the national budget and is also allocated approximately 50% of the budget of Eastern Cape Province.

The methodology CSA uses in its work comprises the following components:

- *A Planning and Budget Evaluation (What resources are available to public service providers, whether government departments or private companies, to address social and economic needs and how do they plan to use these resources?).* CSA analyzes the consistency between state policy priorities and budget allocations to service providers.
- *Expenditure Tracking (Are public funds effectively spent?)* CSA tracks spending against allocations. Emphasis is placed on whether service providers can account for expenditures and whether explanations provide an adequate justification for any over- or under-expenditure.
- *Performance monitoring (How do officials/service providers perform in implementing their strategic plans? Do they produce the needed services?)*
- *Integrity System Evaluation (Is effective corrective action taken in response to the mis-allocation or abuse of public resources?)* This involves not only monitoring disciplinary structures, but also evaluating the functioning of disciplinary processes in key service delivery departments.
- *Monitoring of Oversight (Do service providers account effectively to oversight bodies? What recommendations do these bodies make to improve the performance of service providers and the executive? Are recommendations implemented?)* CSA makes an evaluation of the degree to which service providers and the executive make themselves accountable to constitutional oversight bodies.

While the CSA has seen some improvements in the education sector in recent years, pass rates are still too low. It has concluded that, even though the education budget is inadequate, the size of the budget is only one of a number of factors contributing to under-performance. Others include weak financial management and planning, a lack of leadership, low caliber of teaching and political interference in education decisions (for example, interference in the Department of Education's attempts to sack poorly-performing teachers and administrators). Inadequate school infrastructure, aligned with disproportionate levels of maintenance, also have a significant impact upon learner performance and teacher morale.

Section 4: Costing and the right to education— A brief introduction

If a government wants to expand a program or add a new program to better realize citizens' right to education, it will need to calculate how much the program will cost, in order to determine whether it has (or will have) sufficient resources to accommodate it. If a CSO, from its side, wants to propose an expanded or new program in the education sector, it may feel that its proposal will be treated more seriously by the ministry or department of education if it can give the government a figure as to how much the proposed program would cost.

“Costing” is a process of determining how much would need to be spent to purchase the resources necessary to achieve a certain activity, program or strategy.⁴ It involves looking at direct costs of the proposed program, including capital (e.g., infrastructure) and recurrent (or operating) costs, as well as fixed and shared costs, estimated future costs, and indirect as well as intangible costs. Because of the complexity of costing as well as the fact that costing of government programs relies on data and formulas known only to the government (related, for example, to its indirect costs), it is very difficult for civil society to do a full costing for a government program or project it wishes to propose. It can, however, provide a well-grounded estimate of anticipated costs. Responsibility for a full costing of governmental human rights obligations rests, in any event, with the government.

How would an organization go about developing such an estimate? Let's consider the problem of overcrowding of primary school classrooms. What would be needed to relieve this problem? In the simplest terms, it would require more classrooms and more teachers. Developing the estimate would start with the current situation. Suppose that the current average student: teacher ratio in primary schools is 65:1. The Ministry of Education's (MoE) plans aim to reduce that ratio to 55:1 over the next 10 years. Your organization believes that, in light of the importance of primary education and the rights guarantee of quality education, the government should be more ambitious. You decide to propose that the ratio should be reduced to 40:1 within the same 10 years. How many more teachers would need to be hired (and trained) and how many more classrooms would need to be built and equipped to accommodate the smaller classes? How much extra would it cost to meet this more ambitious target? The following is a simplified version of a CSO “costing”:

- A starting point would be identifying the current number of primary schools students, teachers and classrooms. The population of primary school students will likely increase over the 10 year period, and it is important to keep that increase in mind when determining the number of primary school teachers (and classrooms) that will be needed by the end of that period in order to reach the desired ratio.

4 This discussion draws on Guthrie, T. (2007), “Costing Health Interventions.” Available at <http://www.cegaa.org/docs/CostingHealthInterventionsMar07.ppt>

- Suppose there currently are 3,900,000 primary school students, and the Ministry of Education (MoE) estimates that in 10 years there will be 4,800,000 primary school students. You learn from the MoE that there currently are 60,000 primary school teachers. If you want a 40:1 ratio in 10 years, when there will be 4,800,000 students, you will need 120,000 teachers (the number of students divided by the desirable number of students per teacher). In other words, in 10 years the number of primary school teachers will need to double!
- If the government is aiming for a 55:1 student: teacher ratio, they would be planning for approximately 87,300 teachers or an increase of 27,300 primary school teachers, compared to your proposed increase of 60,000—a difference of 32,700 teachers. Your costing would focus on the added expenditures associated with those 32,700 teachers. You would also need to propose the annual pace of increase in teachers: How many new teachers would need to be added each year to reach the 120,000 over 10 years? Decisions on pacing will be necessary in order to calculate the added budget cost each year.
- Assuming that each new teacher needs a classroom (which may not, in reality, be the case, depending upon how classrooms are used in the schools), you would need to determine the cost of building and equipping (with desks, chairs, blackboards, etc.) each new classroom. Referring to your proposals for pacing the growth, you then calculate the cost each year of adding the new classrooms. You would also need to calculate the cost of each new teacher (salary, benefits, training, etc.), and then determine the added cost per year of the new teachers.
- Depending upon your organization's capacities, this estimate will be more or less rough. Including an estimate of the government's indirect costs, for example, would make your estimate more accurate, but may be impossible to calculate precisely because you would likely not have access to information on those costs. Incorporating depreciation costs of the new buildings would also help with accuracy, but it would require that your organization know how to calculate depreciation.

These are examples of the broad steps that a CSO “costing” would require. Once you have arrived at a total estimate, your organization would need to decide if you want to suggest to the government where they might be able to secure the necessary added funds. Although a government should, according to its rights obligations, be prioritizing primary education and directing the maximum of available resources to this purpose, in reality it is probably not doing so. It may not be enough to say how much more the government needs to spend. If the government is to take the proposal seriously, it may be necessary to also suggest where funds could come from.

The human rights guarantees in the International Covenant on Economic, Social and Cultural Rights (ICESCR) and other international treaties represent historical achievements, ones that have been won following long, difficult struggles. It is incumbent upon us to honor and take advantage of these achievements by using the standards to enhance the quality of life of people.

Implementation of these standards is proving to be difficult for a number of reasons, including resistance by governments. However, it is not just government resistance standing in our way. It is also taking time for us to understand the many uses that can be made of the standards, and how to “translate” them into the language, tools and processes used in a range of disciplines, such as budget analysis, which have not traditionally been associated with human rights work.

At first glance there is a very wide gap indeed between the moral standards and aspirations articulated in human rights guarantees, and the technical terminology and the pages upon pages of numbers in government budgets. However, the more we reflect on government budgets in the light of human rights and the more those active in the two areas converse and work with each other, the more apparent the numerous, integral connections between the two will become. A full elucidation will take time, but our hope is that *Reading the books* has shed light on some of these critical connections, better enabling concerned individuals and organizations to realize the promises in national and international human rights guarantees of a better life for all.

