



States' accountability for regression on economic and social rights during structural crises

Principal elements for assessing state compliance

Or: Are these rights by virtue of their very nature **non-derogable**?

Crisis-induced **derogations** from economic and social rights

...invokes **proportionality review**

Crisis-induced **limitations** to economic and social rights (not related to resources)

...invokes **proportionality review + further review requirements**: satisfaction of minimum core + non-discrimination + temporariness + necessity (least restrictive means)

Crisis-induced **retrogression** on economic and social rights (due to resource constraints)

...invokes (arguably weaker) **reasonableness review** (i.e. policy choice left to the state)

Progressive realisation, using maximum of state's available resources

...including a positive obligation of the state to give effect to the **redistributive element** inherent in economic and social rights (i.e. to take steps to dismantle inequalities)?

Non-discrimination

...including both **formal and substantive** discrimination? Also including discrimination based on '**other status**', such as socio-economic background?

States' **minimum core obligations**

diverging views as to their **absolute or relative, immediate or gradual**, and enforceable or programmatic character – and as to their fixed or dynamic, **universal or country-specific** content



Structural crisis:

A profound change in circumstances – be it of an environmental, financial, economic, public health or other nature – that triggers a structural crisis leading to an overhaul or reorganisation of the socio-political order.