

August 2022

The Impact of Human Rights Budgeting

Response to the Call for Views on the Pre-budget Scrutiny 2023/24





CEMVO Scotland is a national intermediary organisation and strategic partner of the Scottish Government Equality Unit. Our aim is to build the capacity and sustainability of the ethnic minority (EM) voluntary sector and its communities. Since being established in 2003, we have developed a database network of over 600 ethnic minority voluntary sector organisations throughout Scotland to which we deliver a wide range of programmes that provide capacity building support to the sector.

As a national organisation, we continually engage with the EM voluntary sector and its communities, which enable us to gather intelligence about the needs and issues affecting the sector. This helps our organisation to deliver tailored support to the sector, and to work strategically with public, statutory, and government agencies to tackle a range of prevalent issues such as race equality, social inclusion, capacity building and civic participation.

One of our core programmes at CEMVO Scotland is Race for Human Rights. The aim of this programme is to help public service providers increasingly embed race equality and human rights in their strategic planning and day-to-day functions. This will be achieved by adopting an anti-racist and human rights-based approach.

This publication is in response to the Equalities, Human Rights and Civil Justice Committee's Call for Views on the Pre-budget scrutiny 2023/24 entitled the Impact of Human Rights Budgeting. This response was submitted in August 2022. You can also access this document on the Scottish Parliament website, ([The Impact of Human Rights Budgeting](#))

Our Human Rights Officer, Clare Gallagher, also gave evidence at the Equality, Human Rights and Civil Justice Committee in October 2022. You can watch the evidence session at Our Human Rights Officer, Clare Gallagher, also gave evidence at the Health, Social Care and Sport Committee in December 2022. You can watch the evidence session at [Health, Social Care and Sport Committee - 5 December 2022](#).

In January 2023, our Human Rights Officer was asked to return to the Committee to provide evidence for Post-Budget Scrutiny, you can watch the evidence session at [Equalities, Human Rights and Civil Justice Committee - 24 January 2023](#)

Response to questions:

8. What data and information is needed to assess whether budget decisions are helping to progressively realise human rights?

Realisation of human rights is vital to human rights protection, however it is not all rights that require 'progressive realisation'. Under International human rights law, it is only economic, social and cultural rights that must be 'progressively realised' (International Convention on Economic, Social and Cultural Rights). Our civil and political rights must be realised immediately and unfortunately in Scotland this is not always the case e.g. the right to a fair trial has been interfered with due to the increasing waiting times to access the courts. CEMVO Scotland firmly believe that this distinction between rights is vital and should not be ignored in the realisation of all our human rights.

CEMVO Scotland share the views of the Scottish Human Rights Commission(SHRC) that data and information must be collected and disaggregated at every stage of the budget process from generation and allocation to spending. Furthermore, the collection and disaggregation of such evidence must adopt a human rights-based approach using the United Nations endorsed PANEL (Participation, Accountability, Non-discrimination and equality, Empowerment and Legality) principles. This guidance tool ensures that your actions and monitoring does not reinforce systematic inequalities. In addition, CEMVO believes that an Equality and Human Rights Impact Assessment(EQHRIA) should be used at the early stages to inform economic policy and after the policy has been implemented to assess its impact.

Finally, indicators and outcomes from national action plans and strategies can be used alongside other data to measure the realisation of rights. However, CEMVO Scotland would like to highlight that this is an area of improvement in all sectors and would strongly encourage those who are responsible for the collection and disaggregation of such data to use PANEL principles as a tool to help improve the collection and disaggregation of data.

9. What needs to change to increase meaningful participation in the budget process, particularly for marginalised groups?

Taking a human rights based approach (HRBA) to the budget process puts equality/equity at its core. Using the UN and SHRC endorsed PANEL principles in relation to government budgets ensures it is person-centered, i.e. it assesses how rights are impacted by the way that money is generated, allocated and spent. In particular, the participation element of PANEL which involves people in decisions that affect their rights. Government budgets do not affect everyone in society equally and by not taking a HRBA, they run the risk of

furthering inequality for marginalised groups and those most at risk. Thus, it is crucial those people to participate in the budget process to ensure their voices are heard and their rights respected, protected and fulfilled down the line.

To increase participation in the budget process for marginalised groups, there must be a greater recognition of lived experiences of different communities and a recognition of the barriers that exist in Scotland. For example, ethnic minorities are more likely to live in areas of social deprivation or poverty and government budgets may seem like a very distant concept leading to apathy. Existence of institutional racism has also created a lack of trust in public institutions amongst some ethnic minority people who may feel like they are already a burden on the state and thus are not worthy of a say in how government money should be raised, allocated and spent.

To combat this and ensure that participation is meaningful, there needs to be a genuine effort to public engagement. Information about the budget process should be readily available and transparent in a variety of accessible formats, for example translations into the most commonly spoken languages in Scotland and easy read/large text versions. This should be in neutral, everyday language avoiding economics jargon with an adequate time period to take part in the process. Reaching out to leaders in ethnic minority communities, to relay the importance of having a say in the process may also increase participation, however this should not be tokenistic and transparency should be at the heart of this: it should be clear exactly what responses will be used for and what influence they will have.

Furthermore, intersectionality should be recognised in the process and should feature when engaging with the public to acknowledge that different people have multiple different identities which interact with each other and cause unique forms of discrimination. I.e. the experience of an able-bodied heterosexual South East Asian man will differ from a Scottish disabled Black lesbian. This recognises that people do not fit into one 'box' and that there is no right or wrong way to be part of a protected characteristic or marginalised group. Using intersectionality in the budget process will allow more people to feel seen and have their voices heard which is a tool to increase meaningful participation.

10. What can be done to make budget information more transparent and accessible?

To make budget information more transparent and accessible, CEMVO Scotland, the Scottish Government should follow the Open Budget Survey model and the principles included in The Charter (of the consultative process) which are: Integrity, Visibility, Accessibility, Transparency, Disclosure, Fair Interpretation and Publication.

Three key principles of human rights budgeting is accountability, transparency and participation. In terms of transparency and accessibility, CEMVO Scotland support SHRCS's guidance document that calls for those involved in the budget process to ask themselves the following questions:

- 1) How is the budget designed?

2) Does the public have access to easy-to-understand information about the budget making process and the budget itself?

3) Is budget relevant budget documentation publicly published within an acceptable timeframe- as defined by international best practice?

4) Is it possible to 'follow the money', from allocation to spend impact?

5) Are citizens' versions of all budget documentation produced in time to facilitate engagement?

6) Do the public and civil society have a genuine opportunity to be engaged with and be involved in the budget process, and at all phases of the budget's development and review?

7) Does the budget actively engage with marginalised groups?

In line with UN guidance, low-represented and marginalised groups should be prioritised in rights realisation and the same therefore must apply to transparency and accessibility of budget information. Recognising systemic and institutional barriers that ethnic minority communities face in public participation, those involved in every aspect of the budget process must take steps to engage with these communities in a meaningful way i.e. having easy-read versions, multi-lingual information packs, targeted and direct advertisement into communities and having translators available.

11. Do the Resource Spending Review or previous Scottish fiscal documents demonstrate a commitment by the Scottish Government to realising rights over time?

While CEMVO Scotland recognises that human-rights budgeting is still in its infancy in Scotland, we are disappointed to see no mention of human rights in the Resource Spending Review documents available on their webpage. CEMVO Scotland fully supports fellow civil society organisations in the calling for all indicators, outcomes, action plans etc to be underpinned by specific human rights. This allows for the monitoring of these rights from generation (under the obligation to 'maximize all available resources') and allocation to spending impact. CEMVO Scotland welcome the Scottish Governments commitment to the realising of rights (civil and political with immediate effect and economic, social and cultural with progressive realisation), however without adopting a key monitoring tool to the budget process such as human-rights budgeting, human rights-based approach and EQHRIA's, this commitment has very little substance.

Furthermore, the information on the website is not displayed in an accessible format with a disclaimer advising that it is not always possible to have the information in a 'fully accessible pdf'. At CEMVO Scotland we firmly believe that inclusive communication is a human rights issue, every individual has the right to participate and non-discrimination, accessibility requirements do not justify any interference with this right.

12. For example, is it possible to look at Budget documents and decipher if expenditure on realising rights is increasing or decreasing?

N/a.

13. Is government funding directed to the right areas to enable the public sector to meet its human rights obligations?

CEMVO Scotland argues that human rights budgeting should be a legal requirement to ensure funding is allocated to public bodies in an equitable way that allows human rights obligations to be met. Taking a HRBA to budgeting asks questions like: is allocation prioritising achieving adequate rights for all?; does it close the gaps between rights realisation of different groups?; are reductions causing human rights violations that are grounded in law?

There are several examples of public bodies not being able to meet their human rights obligations. According to the government's own statistics, 1 in 4 children live in poverty in Scotland (https://data.gov.scot/poverty/2021/#Child_poverty) , 1 in 5 of Scots are living in relative poverty after housing costs (<https://data.gov.scot/poverty/2021/#Poverty>) and 'Children from Black and minority ethnic groups are more likely to be in poverty: 46 per cent are now in poverty, compared with 26 per cent of children in white British families' (<https://cpag.org.uk/child-poverty/child-poverty-facts-and-figures>). By not taking account of human rights budgeting, the government may push those living in poverty into further deprivation. Other examples include the death of Sheku Bayoh who died after being restrained by police raising concerns around institutional racism within the police force (interference with a persons right to non-discrimination) and cuts to legal aid hindering access to justice.

If the government has not allocated a budget correctly in accordance with human rights, this raises questions about accountability. Politically, government could be voted out at the next election however government budgets are a distant and inaccessible concept for many, particularly those from marginalised groups. Thus, the stronger argument is to make a human rights budgeting a legal requirement where individuals can hold the government to account if it does not direct funding to the right areas in the public sector in order for it to meet its human rights obligations.

Under international law, Article 2(1) ICESCR, the government has an obligation to maximize available resources to progressively realise rights for all. By incorporating this into domestic law and making human rights budgeting a legal requirement, possibly through the Human Rights (Scotland) Bill, the government would demonstrate its commitment in resource allocation to ensure the public sector is able to meet its human rights obligations.

14. Does the Scottish Government raise sufficient revenue to realise human rights? If not, how could the government raise more revenue to ensure rights realisation?

Ineffective revenue generation undercuts the government's ability to provide adequate resources in order to progressively realise rights for all. This is an obligation on the government under international law, Article 2(1) ICESCR, which states the government must maximize available resources to progressively realise rights for all. Thus when raising sufficient revenue, the government is under an obligation to do so in a way that respects human rights. By taking a HRBA to budgeting, the government will ensure it is accountable when doing so, that it does not discriminate and that revenue generation is grounded in law. Human rights budgeting asks questions like: is sufficient revenue raised to realise basic rights for all?; are particular groups discriminated against or disproportionately impacted when revenue is raised?; could the government be going further?

Resource generation at its core is about asking what effort has been made to generate additional resources. This requires looking at the taxation system and asking if that takes place in an equitable way. We share the view of the UN OHCHR that "Progressive, non-discriminatory tax policies implemented by capable and accountable tax authorities can generate substantial revenue for programmes on which the realisation of human rights depends" ([RealizingHRThroughGovernmentBudgets.pdf \(ohchr.org\)](#)).

Taxes benefit different groups in society differently and by not applying an equity and human rights budgeting approach, the government risks increasing social deprivation and poverty. For example, income tax rates remaining unchanged alongside an end to the freeze on Scotland's higher income tax threshold, and also the return of the Council Tax freeze. Both of these will benefit the highest earners more than those on low incomes who will continue to pay full income and council tax. Thus, at present it does not seem to be the case that the government is maximizing its revenue generation through fair and equitable taxation.

15. Is revenue raised in an equitable way?

To assess whether revenue is raised in an equitable way, we must undertake human rights budget scrutiny. This involves exploring both the budget process: to ensure that it is participative, transparent and accountable; as well as examining a government's resource generation, allocation and spend with reference to the agreed human rights standards.

To assess whether revenue has been generated equitably, applying a human rights approach allows the correct questions to be asked: is sufficient revenue being generated to realise basic rights for all?; where and whom are resources generated from?; are any groups disproportionately impacted; could government revenue be increased further? It also allows

us to examine the generation of revenue through a lens of transparency, participation and accountability (encompassed in the PANEL principles).

The main way revenue is raised is through the system of taxation. If taxes are not just and progressive (see answer 14), for example income tax, council tax, then this may disproportionately impact those most at risk in society like EM communities, those living in poverty or at least those on low incomes.

Thus to scrutinise whether revenue is raised in an equitable way, CEMVO Scotland welcomes the work of the SHRC on a range of resource indicators that could be used including those on tax, such as: government revenue as percent of GDP; tax revenue as percent of government revenue; different tax types as percent of total tax revenue; tax by type as a share of a taxpayer's total income; tax effort/evasion; average illicit financial flows; Palma ratio measure of overall economic inequality. This would require consistent and accurate data that is transparent and accessible.

Furthermore, the government should avoid raising revenue in a way that leads to privatisation of the public sector which could in any way that could potentially lead to human rights violations either in Scotland or abroad. For example, products in a supply chain which have been produced or curated through human rights abuses abroad.

16. What is the distributional impact of budget decisions? Do budget decisions have a discriminatory impact on different groups of the population? Do budget decisions help reduce structural inequalities?

CEMVO Scotland firmly believes that without utilising the human rights budget process, budget decisions can and will reinforce existing structural inequalities as 'Governments budgets are not always sensitive' to recognising that budget decisions have 'materially different outcomes for different groups'. For example, 'the contributions that households, individuals (especially women and those from an EM background) and communities make to the economy- by caring for people for example- are not always recognised because they are not always bought and sold through the market' (hrbw-collected-briefing-papers-vfinal.pdf (scottishhumanrights.com)).

Without recognising individual's differences, lived experiences and lack of diversity in decision-making roles, budget decisions will continue to have a disproportionate negative impact on different groups in society, especially those most vulnerable. Those involved in the decision making process must commit and conduct meaningful consultation, prioritising these groups while simultaneously taking a pro-active approach to their learning and development to understand barriers to participation such as microaggressions, unconscious bias and white privilege. CEMVO Scotland all of the above can be achieved by adopting a

human rights and anti-racist approach. (See questions 9 and 13 for more on disproportionate impact on marginalised groups).

17. Does the current approach to Equality Impact Assessments and Fairer Scotland Duty Assessments produce a fair budget/meaningfully impact budget decisions? If not, how can this be improved?

CEMVO Scotland welcome that the Fairer Scotland Duty Assessments recognise social and economic disadvantage but are alarmed there is no mention of protected characteristics and therefore fails to recognise intersectionality and the disproportionate and compounded impact that can have on marginalised groups of society. Equality Impact Assessments address protected characteristics and the Fairer Scotland Duty Assessment, socio-economic background but without bringing these documents together, the Scottish Government will further marginalise those with multiple protected characteristics, and in reality not respecting, protecting or fulfilling their human rights. CEMVO Scotland believe that to address intersectionality and improve these assessments, a human rights-based approach should be adopted in the form of an Equality and Human Rights Impact Assessment. This impact assessment will assess and take into consideration both socio-economic disadvantages and protected characteristics.

18. How can human rights be fully incorporated into the impact assessment process?

The best way for human rights to be incorporated into the impact assessment process is by adopting a human rights based approach to budgeting from the outset. This involves applying human rights standards which will help shape budget goals and also human rights principles which will help shape the budget process. The relevant human rights standards derived from international law are maximum available resources; minimum core; progressive realisation; non-retrogression; and non-discrimination and equality. The human rights principles which help shape the budget, including the impact assessment process, are those of transparency, participation and accountability which are encompassed by the PANEL principles. Engaging with these principles in the impact assessment process will help the government fulfil its legal obligations with fair and transparent decision making.

We welcome the good practice developments by the SHRC and EHRC to Equality and human rights impact assessments (EQHRIAs). The FAIR principles are a more practical way to apply the PANEL principles .

The FAIR principles are broadly as follows:

Facts: Assessing impact requires a thorough understanding of the facts engaged by the proposed policy or practice and the potential effects on people. This will require an appropriate level of resources and consideration of relevant evidence. Most importantly it will require the meaningful participation of affected rights- holders.

Analysis: Assessing impact requires undertaking an analysis of the potential positive and negative impacts of the proposed policy or practice on equality and on the human rights at stake.

Identification of responsibilities: Where the policy or proposal engages equality and human rights issues, assessing impact requires deciding whether changes should be made and identifying responsibility for these changes.

Review and reporting: Assessing impact requires consideration of how the implementation of the function or policy will be monitored and how the results of an impact assessment will be reported.

19. Do the 9 key opportunities and challenges identified in the Equalities and Fairer Scotland Statement correctly identify the key opportunities and challenges around building a fairer Scotland?

CEMVO Scotland are disappointed that these 9 key opportunities and challenges identified do not recognize systemic or institutional racism and the impact that this has on those from ethnic minority communities. Without recognition of institutional and systemic racism, opportunities are limited to build a fairer Scotland as those who are from EM communities will continue to be marginalised.

20. Can progress against these priority areas be tangibly measured?

As highlighted in the above responses, CEMVO Scotland believe that to tangibly measure progress, data collection and disaggregation must adopt a human rights-based approach using the PANEL principles. In addition, CEMVO Scotland would strongly encourage the priority areas to be underpinned by specific human rights at all levels, making it easier to identify impacts and measure them, using human rights as a golden thread to cut across several priority areas. This includes applying human rights standards to shape budget outcomes and human rights principles to shape the budget process.

21. Has the Resource Spending Review given the voluntary sector the funding certainty it was hoping for?

22. Are funding arrangements for the voluntary sector fit for purpose?