INITIATIVE FOR PRINCIPLES FOR HUMAN RIGHTS IN FISCAL POLICY

Office of the Secretary-General
Of the Organization of the United Nations

The organizations of the Initiative for human rights in fiscal policy[1] are pleased to make this submission to the Secretary General (SG) in the context of its open call for inputs in the process of preparing its report on the "Promotion of inclusive and effective tax cooperation at the United Nations".

The main objective of this submission is to facilitate the SG the "Principles for Human Rights in Fiscal Policy" (the Principles), a document developed by the aforementioned organizations and a group of experts from the fields of law and economics after a three year long participatory process[2]. The Principles systematize and distill existing normative standards emerging from international human rights' law that apply to fiscal policy in general and to tax policy and law in particular, and indicate that States' fiscal decisions should be guided by their human rights' commitments both at the domestic and international levels.

Considering the SG's mandate to gather "all relevant international legal instruments, other documents and recommendations that address international tax cooperation" in preparation of its report, the Principles appear naturally relevant. While the Principles build on numerous sources[3], we would like to point to some of the core United Nations Human Rights treaties as particularly relevant legal instruments for the SG's current endeavor, and to argue for the special character that human rights hold in international law[4].

Some of the provisions contained in human rights' instruments that are particularly relevant in the field of tax cooperation include States' duties to mobilize "the maximum of its available resources" to fully realize rights (art. 2.1 of the International Covenant on Economic, Social and

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[1] ACIJ, CELS, CESR, Dejusticia, Fundar, GI-ESCR, Inesc, and the Red de Justicia Fiscal de América Latina y el Caribe.
[2] See, in general, https://derechosypoliticafiscal.org/en/the-project
[3]See https://derechosypoliticafiscal.org/es/recursos/documentos-complementarios-y-fuentes/76-principios-de-derechos-humanos-en-la-politica-fiscal-sintesis-de-las-fuentes-utilizadas
[4] Article 103 of the UN charter read with articles 1, 13 and 55. See Dr. Destaw A. Yigzaw, Hierarchy of Norms: The Case for the Primacy of Human Rights over Wto Law, 38 Suffolk Transnatl. L. Rev. 33 (2015);

Cultural Rights; art. 4 of the Convention on the Rights of the Child; art. 4 of the Convention on the Rights of Persons with Disabilities) and to cooperate internationally to realize rights (articles 55 and 56 of the UN Charter; 2 of the International Covenant on Economic, Social and Cultural Rights; art. 4 of the Convention on the Rights of the Child; art. 32 of the Convention on the Rights of Persons with Disabilities).

Based on these and other legal provisions, a wide range of human rights' mechanisms at the United Nations have developed more precise standards to understand what human rights' duties mean for tax policy, especially after the flagship report of the former Special Rapporteur on extreme poverty and human rights on taxation[5], and the foundational work of the Committee on Economic, Social and Cultural Rights. Indeed, the advances in connecting tax policy and human rights at the United Nations have now been so significant that relevant United Nations human rights' mechanisms themselves have already noted the relevance of human rights' standards in the process leading towards a potential tax convention[6].

As anticipated, the Principles for Human Rights in Fiscal Policy attached to this note fully systematize standards distilled through previous efforts, and complement them with good practice, action oriented "guidelines" that provide hints on how to operationalize relevant norms. For example, they illustrate what States' extraterritorial obligations imply in building a global tax treaty and a global tax body (Principle 13); they indicate what tax transparency means under a human rights framing, regarding the type of information that shall be produced, how it should be produced, and how to reach an interpretative balance between publicity and its exceptions (Principle 7); they facilitate guidelines on the strengthening of tax authorities that have emerged from the duty to mobilize States' maximum available resources (Principle 10); and overall speak to the general goals that an equitable tax system should pursue (Principles 1 and 2).

Stressing the need to put people and the planet at the center of any discussion related to policy issues in a context of concurring crisis, and the opportunities for inter-coordination within

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[5] A/HRC/26/28

[6] See statement available at: https://www.ohchr.org/en/press-releases/2022/11/human-rights-experts-support-call-un-tax-treaty#:~:text=%E2%80%9CInternational%20tax%20reforms%2C%20like%20a,making%2C%E2%80%9D%20the%20experts%20said.

the United Nations that the SG's coming report provides, we hope that the Principles can inform the SG's drafting process to ensure that human rights' legal instruments with tax implications are duly considered in future debates.

We welcome the opportunity to make this submission and are fully available to provide further information as needed.

PRINCIPLES FOR
HUMAN RIGHTS
IN FISCAL POLICY

Principles for Human Rights in Fiscal Policy

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inesc
CENTER FOR ECONOMIC AND SOCIAL RIGHTS SOCIAL JUSTICE THROUGH HUMAN RIGHTS
Red de Justicia Fiscal de América Latina y el Caribe

STEERING COMMITTEE

Asociación Civil por la Igualdad y la Justicia (ACIJ) - Argentina
Centro de Estudios Legales y Sociales (CELS) - Argentina
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Pedro Rossi
Magdalena Sepúlveda
Rodrigo Uprimny
María Fernanda Valdés

DRAFTING COORDINATORS

Sergio Chaparro (CESR)
María Emilia Mamberti (CESR)

The Principles for Human Rights in Fiscal Policy have benefited from the significant contributions of the following individuals:

Dalile Antúnez (former ACIJ)
Mayra Báez (CESR)
Nathalie Beghin (INESC)
Iván Benumea (Fundar)
Maria Elena Camiro (Fundar)
Michelle Cañas (CELS)
Paulina Castaño (Fundar)
Grazielle David (RJFALC)
Kate Donald (CESR)
Adrián Falco (RJFALC)
Victoria Faroppa (REDESCA/OEA-CIDH)
Soledad García (REDESCA/OEA-CIDH)
Ana Carolina González (Fundación Ford)
Livi Gerbase (INESC)
Diana Guarnizo (Dejusticia)
Mariana Gurrola (Fundar)
Julieta Izcurdia (ACIJ)
Juan Pablo Jiménez (Asociación Iberoamericana de Financiación Local)
Nicholas Lusiani (former CESR)
Luna Miguens (CELS)
Olivia Minatta (CESR)
Alicia Ojeda (Fundar)
Gaby Oré Aguilar (former CESR)
Haydeé Perez (Fundar)
Iara Pietricovsky (INESC)
Alba Ramírez (Fundar)
Eduardo Reese (former CELS)
Greg Regaignon (Wellspring Philanthropic Fund)
Alejandro Rodríguez (Dejusticia)
Carmen Ryan (former ACIJ)
Ignacio Saiz (CESR)
Leandro Vera (CELS)
Malena Vivanco (ACIJ)
Pablo Vitale (ACIJ)

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Centro de Estudos de Conjuntura e Política Econômica, Cecon-Unicamp (Brazil)
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Fórum Solidaridad (Peru)
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Relatoría de Derechos Económicos, Sociales, Culturales y Ambientales (OEA-CIDH) (Regional)

Editorial design: Pilar Fernández Renaldi - Sebastián Bergero
Translation: Fionnuala Ni Eigeartaigh

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INTRODUCTION

Fiscal policy is a critical tool for guaranteeing human rights. Without resources, there are no rights. In the same way that budgets reflect the true priorities of States, tax systems reflect to what extent different actors contribute to tackling these priorities. This reality becomes even clearer when addressing challenging situations such as the climate, economic and health crises. These interlinked crises require additional efforts to ensure well-financed States cooperate to implement effective, transparent and redistributive policies that protect the rights of all people[01]. There is growing awareness that fiscal policy, in addition to being a key instrument in guaranteeing rights, is also governed by commitments and obligations that States assume at the international level and have enshrined in their own constitutions..

Human rights are rights that each person has simply by virtue of being human. They encompass civil and political rights as well as economic, social, cultural and environmental rights. These rights are recognized in many national and international legal instruments of differing legal status, which are widely ratified by countries in the region. These instruments bind States and other actors to realize these rights in good faith. Human rights are defined by principles such as universality and inalienability, indivisibility and interdependence, and equality and non-discrimination. Furthermore, rights are governed by interpretative criteria affirming that, when determining the scope of an existing right, the most favorable or extensive interpretation that promotes people's rights should be followed.

In this respect, the State's actions, including of course its fiscal policy, should comply with the human rights legal framework. To this end, the Inter-American Commission on Human Rights has established that human rights principles are "fully applicable to fiscal policy", and that they must be implemented in the entire policy cycle "from budget preparation and tax codes or expenditure allocation through to monitoring and evaluation of outcomes"[02]. The IACHR has also stated that human rights norms "provide a frame of reference to guide both corporate practices in tax matters and the States' judicial and policy responses to them"[03]. Together with human rights, fiscal policy is governed by other obligatory legal frameworks, as well as domestic constitutional law and the general principles of international law. Fiscal policy is also influenced by public policy standards and the best practices of international organisations, all of which should be interpreted in accordance with human rights norms

Fiscal policy is a critical tool for guaranteeing human rights. Without resources, there are no rights. In the same way that budgets reflect the true priorities of States, tax systems reflect to what extent different actors contribute to tackling these priorities.

With the adoption of the 2030 Agenda for Sustainable Development and the Addis Abba Action Agenda (the outcome document of the Third International Conference on Financing for Development), States committed to mobilizing resources and adapting their fiscal policies to achieve the Sustainable Development Goals. Human rights standards were acknowledged as a crucial underpinning of these agendas. Other global frameworks, such as the Paris Agreement, should also be implemented in accordance with human rights obligations. In particular, these frameworks establish a proactive role for Latin American and Caribbean States, meaning that these States must actively commit to improving the lives of their populations.

01| IACHR, 2020. Pandemic and Human Rights in the Americas.Resolution1/ 2020 (Adopted by the IACHR on April 10, 2020). Par. 13.
02| IACHR, 2017. Report on Poverty and Human Rights in the Americas. OEA/Ser.L/V/II.164. Doc. 147. Par. 501.
03| IACHR & REDESCA, 2019. Business and Human Rights: Inter-American Standards (November 1, 2019). OEA/Ser.L/V/II. CIDH/REDESCA/INF.1/19. Par. 262.

However, despite the many international commitments and the huge transformative potential for realizing human rights, in practice fiscal policy is not being implemented according to the obligations of States in this area. This was recognized by the IACHR when it pointed to the persistence of several factors depriving States of valuable resources to guarantee human rights. These factors included: low tax collection owing to high levels of evasion and avoidance, widespread tax incentives, exemptions and other legal loopholes, and the persistence of regressive tax systems – whereby those who have more do not necessarily pay proportionally more according to their contributive capacity. This is compounded by insufficient and poorly distributed social spending in the region, which is already low in relation to international standards and often lacks a human rights approach[04].

As occurs in other areas of public financing, fiscal policy is governed by an emerging set of rules, regulations and standards alongside human rights standards. This growing complexity, and the greater disciplinary specialization it requires, sometimes leads to fiscal policy being seen as a highly technical field which can be directed only by a small circle of experts. Unfortunately, this obscures the direct link between fiscal policy and the lives and wellbeing of people and communities.

This disconnect is particularly notable in Latin America and the Caribbean, where certain structural inequalities, such as gender and racial inequality, have persisted over time. They are also linked to the dramatic economic inequality in the region which fiscal policy has the potential to remedy. Reducing these structural inequalities and eradicating the underlying discrimination through redistributive fiscal, social and labor policies are human rights obligations and commitments assumed by States in the 2030 Agenda and its Sustainable Development Goals.

Another issue is that governments in the region often respond to economic crises without considering their human rights responsibilities. In doing so, these governments tend to enforce regressive procyclical measures. This is further exacerbated by the macroeconomic volatility and frequent crises arising in Latin America and the Caribbean. These austerity measures are often systematically implemented due to conditions imposed directly or indirectly by international institutions. These measures result in unacceptable regression and exacerbate the existing barriers to the effective enjoyment of human rights without discrimination. Instead, States should mobilize available resources to the greatest extent possible, and should continually seek out such resources nationally and multilaterally to prevent and mitigate the impact of the crises and to effectively fulfill human rights[05].

Human rights principles are fully applicable to fiscal policy, and they must be implemented in the entire policy cycle - from budget preparation and tax codes or expenditure allocation through to monitoring and evaluation of outcomes.

Lack of transparency, participation and real democracy in the area of fiscal policy has led to a number of additional problems. On the one hand, widespread and persistent corruption in the region diverts valuable public resources from human rights financing, and both directly and indirectly increases the risks of the violation of rights[06]. On the other hand, corruption, along with other failures in State action, leads to a loss of trust in public policy. This enables elites and other interest groups to control the State with the aim of reinforcing their privileges[07]. The surge of privatization and related phenomena such as private-public partnerships have only reinforced this trend. As companies gain more political power, they exercise even greater undue influence to reduce corporate taxation, broaden tax allowances and exemptions, and increase legal loopholes enabling tax avoidance[08]. These measures reduce tax progressivity and equity, shifting the tax burden onto the shoulders of the most disadvantaged and vulnerable groups in society. This in turn undermines the very criteria of justice underpinning the rule of law. These steps also ensure that the public administrations are severely underfunded and their capacity to provide quality public services is greatly constrained[09].

This context prevents the States in the region from tackling several of their main challenges. As the IACHR has warned, poverty and extreme poverty cannot be addressed and eradicated without a broad framework of redistributive policies, including fiscal policy, that re-

04| IACHR, 2017. Report on Poverty and Human Rights in the Americas. OEA/Ser.L/V/II.164. Doc. 147.Par. 495-500.

05| IACHR, 2020.Pandemic and Human Rights in the Americas.Resolution1/ 2020 (Adopted by the IACHR on April 10, 2020). Par. 13.

06| IACHR, 2019.Corruption and Human Rights in the Americas: Inter-American Standards (OEA/Ser.L/V/II. Doc.236/19). Par. 154-159.

07| IACHR& REDESCA, 2019. Business and Human Rights: Inter-American Standards (November 1, 2019). OEA/Ser.L/V/II. CIDH/REDESCA/INF.1/19. Par. 263-265.

08| Ibid., Par. 266-267.

09| Report of the Special Rapporteur on extreme poverty and human rights (26 September 2018). A/73/396, par. 71.

duce the region's extreme socioeconomic inequality[10]. In some countries poverty even increases due to fiscal policy, because the poor are not beneficiaries of the tax system but are instead net payers[11].

Moreover, in the context of globalization, international cooperation on tax systems has become essential so that States can combat tax evasion and avoidance, halt the race to the bottom in corporate tax rates and strengthen the integrity and transparency of the international financial architecture. This cooperation would enable States to generate sufficient resources to tackle extreme inequality, the climate crisis, pandemics, and forced migration. All of which are amongst the key challenges of our time. These crises endanger the enjoyment of human rights and require robust, well-financed States to protect rights. As the Committee on Economic, Social and Cultural Rights has declared, mechanisms to facilitate national and international cooperation and solidarity, as well as a substantial investment in the programs necessary for the realization of rights, will ensure that the world is better prepared for future disasters[12].

Lack of solidarity on the international level towards States with greater fiscal restrictions is another failure in international cooperation which is preventing the progressive fulfilment of rights, particularly in the context of systemic global crises. Organizations such as the IACHR have called for granting these countries different mechanisms of debt relief, as well as the lifting of sanctions which could weaken and undermine efforts by States to protect human rights[13]. This clearly shows the need to reform the international debt architecture so that it facilitates an orderly restructuring that involves all creditors and tackles underlying causes. These reforms should be undertaken with the aim of preventing recurring sovereign debt crises while giving States greater room for investing in guaranteeing rights and sustainable development[14].

In this context, human rights can make a valuable contribution towards rethinking fiscal policy in the region. The Principles for Human Rights in Fiscal Policy offer a clear framework, based on normative sources and other complementary documents, to design, implement and monitor fiscal policy. They put forward a set of benchmarks so that States, international financial institutions, multilateral institutions, and public and private economic actors in general can comply with their fiscal obligations and responsibilities. In addition, other State actors, as well as civil society and social movements, will have clear standards for demanding accountability and claiming rights by means of fiscal policy.

Poverty and extreme poverty cannot be addressed and eradicated without a broad framework of redistributive policies, including fiscal policy, that reduce the region's extreme socioeconomic inequality.

The Principles for Human Rights in Fiscal Policy offer an approach that aims to develop the interaction between citizens and fiscal issues. The Principles challenge the dominance of an institutional framework that separates fiscal policy from sustainable development planning and democratic debates on inequality, human rights, and social and environmental justice. Instead, the Principles propose a series of standards that could inspire transformative action and renew the fiscal pact between the State, citizens, and business. They do so by triggering a positive cycle in which the institutional framework and robust state action aimed at fulfilling rights strengthens the interaction between citizens and fiscal issues, leading to more participatory and legitimate decision-making. This could also increase trust in the institutions and the willingness of citizens to pay taxes and demand better policies, which would in turn increase the capacity of states to fulfill their human rights obligations.

The Principles propose a series of standards that could inspire transformative action and renew the fiscal pact between the State, citizens and business.

Human rights standards can capture issues related to sustainable finances, the quality of expenditure and the criteria for fair prioritization that recognize the opportunity cost of the use of public resources. As the Principles for Human Rights in Fiscal Policy show, honoring human rights commitments does not preclude legitimate concerns about ensuring prudence

10| IACHR, 2017.Report on Poverty and Human Rights in the Americas. OEA/Ser.L/V/II.164.Doc. 147. Par. 493.

11| Ibid., Par. 498, based on Lustig, N. data (ed.) (2018). Commitment to equity handbook: Estimating the impact of fiscal policy on inequality and poverty. Brookings Institution Press and CEQ Institute, Tulane University.

12| Committee on Economic, Social and Cultural Rights, Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights. E.C/12/2020/1 (17 April 2020), par. 25.

13| IACHR, 2020.Pandemic and Human Rights in the Americas. Resolution1/ 2020 (Adopted by the IACHR on April 10, 2020). Par. 18.

14| United Nations (2021). Liquidity and Debt Solutions to Invest in the SDGs: The Time to Act is Now.

and good governance in the field of public finances. On the contrary, both goals focus on the importance of adopting measures carefully planned and designed to bring about continuous, long-term sustainable improvements to wellbeing which avoid negative impacts on the population. In this regard, the human rights framework serves as a benchmark of policy options, solidly based on the totality of rights, within a context of mobilizing available resources to the greatest extent possible.

These Principles for Human Rights in Fiscal Policy are the result of a three-year participatory process of review, analysis, and interpretation of the normative standards and policy guidelines for Latin America and the Caribbean. They are also scalable to the global level. This document is the outcome of exhaustive research into normative sources. These sources include: international treaties and their authoritative interpretations, the constitutions of the countries in the region, and reports on the promotion and protection of human rights by international organizations and complementary sources, including studies led by international institutions[15]. The Principles for Human Rights in Fiscal Policy also received invaluable contributions through other channels, particularly the national, regional and thematic dialogues, in which the text of the document was openly and publicly discussed[16].

The interdisciplinary process that led to the adoption of the Principles for Human Rights in Fiscal Policy included the participation of State representatives, specialized organizations, multilateral institutions, academia, civil society, and regional social movements through regional and national consultations. The drafting and finalization of the document was overseen by a committee of renowned experts in fiscal policy, human rights and other disciplines relevant to fiscal matters.

The resulting standards recognize that time is running out in the fight against the climate crisis and other global challenges such as pandemics and the subsequent crises they will trigger. This sense of urgency enhances the need for decisive fiscal action that contributes to a shift towards rights-based economies that put people and the planet first. The standards also recognize the diversity of contexts in which they need to be applied, including the specific challenges faced by highly vulnerable countries and the need to strengthen state capacity at all levels of government to make their implementation possible.

The sense of urgency in these times raises the need for decisive fiscal action that contributes to a shift towards rights-based economies that put people and the planet first.

The aim of this document is to contribute to strengthening the framework of human rights as a paradigm for the development of fiscal policy, shifting the issue of fiscal resources from the periphery to the core of the human rights agenda. In this regard, the desired outcome is that fiscal policy will seek to guarantee human rights and reduce the multiple inequalities in their enjoyment. Specifically, it aims to create a framework to:

I. Produce fiscal policies that respect human rights and which governments can use as a benchmark for their public policies.

II. Facilitate accountability of state actors and other non-state actors such as corporations, civil society, social movements and national and regional oversight and monitoring bodies, amongst others.

15| These sources can be checked in the annotated version of this document and in the compilation of resources available on the website of the Initiative for Human Rights Principles in Fiscal Policy: https://derechosypoliticafiscal.org/en/resources.

16| For a summary of the contributions received during the dialogues held to discuss the document and how they were incorporated see: https://derechosypoliticafiscal.org/en/.

STRUCTURE AND INTERPRETATION

Structure

The Principles for Human Rights in Fiscal Policy comprise 15 principles, structured under four conceptual headings. The first section refers to the *general principles* that describe the general guidelines for interpreting all human rights obligations in fiscal policy. The second section contains the *cross-cutting principles* applicable to fiscal policy and which stem from the general human rights framework. The third section refers to the *specific obligations* applicable to fiscal policy, arising from economic, social, cultural, and environmental rights standards. The fourth section summarizes States' *extraterritorial obligations and the responsibilities of non-state actors*. To conclude, the fifth section develops the obligations related to *reparations* and mechanisms of implementation.

Each principle has a series of sub-principles that develop the normative content in more detail, and guidelines that provide a road map for their implementation. The principles contain obligations from legal sources, in particular international law (including sources of "soft law"). Therefore they consist of actions that States "must" implement. The guidelines, on the other hand, aim to clarify the obligations of States and to guide public decision makers in fulfilling human rights norms. They derive from recommendations made by UN treaty bodies and the Special Procedures of the UN human rights system, as well as from organizations specialized in fiscal matters or best practice in policy as evidenced by comparative experience. Not all the guidelines have full normative force. Thus, these guidelines are articulated as action points that States "should" implement.

In some cases, different principles develop related topics but expand on specific aspects. For example, three different principles address inequality: Principle 3 elaborates specifically on economic inequality, Principle 5 focuses on the discrimination suffered by certain groups and populations, and Principle 6 centers specifically on gender equality, given that women constitute around half the planet's population and cannot simply be classified as a "group".

Interpretation

The principles should be interpreted holistically, as no hierarchy is intended amongst them, nor among the principles contained in any of the document's headings. Where there may appear to be a contradiction between different principles, the document suggests guidelines for their harmonious interpretation.

More information

The normative and policy documents and the additional studies that were used as inputs for these Principles for Human Rights in Fiscal Policy, and which complement their scope and interpretation, can be consulted on the website of the Initiative for Human Rights Principles in Fiscal Policy: www.derechosypoliticafiscal.org/en

DEFINITIONS

1

“Human rights” or a human rights “perspective” or “approach” includes both recognition of our close interdependence with other living beings and the planet’s boundaries, as well as a cross-cutting approach to gender, age, ethnicity, race, and other approaches.

2

"Substantive equality" indicates a concept broader than “formal” or legal equality, and entails a change in the factual circumstances that prevent the exercise of rights on an equal material footing, including inequalities in outcomes, capacities, resources, power and voice.

3

“Fiscal policy” is understood as the set of policies for managing public spending and revenue generation. It comprises all the measures whereby States acquire and allocate resources, including taxation, public debt, income from public companies, macro-fiscal planning and all the processes associated with the budgetary cycle.

4

“Fiscal policy phases ” refer to the generation, mobilization, allocation, and execution of resources, and the monitoring of fiscal policy.

5

“Disadvantaged” or “vulnerable” groups refer to groups whose members face long-term oppression, marginalization, or systemic discrimination. This is reflected in ignorance about the group’s specific characteristics, disparities in access to goods and services and/or insufficient political representation. Recognition of these groups requires a differentiated State approach through affirmative action and measures to eradicate discrimination and avoid further rights violations. These groups include children and adolescents, women, people with disabilities, older persons, lesbian, gay, bisexual, transsexual and intersex (LGBTI) people, Indigenous populations and Afro-descendant people, migrants, and people who are marginalized because of their social class or socioeconomic status, amongst others.

6

“Tax incentives", "tax expenditures" and "fiscal privileges” indicate concessions, exemptions or other kinds of deliberately differential treatment that reduce the tax that individuals or companies pay, or will pay, to the government. Technically, it is called tax expenditure because it is indirect government spending, executed by tax measures, that could otherwise be allocated to other purposes.

7

"Fiscal rules" define statutory or constitutional restrictions on fiscal policy that set a specific limit on a fiscal indicator such as the budgetary balance, debt, spending, or taxation. Fiscal rules are usually contained in laws or other mechanisms that condition the preparation, parliamentary discussion, execution, and control of the budget[17].

8

"Austerity measures" refer to both the so-called fiscal consolidation measures that seek to reduce the fiscal deficit (generally by a reduction in public spending), and other public policy measures related to them, and which weaken the State's capacity to guarantee rights. These measures include labor flexibilization, privatization, or reforms aimed at reducing the scope of social security, etc.

17| Kennedy, Suzanne, Janine Robbins, and François Delorme. "The role of fiscal rules in determining fiscal performance." Fiscal Rules Conference. 2001.

PREAMBLE

1. All human rights require resources for their realization. To guarantee rights, States must have solid institutions that mobilize, allocate, and utilize sufficient public resources in ways that are transparent, participatory, and accountable.

2. This must be done in compliance with the principles established in the Universal Declaration of Human Rights and the norms included in the main international and regional human rights treaties, in addition to national legal frameworks, particularly national constitutions.

3. Fiscal policy must be understood as an instrument for guaranteeing civil, political, economic, social, cultural, and environmental rights. It has an enormous transformative potential for combating poverty, inequalities (including gender inequality), the climate crisis, power asymmetries and other structural factors that hinder the full realization of these rights.

4. Fiscal policy that distributes revenue and wealth more equitably by confronting the current historic levels of inequality can also reduce polarization, marginalization, and social discontent. Public spending also enables the provision of public services that reduce socioeconomic inequalities. Decision-making related to taxation and budgets, moreover, should involve more direct and participatory democracy.

5. Fiscal policy defines the availability, distribution, and usage of resources required by States to guarantee human rights and thus comply with the 2030 Sustainable Development Agenda. This includes the commitments to “realize the human rights of all”, by adopting fiscal policies to reduce inequalities among and within countries, guaranteeing a universal social protection floor, and confronting other global challenges such as climate change.

6. The task of aligning fiscal policies with human rights requires clear standards. Human rights principles underpin the key functions of fiscal policy and are wholly applicable to the substantive content of fiscal policy, as well as its procedural aspects. International human rights law is a binding framework for States, serving as a guide to implement more legitimate and equitable fiscal policies and to resolve the injustices arising from the allocation of public resources. This framework also generates specific responsibilities for corporations, international financial institutions, and other non-state and intergovernmental actors who must respect and contribute to the realization of rights.

7. Fiscal policy is a human rights issue. Therefore the rules and complementary standards governing fiscal policy must be interpreted through the lens of international human rights standards and the domestic constitutional norms that reflect the social contract. The scope of the rights enshrined in the social contract should not have to adjust to prevailing fiscal policy. Rather the latter must be at the service of the former, generating sufficient resources to guarantee human rights.

8. The classical functions of fiscal policy – stabilizing the economy and distributing and allocating resources – can be aligned with the objective of guaranteeing human rights, which is another goal of fiscal policy. Fiscal and economic prudence and the fulfillment of human rights obligations are not mutually exclusive. Both focus on the importance of measures carefully designed to avoid, as far as possible, negative effects on people[18]. Nevertheless, due to both design and implementation flaws, prevailing fiscal policies, (particularly austerity programs"), have often created risks for human rights by undermining the capacities of States to respect, protect, and fulfil those rights[19].

9. Responsibly-managed fiscal policy that ensures both the sustainable management of public finances and respect for the international human rights obligations of States is a basic condition for guaranteeing collective well-being and legitimate democracy.

10. The following Principles for Human Rights in Fiscal Policy on Human Rights and Fiscal Policy provide a framework for designing and implementing fiscal policies that will definitively advance the guaranteeing of rights while preserving sustainable public finances and actively addressing political dilemmas.

18| Declaration by UN Special Rapporteur on Extreme Poverty and Human Rights, "Brazil 20-year public expenditure cap will breach human rights, UN expert warns", available at https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21006

19| See letter dated May 16th 2021 from the Chairperson of the Committee on Economic, Social and Cultural Rights addressed to the States party to the International Covenant on Economic, Social and Cultural Rights; also see the report by the Independent Expert on the effects of foreign debt and other related financial obligations of States on the full enjoyment of all human rights, "Effects of foreign debt and other related financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights", A/73/179.

15 PRINCIPLES

for Human Rights in Fiscal Policy

1. The realization of human rights must be a fundamental objective of fiscal policy.

2. The obligations to respect, protect and fulfill human rights demand a proactive role for the State and impose limits on the discretion of the State in relation to fiscal policy.

3. States must ensure that their fiscal policy is in line with the pursuit of social justice.

4. States must ensure their fiscal policy is environmentally sustainable

5. States must use fiscal policy to eradicate structural discrimination and promote substantive equality, integrating in a cross-cutting manner the perspectives of populations who suffer from discrimination in the design and implementation of such policies, and adopting affirmative action when necessary.

6. States must promote substantive gender equality through their fiscal policy, using an intersectional approach.

7. Fiscal policy must be transparent, participatory and accountable. People have a right to fiscal information.

8. States must adopt all the necessary financial and fiscal measures to realize human rights within a sustainable fiscal framework.

9. States must guarantee the enjoyment of minimum essential levels of economic, social, cultural and environmental rights in their fiscal policy as a matter of priority.

10. States must mobilize the maximum of available resources to progressively achieve the full realization of economic, social, cultural and environmental rights.

11. States must ensure their fiscal policy does not result in retrogression in protection of economic, social, cultural and environmental rights, even in contexts of economic crisis.

12. States are empowered, and on occasions obliged, to encourage or discourage certain conducts and correct externalities through specific fiscal policy instruments, and to adopt priority fiscal measures in order to guarantee human rights.

13. States, and the international institutions of which they are members, must offer assistance and international cooperation in fiscal matters. They must create an enabling global governance environment with the aim of achieving the full realization of human rights.

14. Non-state actors, including companies and their intermediaries, have human rights responsibilities in relation to their fiscal conduct.

15. States must prevent human rights violations and, when they do occur, establish appropriate reparations for human rights violations related to fiscal policy, whether they affect civil, political, economic, social, cultural or environmental rights.

I • General Principles

01

THE REALIZATION OF HUMAN RIGHTS MUST BE A FUNDAMENTAL OBJECTIVE OF FISCAL POLICY

States must:

1.1. Compatibility

Ensure that their economic policies are compatible with human rights. Their fiscal policy must be in accordance with their human rights obligations even when it pursues other legitimate aims, such as economic growth, development, and macroeconomic stability.

1.2. Functions/roles of fiscal policy

Ensure that fiscal policy serves to realize human rights by establishing as public goals the full guarantee of both civil and political rights, as well as economic, social, cultural, and environmental rights. To achieve this, fiscal policy must provide sufficient funding to guarantee rights. It must aim to stabilize social and economic conditions such that they enable the enjoyment of rights. These measures include: the achievement of full employment as a condition to guarantee the right to work, the redistribution of revenue and wealth to achieve substantive equality through quality public expenditure, the creation of a framework of fiscal instruments enabling the protection and promotion of rights, the strengthening of democratic governance of public resources by applying criteria of transparency, participation and accountability, and the remedying of the legacy of social exclusion and ecological damage caused by overexploitation, colonialism, patriarchy and structural racism by implementing effective affirmative fiscal measures.

1.3. Coherence

Ensure that all the agencies involved in fiscal policy are guided by human rights obligations in their respective mandates and act in an integrated and coherent way to guarantee them by aligning their policies with the best evidence available, and by taking into necessary consideration the interests of those who do not enjoy adequate representation. It is the State’s duty to organize the entire apparatus of government, as well as all the structures used to exercise public powers, such that they are legally able to ensure the free and full exercise of human rights.

1.4. Interpretation

Interpret the different legal frameworks applicable to fiscal policy in accordance with human rights obligations. Prioritize those obligations over other obligations of international law..

GUIDELINES

In accordance with this principle States should:

1. Adopt a constitutional and institutional framework in fiscal matters focused on fulfilling rights.

This requires:

- Adopting legal and administrative frameworks for the governance of public finances based on human rights obligations. These should be clear, transparent, comprehensive, and understandable. Constitutional clauses could link fiscal policy to the realization of rights. They could also establish institutional provisions relating to fiscal matters and other legal guarantee mechanisms that would afford greater effectiveness to constitutionally recognized rights. If a relevant issue is not explicitly addressed in the legislation, it is appropriate and correct for the courts or competent authorities to interpret and develop laws, including through the innovative implementation of existing human rights rules and standards in fiscal matters.
- Integrating a comprehensive perspective in public planning that coordinates the range of programs and policies of all sectors and levels of government towards the full realization of human rights. This should be done in such a way that progress is measurable and corrective mechanisms are implemented when required.
- Making fiscal policy decisions based on relevant information regarding the mobilization, allocation, and execution of resources to guarantee rights. This should be done by using mechanisms that effectively inform macro-fiscal and budget planning, such as regular estimates of the resources required to tackle unresolved human rights issues.
- Incorporating a human rights-based approach in fiscal councils and other independent fiscal and audit institutions.

2. Guarantee policy coherence and cooperation among institutions.

States should ensure that all their institutions liaise and cooperate so that fiscal policy prioritizes the realization of rights and fiscal priorities are subordinated to this objective.

This requires, among other things:

- Guaranteeing sufficient and appropriate institutional spaces to discuss and adopt fiscal solutions to unresolved human rights issues.
- Establishing appropriate information systems with human rights focus at the national and subnational levels and ensuring the information is shared among institutions.
- Strengthening the technical and decision-making capacity of other ministries in their communication with the Treasury and the Ministry of Public Finance.
- Ensuring the coherence of fiscal policy with other policies, such as monetary, currency exchange, and financial policies. The interaction among these policies should be consistent with human rights obligations and should focus on the maximum use of available resources and capacities to fulfill these obligations. The coordination of these policies must aim to preserve the macroeconomic conditions that either prevent crises that could undermine rights or allow a timely recovery when these do occur. Likewise, this coordination must minimize the negative impacts of economic cycles on the fulfillment of the population's rights. It should include a new generation of automatic stabilizers, such as prioritizing social expenditure that kick-starts a multiplier effect, or taxing sectors that experience extraordinary earnings in times of crisis.

3. Build fiscal pacts in accordance with human rights.

Advance the creation of long-term fiscal pacts aimed at realizing human rights, and thus encourage a higher level of voluntary tax compliance. These pacts should be based on reciprocal relations between the State, citizens, and businesses. These pacts should also be in accordance with the constitutional human rights commitments of each State, and they should include agreements regarding:

- Public finance management, considering criteria that are counter-cyclical, redistributive, and environmentally and inter-generationally sustainable.
- Public provision of services required to guarantee rights, combatting the clientelist use of public resources that undermines State legitimacy and trust.
- Resource mobilization to finance rights through more progressive tax reforms, particularly in relation to income and property tax, levies on natural resources as part of ecological transition policies, and taxes on the digital economy, financial transactions, wealth, capital and extraordinary earnings.
- The establishment of an appropriate framework of cooperation between different levels of government that guarantees coordination and equity among them.

02

THE OBLIGATIONS TO RESPECT, PROTECT AND FULFILL HUMAN RIGHTS DEMAND A PROACTIVE ROLE FOR THE STATE AND IMPOSE LIMITS ON THE DISCRETION OF THE STATE IN RELATION TO FISCAL POLICY

States must:

2.1. Limits of discretion

Design, implement, and assess fiscal policy in accordance with their obligations to respect, protect, and fulfill human rights, which limit the discretion of States in all the instruments and stages of fiscal policy.

2.2. Obligation to respect

Refrain from interfering with the enjoyment of rights. This includes: discriminating against certain groups, withdrawing or diverting funds from existing programs, or assigning funds to policies that negatively affect rights which include: the right to equal political participation, the right to democratic representation, and the right to consultation and free, prior, and informed consent.

2.3. Obligation to protect

Safeguard against the actions of third parties who hinder or compromise the task of mobilizing, allocating and executing resources to guarantee rights. States must regulate the role of these third parties, establish reporting mechanisms, intervene systematically when they commit infringements, and ultimately sanction them. They must refrain from granting any form of support or incentive to those who fail to comply with their human rights responsibilities or who commit acts of corruption. States must be free from undue influence from corporations or those working to further their fiscal interests to the detriment of human rights realization. States must take action to identify and prevent possible conflicts of interest for companies by developing regulatory frameworks that ensure transparency, citizen participation, due diligence and accountability.

2.4. Obligation to fulfill

Adopt the necessary proactive fiscal policy measures to ensure the full realization of human rights as expeditiously as possible. This should be done with no discrimination whatsoever and with the aim of promoting substantive equality. This includes the obligation to finance the provision of universal public services essential for guaranteeing rights that are financially and geographically accessible, acceptable, and of good quality.

GUIDELINES

In accordance with this principle States should:

1. Strengthen the role and capacities of the State and prevent the capture of fiscal policy by interest groups.

- Prioritize the strengthening of information systems at all levels of the State and particularly at the territorial level. Enhance competencies for results-based participatory planning, the capacity of tax authorities to generate resources, and other key institutional capacities in order to implement a fiscal policy that contributes to fulfilling rights. The public sector must assume a proactive leadership role that goes beyond correcting market failures. It should mobilize sufficient resources to finance effective public spending, combining innovative management strategies that involve communities, with the aim of realizing long-term goals and objectives that enjoy democratic legitimacy.
- States must protect themselves from third parties who hinder their task of mobilizing resources to address public priorities by preventing and sanctioning the undue influence of private interests in decision-making on taxation and fiscal matters. This can be achieved through measures such as regulations on the lobbying and funding of political campaigns and the implementation of independent mechanisms to challenge State capture and other largescale corrupt practices.

2. Provide public services to fulfill human rights.

- Ensure the provision of universal, appropriate, high quality, accessible, and sufficiently-funded public services that reduce social and territorial disparities. States must strengthen their capacity to provide these services in their entire territory, particularly in areas traditionally inhabited by Indigenous populations, Afro-descendent and rural communities, and segregated urban areas. Public services financing should promote wealth and income redistribution and ensure substantive equality and non-discrimination, adapting to the specific needs of disadvantaged people and groups.
- Public service provision should allocate sufficient resources to guarantee decent working conditions, including an integrated gender focus that recognizes the needs of women workers. The provision of services should be guided by measurable human rights compliance systems with corresponding goals and indicators. It must also ensure accountability and efficiency, preventing and sanctioning any kind of corruption in its provision by financing appropriate methods for its prevention.

3. Carefully consider decisions regarding privatization and public-private partnerships.

- Ensure that public services are publicly owned and are provided by the public sector. Privatization cannot be allowed to undermine human rights. To ensure this, it is important to carefully analyze whether privatization is required in the first place, ensuring the participation and consideration of opposing interests and arguments. If privatization does take place, participatory procedures and other mechanisms that prevent corruption must be exhausted. Additionally, there should be a comprehensive assessment of tax practices of the private actors involved and their affiliates, as well as consideration of financial, social, and productive aspects in order to ensure that public interests prevail.

- States should strictly regulate privatized services to ensure that human rights are being fulfilled in a manner that is affordable, accessible, adaptable, and acceptable. In the case of both privatization and public-private partnerships, States should monitor service provision and ensure the implementation of accountability mechanisms. Regaining public control of privatized services must be the first option considered, especially when the privatization has negatively impacted human rights fulfillment.
- States and international financial institutions that recommend privatizing public services should conduct prior assessment of the impact of these measures on human rights or reconsider their approach based on available evidence.

4. Enact regulations and sanctions for non-State actors.

- Require companies and other tax- payers to exercise due diligence in identifying, preventing, and mitigating the risks of human rights violations arising from their tax practices.
- Require financial institutions to be held accountable for their role in facilitating tax evasion and avoidance. Enable specialized agencies to supervise them rigorously. Require a license or registration that can be withdrawn in cases of non-compliance and subject these institutions to effective monitoring systems.
- Endow supervisory agencies with appropriate powers, including the authorization to carry out inspections, demand information, and impose sanctions. The regulation and supervision of banks should include requirements regarding client identification, the establishment of registries and accounting records, and the reporting of suspicious transactions, both internally and externally.

II. Cross-cutting obligations applicable to fiscal policy

03

STATES MUST ENSURE THAT THEIR FISCAL POLICY IS IN LINE WITH THE PURSUIT OF SOCIAL JUSTICE

States must:

3.1. Principles of fair taxation

Design tax policy in accordance with the principles of horizontal and vertical equity, legality, equality, non-discrimination, generality, ability to pay, progressiveness, and other fair tax principles enshrined in their constitutions, international law, and other complementary frameworks.

They must ensure that the tax system promotes substantive equality and that all people comply with their duty to pay taxes in accordance with their ability to contribute. States must establish an appropriate tax threshold. They should refrain from adopting fiscal measures that impose burdens which manifestly worsen the situation of those who lack the necessary material resources to live with dignity and autonomy.

3.2. Principles of justice in public spending

Ensure that their public spending policies are designed in accordance with principles of equality, legality, efficiency, priority in social spending, and participation, along with other principles generally accepted in their national constitutions. Public assets must be protected and managed according to current legislation, with integrity and due diligence and ensuring quality expenditure.

3.3. Principles on public debt

Manage public debt so that it does not hinder the improvement of conditions that guarantee the enjoyment of human rights.

3.4. Territorial finances

Ensure inter-jurisdictional equity among their territorial authorities by distributing resources fairly. This should be done with the aim of achieving equitable and cooperative development which directly reflects their competencies, services, and functions.

GUIDELINES

In accordance with this principle States should:

1. Reduce economic inequalities through overall fiscal policy.

Promote the reduction of inequality by implementing progressive fiscal policies that produce a significant redistributive impact, undertaking diagnoses of:

- Their own resources (to determine if the State's revenue and redistributive spending are potentially sufficient).
- -Equity (to determine if the redistributive spending and the scope, design and implementation of social and economic programs is consistent with guaranteeing an adequate standard of living).
- Quality (to determine if the design and implementation of such programs are consistent with micro- and macroeconomic efficiency, improve wellbeing, generate social benefits and are of high quality);
- Accountability (to determine if such programs are transparent and accountable regarding their implementation and impacts).

2. Achieve a progressive tax system and move towards progressiveness in the design of taxes in particular.

- As a top priority, correct the high dependency on regressive taxes with low distributive impacts and other regressive biases in tax systems. This should be done with the aim of ensuring overall progressive impacts. Incorporate innovative practices in the design and implementation of indirect taxes that reduce or reverse their regressive nature, such as compensation mechanisms for low-income populations.
- Guarantee that the main sources of income for the population at the top of the income scale – including dividends, financial income, and other sources of capital income – are taxed at rates similar to or higher than other sources. Generally, avoid enforcing high tax rates for goods and services and low rates for income, wealth, and property. States should adopt the necessary international cooperation measures and eradicate preferential treatment to ensure that effective rates are socially agreed upon.

3. Give maximum priority to social spending in order to implement universal policies that are sensitive to differences and move towards progressiveness.

- Ensure universality in the fulfillment of rights by implementing social programs that are sensitive to differences, complemented by progressive expenditure that moves towards free health and education. Allocate resources prioritizing the realization of human rights over other possible allocations. Increase resource allocation to neglected rights.
- Targeting in social programs cannot justify undermining human rights nor their universality. Instead, it should accelerate the correction of social inequality by combatting different forms of discrimination, such as sexism and racism. Universal policies must include the possibility of taking affirmative action measures when necessary to eradicate such discrimination and reduce the disparities that highlight it.

4. Ensure equitable tax treatment for different types of businesses.

Guarantee fair tax treatment for different types of companies, designing tax differentiation, when necessary, in accordance with national development objectives and human rights criteria such as the promotion of substantive equality.

5. Correct inequalities among subnational governments.

Ensure cooperation and coordination among the different levels of government and guarantee that decentralization, or other arrangements for the distribution of competencies, promotes the realization of human rights and is accompanied by strategies for the generation and transfer of resources and technical capacities such as:

- Increasing the financial autonomy of subnational governments by means of stable, progressive, and sustainable sources of funding, such as wealth/property taxes and the implementation of cost (charges) and benefit (land rent) redistribution in urban development regulation within their territories.
- Implementing intergovernmental transfers to compensate for the different capacities and inequalities among subnational governments, based on objective indicators that aim to reduce the gap in the enjoyment of rights among territories.
- Providing technical assistance to strengthen the fiscal capacities of sub-national governments, particularly with the aim of generating economic and fiscal statistics.

6. Incorporate a human rights focus into debt management.

- Ensure that States' decisions regarding foreign debt do not contradict their obligations to protect, respect and fulfill human rights.
- Take into consideration the financing required to fulfill human rights obligations and international commitments relating to sustainable development in terms of external debt sustainability assessments. Take measures to ensure negotiations and modifications for debt crisis prevention are orderly, equitable and guarantee the fulfillment of these obligations. This includes incorporating collective action clauses in negotiated debt contracts to facilitate and expedite negotiation procedures. Human rights obligations must be incorporated in debt sustainability and debt relief assessments, including the implementation of social and environmental sustainability regulations, as well as a broader vulnerability index, to ensure that debt servicing does not undermine the enjoyment of human rights.
- Carry out an in-depth analysis of the structural causes and abuse of power that underlie sovereign debt crises. Ensure that the public and private actors ultimately responsible are held accountable.
- When negotiating new conditions to avoid a debt crisis, the principles of sovereignty, good faith, transparency, impartiality, sovereign immunity, legitimacy, sustainability and respect for the decisions approved by the majority of the population in State negotiations must be applied.

04

STATES MUST ENSURE THEIR FISCAL POLICY IS ENVIRONMENTALLY SUSTAINABLE

States must:

4.1. Resources for sustainable development

Mobilize the maximum available resources to ensure sustainable development based on human rights. Doing so requires compliance with their obligations to guarantee the enjoyment of a clean, healthy, sustainable and safe environment. Failure to adopt reasonable measures to mobilize available resources to prevent foreseeable damage to human rights caused by climate change constitutes an infringement of these obligations. Mobilizing resources to tackle climate change should complement and not jeopardize other efforts by governments to achieve the full realization of all human rights for all people, including the right to development.

4.2. Environmental use of fiscal policy

Use fiscal policy to its maximum potential so that economic activities respect planetary boundaries. Protect biodiversity, soil, oceans, and nature in general, as well as preventing and mitigating climate change and the climate crisis. This includes the impact it has on disadvantaged groups such as Indigenous and Afro-descendent peoples, people living in segregated urban areas, and landless people.

4.3. Coherence

Ensure that fiscal policy is congruent and in accordance with environmental policy at the subnational, national, and global levels. States should consider their human rights obligations and environmental impacts and implement due diligence standards in the management decisions of public and mixed companies, particularly in relation to extractive industries.

4.4. Informed decisions

Abstain from reinforcing dependence on public financing for high environmental impact activities, such as natural resource extraction, that may endanger the rights of future generations as well as Indigenous peoples and traditional local communities that live according to different models of consumption and development. As the right of self-determination for all peoples establishes, decisions regarding the exploitation of natural resources must be legitimate, sustainable, and acceptable for all people. Their public benefits must exceed their costs and be appropriately distributed. States must ensure that investors’ rights do not undermine their obligation to protect, respect and guarantee human rights.

GUIDELINES

In accordance with this principle States should:

1. Promote environmental sustainability through fiscal policy.

- Use fiscal policy to promote an economic model that recognizes the importance of safeguarding environmental goods and rights. This model should reduce income dependence on extractive industries, particularly those linked to mining and fossil fuels, as well as other activities that may result in negative impacts on the rights of communities that live in territories rich in natural resources. Design fiscal stimulus policies with a view to expediting the move towards a more sustainable development model.
- Ensure that fiscal policy is sustainable intergenerationally (including demographic considerations and compensation mechanisms for future generations) and balanced in terms of sharing costs and benefits at the territorial level. This should be done in ways that promote regional convergence and are compatible with the life projects of local communities.

2. Ensure policy coordination and incorporate an environmental focus in a cross-cutting manner.

- Coordinate economic policy, including fiscal policy and monetary and financial regulations as well as environmental and social policies. This should be done by strengthening the institutional framework of environmental authorities so they are on equal footing in terms of decision-making and by applying environmental considerations in a cross-cutting manner.
- Promote inter and intra national coordination and the innovative use of green fiscal instruments to distribute appropriately the costs of environmental and climate action in accordance with the principle of common but differentiated responsibilities. Avoid the migration and relocation of activities from areas that enforce high environmental taxes to others that fail to.

3. Apply taxes and other green fiscal instruments effectively.

- Design fiscal policy to stimulate investment in renewable energies, the creation of high-quality green jobs and the reduction of greenhouse gas emissions. The role of fiscal policy should not be limited to sanctioning polluters.
- Incorporate or - should they already exist - broaden green and environmental taxes, or appropriately assessed green exemptions, in which the tax base generates a negative effect on the environment. These taxes include taxes on energy, carbon and pollution (for example, air and water emissions, and single-use plastics), and the use and extraction of resources and materials. This should be done by adopting the measures necessary to mitigate their potential regressive impact or designing them to minimize that impact.
- Use the revenue from these green taxes and climate action, or part of it, to finance environmental management and investment and social protection programs that target people affected by climate change and the climate crisis.
- Use innovative measures such as taxes on carbon, with appropriate safeguards to minimize their negative impacts on lower-income populations to internalize environmental externalities. Mobilize additional resources to finance mitigation and adaptation efforts that benefit people living in poverty and facing situations of structural discrimination.

4. Capture and manage resources to overcome dependence on the extractive sector.

- When natural resource exploitation is permitted or undertaken, ensure that a reasonable proportion of the profits is subject to taxation and assigned to expediting the transition towards a more sustainable economic model and fulfilling human rights, particularly for the populations living in the territories where the extraction is taking place.
- Establish mechanisms to capture part of the resources derived from extraordinary profits resulting from price increases.
- Ensure good macroeconomic management of natural resource revenue, such as stabilization funds and other appropriate mechanisms, and adopt economic and industrial policies that promote productive diversification.
- Manage public or mixed companies, particularly those in the extractive sector, in a manner that fast-tracks the transition towards a sustainable economy and prevents adverse environmental impacts or other negative impacts on rights through strict due diligence standards.

5. Accelerate the transition towards a more sustainable economy by dismantling subsidies for polluting activities in a balanced manner and by adopting other measures.

Dismantle fiscal incentives for non-renewable energy sources. Ensure protection and compensation for lower-income populations. During this process, publish transparent information regarding the beneficiaries and impacts of these incentives.

05

STATES MUST USE FISCAL POLICY TO ERADICATE STRUCTURAL DISCRIMINATION AND PROMOTE SUBSTANTIVE EQUALITY, INTEGRATING IN A CROSS-CUTTING MANNER THE PERSPECTIVES OF POPULATIONS WHO SUFFER FROM DISCRIMINATION IN THE DESIGN AND IMPLEMENTATION OF SUCH POLICIES, AND ADOPTING AFFIRMATIVE ACTION WHEN NECESSARY

States must:

5.1. Equality

Adopt fiscal measures with an intersectional approach that contribute to eradicating structural inequalities and all forms of discrimination. In particular, these measures should aim to eliminate discrimination against persons with disabilities, persons of diverse sexual orientations and gender identities, migrants, older persons, children and adolescents, people living in poverty and socially marginalized groups, Afro-descendent communities and Indigenous peoples, people experiencing homelessness, incarcerated people or persons otherwise deprived of their liberty, people who belong to traditional societies, those who belong to minority ethnic, racial, national, linguistic, religious and rural groups, amongst others, and women.

They must mobilize, allocate and execute resources equitably, thereby contributing to eradicate these inequalities in practice. They must give maximum priority to the fulfillment of rights and take special fiscal measures in this regard, such as prioritizing the allocation of resources to eradicate discrimination and promote substantive equality, and the effective use of resources or fiscal exemptions that favor these groups.

5.2. Non-discrimination

Refrain from adopting differential and unjustified fiscal treatment that is not reasonable and proportional to achieve a legitimate purpose. Avoid indirect discrimination, such as an implicit tax bias, an unjustified tax incentive or inadequate resource allocation. When circumstances oblige the prioritization of certain groups, this priority must be based on reasons of public interest in accordance with the issue that needs to be tackled. Criteria must be established by means of an appropriate public consultation. The criteria must be transparent and subject to public scrutiny, and, in case of controversy, subject to legal review in order to avoid discrimination.

5.3. Inexcusability

States cannot excuse their incapacity to eliminate differential treatment by alleging lack of resources, unless they can prove they have used all available resources to address and end the discrimination as a matter of priority.

5.4. Assessment

Identify and assess the different consequences of current fiscal policy and reform proposals on different persons and groups, considering the direct and indirect discriminatory effects and contemplating multiple, intersectional forms of discrimination. If necessary, they must adopt alternative measures, which will require sufficiently disaggregated data.

5.5. Representation and participation

Guarantee the participation of groups who have been historically excluded from political representation in fiscal decision-making processes. Fiscal decisions must respect the right to self-determination and self-government mechanisms and ensure that these groups have the means to finance their autonomous functions. Where relevant, States must guarantee the right to consultation and free, prior, and informed consent in matters relating to fiscal policy.

GUIDELINES

In accordance with this principle States should:

1. Identify and correct discrimination and implicit and explicit fiscal biases against specific groups.

They must immediately eliminate all discriminatory legislation, regulations, and tax practices.

2. Allocate budgets to reduce social inequalities.

- Address imbalances in budgetary allocations for marginalized groups and groups that have been traditionally underserved and excluded, and prioritize and allocate additional resources to such groups to eliminate different kinds of disparities. Public accounts should reflect spending on cross-cutting policies such as gender equality, ethnic and racial equity, and those focusing on disabled people and children.
- Safeguard budgetary allocations for disadvantaged persons, groups, and populations, maintaining them even in situations of economic crisis, natural disasters, or other emergencies. State parties assume the responsibility to care for the lives and physical integrity of people deprived of their liberty. They may not rely on lack of financial resources or other logistical problems to mitigate this responsibility.

3. Adopt an ethnic and racial focus in fiscal policies.

The perspectives and rights of Indigenous, Afro-descendent and peasant communities should be incorporated in a cross-cutting manner in fiscal policy and coordinated with other public policies. Their own economies should be maintained and strengthened through specific intercultural dialogue mechanisms and by ensuring that self-governance mechanisms are appropriately financed. Allocate sufficient resources towards historical reparations processes for these populations and towards ensuring the material and symbolic reproduction of their culture by creating specific funds or economic reparation programs and by providing appropriate financing for intercultural bilingual education.

4. Implement in a cross-cutting manner the special legal protections that human rights grant to certain groups.

Implement in all phases of fiscal policy the principles that protect the rights of certain persons and groups. These principles include those of best interests and the right to be heard for children and adolescents, as well as those of individual autonomy and full and effective participation and inclusion in society for disabled persons. This also involves allocating the resources necessary to make effective the international instruments that protect the human rights of Indigenous, Afro-descendent and peasant communities. They should, for example, apply these principles and instruments to define budgetary allocation priorities and demonstrate how they applied them to their fiscal decisions.

5. Overcome the statistical invisibility of populations confronting structural discrimination, including in fiscal policy.

- Incorporate indicators that enable the identification of the impacts of fiscal policy on specific populations, such as Indigenous peoples, women, people with disabilities, and Afro-descendent communities.
- Conduct assessments of the distributive impacts of the tax system and its impacts on specific populations, such as Indigenous communities and Afro-descendent peoples and women, considering the different kinds of taxes and other State revenue. These assessments should be regular, open to public scrutiny, and use methodologies that facilitate international comparison over time.
- Improve the availability and quality of national disaggregated statistics, as required by human rights monitoring frameworks and the Sustainable Development Goals. Make visible the tax burden and budgetary allocations for marginalized groups.

06

STATES MUST PROMOTE SUBSTANTIVE GENDER EQUALITY THROUGH THEIR FISCAL POLICY, USING AN INTERSECTIONAL APPROACH

States must:

6.1. Eliminate discrimination

Use fiscal policy to eliminate gender discrimination. Promote substantive gender equality and a fairer distribution of economic power, including affirmative measures in favor of women. Mobilize resources at the national and international levels for this purpose and include additional and potential sources of financing where necessary.

.6.2. The care economy

Recognize, through fiscal policy, the value and unequal distribution of unpaid care and domestic workloads by financing appropriate services, infrastructure, and policies that would enable the reduction and redistribution of these workloads. This should be done in ways that promote women's economic independence and the full exercise of their rights.

6.3. Budgeting

Incorporate a gender focus in the entire budget cycle including an intersectional perspective. Monitor the evolution of the amount, level, and composition of spending of the budget allocated to policies aimed at reducing gender inequalities, guaranteeing women's rights, and disseminating information about these allocations.

6.4. Taxes

Eradicate gender-based discrimination in fiscal structures, and correct explicit and implicit gender biases in tax systems and in each specific tax. Promote and adopt progressive fiscal policies to guarantee sufficient, non-transferable, sustainable resources that cover every level and area of public policy aimed at reversing gender inequalities and guaranteeing the rights of women.

6.5. Procedural safeguards

Ensure the participation of women in the processes of producing, executing, and monitoring fiscal policy. Include rural, Indigenous, Afro- descendent and migrant women, using commitments to gender parity within government departments/institutions to democratize the exercise of political power.

Analyze economic programs from a gender perspective, including macroeconomic stability and external debt programs, to evaluate their impacts and adapt them in order to promote a more equal distribution of goods, wealth, opportunities, income and services.

Ensure that fiscal adjustment measures and budget cuts that aim to tackle economic downturns are governed by human rights and non-discrimination principles,. Specifically, avoid the entrenchment of poverty suffered by women, the excessive unpaid domestic and care workloads shouldered by women, and the reduction in financing and budgets for gender equality policies.

GUIDELINES

In accordance with this principle States should:

1. Recognize the value of the care economy and use fiscal policy to redistribute and reduce workloads.

- Recognize, quantify, reduce, and redistribute unpaid care work and adopt a comprehensive system to measure it in national accounts. This system should be based on time use surveys and reliable methodologies. Examine the relation between unpaid work and the incidence of poverty in women.
- Ensure and increase public investment in care services in the form of financial aid, services, infrastructure, and time by implementing programs that avoid shifting the burden of care to families and women. Promote shared responsibility among the State, households, and families. No fiscal measure should discourage the equal participation of women in the labor market. On the contrary, fiscal policy should contribute to overcoming the gendered division of labor and the unfair social organization of care work (where women are either employed in low-status jobs, with low earnings or are responsible for unpaid care work) through strategies that broaden the provision of decent well-paid jobs for women.

2. Integrate a gender focus in their tax systems.

- The implementation of new taxes, expenditure laws, programs, tax accounting reforms, and other institutional practices must aim to tackle disparities between women and men. Tax systems must recognize the diversity of family structures and ensure that no fiscal measure hinders access to work opportunities on equal terms. Tax systems should neither directly nor indirectly cause women to reallocate time spent on paid employment to unpaid work. Adopt measures to ensure that fiscal systems are not based on the assumption that households pool and share resources equally among their members. Promote individual taxation or favorable differential treatments where necessary, as mechanisms to achieve fiscal justice.
- Reduce the excessive load of regressive taxes and those that tax consumption, particularly of essential goods, which are disproportionately borne by women because they make up a larger share of the lower-income population due to historic discrimination. Establish exemptions or lower tax rates on products that are essential items for women.
- Eradicate implicit and explicit gender biases in income tax, for example, by treating both spouses equally. Remove the attribution of income based on gender stereotypes, allowing the same deductions for men and women. Eliminate treatments that negatively affect jobs in which women are overrepresented.
- Combat tax avoidance and illicit financial flows and improve tax collection from the groups that concentrate the highest levels of income and wealth through corporate income tax and wealth and property taxes. This will generate greater resources for gender-responsive policies.

3. Develop budgets with a gender focus.

Institutionalize budgets with a gender focus, include the obligation to adopt them in their legal frameworks, and create institutional mechanisms that facilitate their implementation. Budgets should be based on disaggregated data to assess the differential impact of budgets on women and men. Spending should be prioritized according to its potential to promote gender equality.

4. Ensure investment in policies that promote gender equality.

- Maximize available resources to invest in high quality, gender-sensitive public services, including public care services that enable the reduction and redistribution of workloads. Implement public actions that break down the barriers preventing women from accessing productive resources such as credit, land, water, training, technology, and time. Increase and finance high quality, accessible, sufficient, and appropriate social protection to address the specific needs of women living in poverty, LBTI women, girls and teenagers, women who are members of Indigenous, Afro-descendent and rural communities, women with disabilities, and women in all their diversity.
- Adopt budgets that prioritize investments pursuing gender equality, including during periods of economic crisis. Enact policies that aim to eradicate gender violence and promote health and social welfare policies that are universal and free. Establish programs that promote employment and income for women workers in the formal and informal sectors. Support female-headed householdsand provide economic opportunities and equal access to productive resources for women. Address women's social, educational, and health needs, particularly those of women living in poverty.

07

FISCAL POLICY MUST BE TRANSPARENT, PARTICIPATORY AND ACCOUNTABLE. PEOPLE HAVE A RIGHT TO FISCAL INFORMATION

States must:

7.1. Fiscal culture

Adopt measures to strengthen fiscal culture and the active exercise of fiscal citizenship, including citizenship training and appropriate technical assistance in order to guarantee full, equal participation in fiscal debates.

7.2. Information

Produce, publish, and provide access to high quality fiscal information. This information must be structured clearly and comprehensibly and be made available for review by all persons.

7.3. Disaggregated data

Ensure that fiscal information is based on classification and disaggregation criteria that enable an analysis with a rights perspective. Include criteria such as gender, ethnicity and race, and other categories that are susceptible to discrimination.

7.4. Human rights indicators

Produce high quality indicators, that include fiscal criteria, regarding the fulfillment of their human rights obligations. This should be done in accordance with their duty to submit reports to regional systems of human rights protection and promotion.

7.5. Exceptions

Strictly justify exceptional limitations to the right to fiscal information for reasons of general interest and guarantee that those limitations are subject to review by impartial authorities, prioritizing access to fiscal information, in case of doubt.

7.6. Participation

Ensure that fiscal policy decision-making processes are open to informed public debate, through inclusive, broad, transparent and deliberative social dialogue processes. These decision-making processes should be based on solid evidence from different sources and using accessible language. Participation must be equitable, comprehensive, significant, multisectoral and inclusive.

GUIDELINES

In accordance with this principle, States should:

1. Produce and give the broadest possible access to quality fiscal information.

- Establish a presumption in favor of the public availability of fiscal information.
- Publish clear and measurable objectives for fiscal policy (including collection and progressiveness goals). Regularly report progress towards them and explain any deviations from plans.
- Publish disaggregated information and data (regarding taxation, budget, and debt) that is reliable, timely, accessible, and comprehensive in open and reusable formats. This should be done with the highest level of disaggregation possible and through all available forms of media.
- Modernise information systems and utilize the full potential of technology as a tool to make fiscal transparency effective.
- Generate standardized information systems that enable updated assessments of the incidence of fiscal policy. Assess the impact of fiscal policy on different people, groups and populations. Information should recognize intersectionality and be disaggregated by sex and sexual orientation, race, age, language, ethnicity, religion, disability, belonging to an Indigenous community, income level, territorial scope, household structure and other relevant variables.

2. Guarantee information and participation in the budgetary cycle.

Compile, approve, implement, and assess public budgets through a human rights focus, including measures such as:

- Using program budgeting and multi-annual budgeting.
- Adopting results-based budget systems based on indicators of the effective enjoyment of rights that are sufficiently detailed to respond to the needs of specific populations. Such populations should include: women, young people, Afro-descendent and Indigenous peoples, LGBTI people, landless people, people experiencing homelessness, or people affected by major energy projects.
- Adhering to internationally-agreed budgetary classification systems, using budget lines and codes that correspond at the national and subnational levels, and reviewing their classification systems to guarantee the inclusion of budget lines and codes. These classification systems should, at a minimum, disaggregate budget information in line with population criteria such as age, gender, and territory, amongst others.
- Earmark expenditure that has the potential to promote the rights of certain people, groups, and populations.
- Using new technologies to improve the effectiveness of budgetary planning
- Ensuring a participatory budget formulation process, appropriately disseminated, that allows for meaningful inputs of stakeholders, including civil society, and particularly from populations that face structural discrimination. This can be achieved through education and awareness initiatives regarding budget decision-making processes and their impacts, at the subnational and national levels, and in institutions such as public universities. Peasants and other rural communities have the right to be involved in the planning, formulation, and approval of local and national agricultural budgets.

3. Promote fiscal education, culture, and democracy.

Ensure that fiscal decision-making processes are based on the broadest possible national dialogue. These processes should include meaningful participation and public scrutiny during the design, implementation, and assessment stages. This requires, at minimum:

- Adopting specific measures to guarantee equal access and opportunities to participate in fiscal decision-making, particularly for people living in poverty or facing structural discrimination.
- Encouraging independent civil society organizations and academia to develop alternative fiscal policies and undertake research and assessments. These organizations should also disseminate data about the social and distributive impacts of fiscal policy, creating spaces for dialogue with institutions and providing them with information.
- Promoting fiscal education and providing access to all relevant information in an accessible and understandable format with the aim of generating awareness of how taxes benefit society and how fiscal policy affects the realization of human rights.
- Making visible the cost of services and public benefits and the consequences and material cost of fiscal fraud, with the aim of improving tax morale.
- Formalizing the role of civil society in fiscal policy processes, by including civil society in debates at the highest level and supporting citizen bodies with training.
- Implementing communications campaigns to inform on the outcomes of the administrative management of public resources and assess whether the planned goals and objectives have been achieved.

4. Limit fiscal secrecy.

- Balance fiscal secrecy regulations with the right to access public information. Interpret fiscal secrecy in the strictest way possible, only implementing secrecy if it is legally or constitutionally stipulated. Take into consideration all the exceptions and opt for transparency in case of doubt. Fiscal secrecy should not conceal information regarding tax amnesties or tax expenditure beneficiaries or other differentiated treatments.
- Fiscal secrecy should not be used to prevent information declared to tax authorities from being used to produce statistics or to publish reports in a regular, timely and accessible manner. It should also not be used to publish anonymized microdata categorized by socioeconomic status, income deciles, residence, gender and taxpayers' employment sector, among other factors.
- Undertake independent, participatory, and regular impact assessments on the extraterritorial effects of financial secrecy policies, indicating their methodology.

5. Gather relevant information from corporations, intermediaries, and other non-state actors.

- Establish legal and institutional mechanisms for companies to publish corporate financial information. Comply at a minimum with the highest international standards on these matters. Constantly update their legislation and institutional practices to implement higher standards.
- Request corporations to provide detailed country-by-country reports that are public for at least some sectors, such as banking. Should requirements such as minimum turnover thresholds be established for requesting

these reports, they must be in accordance with the economic reality of each country so as not to distort their objectives.

- Establish and publicize business records. Provide information not only on income statements and balance sheets of businesses and their affiliates, but also the names and residence of shareholders, records of ultimate beneficial owners, and asset and land registers.

6. Carry out human rights impact assessments.

Carry out human rights impact assessments of fiscal policy. Assessments must be:

- Comprehensive, with the participation of social actors. They should include, among other aspects, an analysis of the distributive consequences and tax burden on different sectors, as well as on marginalized and disadvantaged groups and the negative effects on other countries.
- Regular, informed, and transparent.
- Subject to independent verification, with public participation in the definition of risks and potential extraterritorial impacts.
- Have gender, ethnic, racial and age perspectives, and estimate differentiated impacts on specific groups. These assessments must consider the possibility of adopting alternative policies that avoid, or at least reduce and correct, possible adverse effects.
- They should also include loans and public debt, first to determine if they are necessary, and also to ensure that additional funds cannot be acquired by redirecting current budgetary allocations.

III . Specific obligations applicable to fiscal policy

08

STATES MUST MOBILIZE THE MAXIMUM OF AVAILABLE RESOURCES TO PROGRESSIVELY ACHIEVE THE FULL REALIZATION OF ECONOMIC, SOCIAL, CULTURAL AND ENVIRONMENTAL RIGHTS

States must:

8.1. Adoption and justification of measures

Establish laws and policies, and adopt fiscal frameworks, financial and exchange rate regulations, tax systems, budgets and appropriate debt management policies to ensure the full realization of human rights. Although different types of measures can be adopted, States must be able to justify why the measures are appropriate in light of available evidence.

8.2. Sustainability

Ensure that fiscal policy is sustainable from a social and intergenerational perspective. Sustainability must enable States to comply with their obligation to move as expeditiously and effectively as possible towards the full realization of human rights, in the context of the full use of the maximum available resources. Fiscal sustainability should not be invoked to undermine rights, nor to restrict their scope, nor to excuse inaction or setbacks on rights enjoyment or to deny their effective protection.

8.3. Planning

Adopt a macro-fiscal planning framework with a view towards strengthening their capacity to comply with their human rights obligations as expeditiously as possible. Ensure compliance is sustained in time.

8.4. Fiscal rules

Fiscal rules must aim to guarantee rights and must not be designed or applied in ways that could undermine them.

GUIDELINES

In accordance with this principle States should:

1. Implement macro-fiscal planning with a focus on rights fulfillment.

Adopt a systematic plan that justifies fiscal measures to be adopted by States within a multi-year framework. Include at least a diagnosis of how public finances will respond to the country's situation in terms of human rights, objectives, time frames and deadlines. The plan should also include indicators to measure the effective fulfillment of the plan, responsible institutions, allocated resources, and accountability mechanisms.

2. Ensure social and intergenerational sustainability of public finances.

- Give priority to taxation and other domestic financing instruments over external debt in order to respond appropriately to social needs. Establish a strategy to ensure the fiscal space which enables the adoption of counter-cyclical policy - both discretional and non-discretional (progressive taxes as automatic stabilizers for income, and social transfers or guaranteed employment programs as stabilizers on the spending side).
- Undertake independent analysis of debt sustainability, incorporating assessments of the effects on human rights and of the distributive impacts resulting from the trajectory of interest payments on debt.

3. Align their fiscal rules with human rights obligations.

- Abstain from adopting fiscal rules that unduly restrict the capacity of public institutions to respond to changing environments, to progressively realize rights, and to maintain the protection of social progress already achieved.
- They should not adopt rules that prevent, aside from any other consideration, total public budget increases. Nor should they adopt rules which target key social sectors over and beyond inflation, among other excessively restrictive measures.
- They should exclude legal clauses that freeze spending or equivalent measures in texts that are challenging to amend, such as national constitutions.

09

STATES MUST GUARANTEE THE ENJOYMENT OF MINIMUM ESSENTIAL LEVELS OF ECONOMIC, SOCIAL, CULTURAL AND ENVIRONMENTAL RIGHTS IN THEIR FISCAL POLICY AS A MATTER OF PRIORITY

States must:

9.1. Immediate obligation

Immediately ensure, by making maximum use of the potential of fiscal policy, the right to an adequate standard of living and the essential levels of economic, social, cultural and environmental rights, regardless of economic cycles, and even in situations of crisis, conflict, emergency, and natural disaster.

9.2. Do no harm

Refrain from worsening the situation or undermining the rights of marginalized and disadvantaged groups by means of fiscal policy, whether directly by reducing available income, or indirectly by financing measures that could violate or endanger their rights.

9.3. Protected spending

Identify protected social spending that cannot be affected by economic cycles or fiscal rules and that is necessary to guarantee minimum essential levels of rights. This spending must not fall below the levels required by financial commitments undertaken at the international and domestic levels. Protected social spending to ensure essential levels of rights must be interpreted in terms of the obligation to move as expeditiously and effectively as possible towards the full realization of rights.

9.4. Social security

Effectively realize the right to social security in a universal manner, particularly by ensuring minimum social protection floors to confront social risks and contingencies recognized by international law.

GUIDELINES

In accordance with this principle States should:

1. Use fiscal policy to contribute to the eradication of poverty.

Fiscal policy must contribute significantly to the reduction or eradication of poverty, which means that taxes and public spending must increase the consumption income and well-being of lower income populations. Fiscal policy should not adversely affect the situation of those who may be at risk of falling into poverty. To achieve this, States should establish mechanisms to ensure that the effects of taxes on consumption and on the income of the population in poverty, or at risk of being in poverty, do not cancel out the benefits deriving from transfers and subsidies. States should also refrain from increasing these taxes or eliminating exemptions on essential goods without effectively implementing appropriate compensatory mechanisms.

2. Guarantee the right to social security with comprehensive social protection systems that ensure the minimum essential levels of rights with immediate effect.

- Establish and maintain social security systems that are administered responsibly, transparently, sustainably, and equitably. They should include contributory and non-contributory benefit plans and be run in accordance with applicable principles generally recognized at the international level.
- States must take into consideration the needs of people who have most difficulty in exercising their right to social security. In particular this includes unemployed people or those who work in the informal economy. They must also recognize the specific conditions faced by women in different stages of their lives, and in particular the greater share of unpaid care work they shoulder, by implementing specific differential measures such as child benefits and other similar measures.
- Notwithstanding their obligation to ensure, as expeditiously as possible, the full realization of the right to social security and other rights (including new benefits as standards of living standards evolve), States must immediately implement social protection floors that protect the income of people when faced with social, economic, climate and public health shocks and risks. These floors must include, at the least: essential medical attention, including maternity assistance; basic income security for children by providing access to nutrition, education, and other goods and services; basic income security for working-age people who cannot work, in particular in cases of illness, unemployment, maternity and disability; as well as basic income security for older persons.

3. Protect core social spending, including through escape clauses from fiscal rules.

- Identify in their budgets the minimum protected social spending that ensures financing for essential levels of economic, social, cultural, and environmental rights. This should be in accordance with the constitutional commitments undertaken by each State.
- The fiscal rules of States should not hinder the realization of the essential levels of economic, social, cultural, and environmental rights. They should provide for escape or exception clauses when the essential levels of rights, or the principle of proportionality, are not being fulfilled.
- Abstain from spending cuts that undermine minimum essential levels of rights in negotiations on loan conditionality agreements. Exclude, as a general rule, spending cuts in health and education.

10

STATES MUST MOBILIZE THE MAXIMUM OF AVAILABLE RESOURCES TO PROGRESSIVELY ACHIEVE THE FULL REALIZATION OF ECONOMIC, SOCIAL, CULTURAL AND ENVIRONMENTAL RIGHTS

States must:

10.1. Full use and expansion of the fiscal space

Adopt a framework of policies that ensures maximum mobilization of different types of resources. Achieve full and efficient use of existing public resources through high-quality public spending. When necessary, this mobilization can be realized by increasing the availability of resources progressively, sustainably, and in ways that promote substantive equality. This can be accomplished through the appropriate combination of fiscal, monetary, trade and financial instruments. States must take measures to generate revenue and manage expenditure in a way that is sufficient to effectively realize rights. This requires expanding the fiscal space by means of resources that are not currently being mobilized. For example, resources lost to illicit financial flows, tax evasion and avoidance, corruption and clientelist use of resources, the underutilization of progressive direct taxes, badly designed tax expenditures, or by requesting international assistance and cooperation.

10.2. Assessment

Regularly assess the effects of the measures adopted to establish whether the maximum of available resources have been used to progressively achieve the full realization of economic, social, cultural and environmental rights as expeditiously and effectively as possible.

GUIDELINES

In accordance with this principle States should:

1. Adopt a financial framework conducive to the mobilization of resources for rights.

Use fiscal and monetary policy and debt as instruments to generate the resources necessary for the full realization of rights and the eradication of existing discrimination, taking into consideration the external and policy restrictions of each country.

2. Expand their fiscal space in accordance with rights-related needs.

- Estimate the resources necessary to guarantee human rights and expand the fiscal space accordingly. Enact measures such as increasing tax collection through direct progressive taxes, combatting tax evasion and avoidance, making use of internal debt, adopting more flexible macroeconomic frameworks and fiscal rules, reallocating spending, managing international cooperation and other external financing mechanisms, and using international reserves judiciously. The cessation of armed conflicts can result in “peace dividends”, releasing fiscal resources to increase social spending and to invest in sustainable development, in line with the priorities of local communities
- Among the options to expand their fiscal space, States can manage the monetary resources created by Central Banks by adopting policies for exchange rates and regulating cross-border financial flows, easing the restrictions faced by States when they use this financing mechanism. Monetary stimulus policies could be more effective if they target end consumers more directly.
- Among the external financing mechanisms available, States should act at the international level to request Special Drawing Rights (SDR) from the International Monetary Fund, when circumstances warrant it, to bridge liquidity constraints.

3. Ensure the extensive use of financing instruments in accordance with the principle of progressivity.

- Improve public revenue collection, enforce tax reforms to improve collection levels and ensure macroeconomic stabilization. Leverage expenditure to combat gender, ethnic, racial, and other related inequalities, and improve income distribution.
- States should have sufficient fiscal pressure and a progressive tax system in order to reduce multiple and interrelated inequalities and to ensure stability in the availability of rights-fulfilling resources. This should be accomplished with relative autonomy from other financing sources.

4. Strengthen tax administrations and fight against tax abuse.

- Estimate losses to abusive fiscal practices and carry out regular tax collection efficiency assessments to ensure that policies are mobilizing the maximum potential resources. The policies include the control of tax avoidance and evasion, tax debt recovery, and tax amnesty revision.
- Make tax collection and the fight against tax evasion and avoidance more effective and efficient with the aid of information and communication technology, data analysis, and other innovative tools.
- Prevent tax abuse rather than just increasing collection after fraud has occurred. Implement legal frameworks that tackle tax avoidance, for example, by reviewing certain fiscal incentives and the criteria for taxing intra-group transactions for corporate tax purposes. Enforce severe financial penalties and consider other effective sanctions for large-scale tax evaders.
- Allocate appropriate financial, human, and technical resources to their tax administrations. Ensure they are independent, impartial, transparent, and accountable, with measures such as:
  - Assigning independent, well-equipped, trained and properly paid officers responsible for combating tax abuse.
  - Creating specific offices with powers to investigate the transfer price fixing and to improve tax debt collection.
  - Requiring customs and tax official to use available databases to compare global trading prices of goods to determine which transactions require more control.
  - Establishing legal frameworks and guidelines to facilitate the reporting of crimes by tax authorities to the relevant agencies.
  - The continued adoption of standards and best practices compiled by regional organizations in relation to tax administration.

5. Strictly justify and assess tax expenditures (fiscal benefits).

- Ensure prior assessment of the positive social impacts of tax expenditures and subject them to public hearings prior to adoption to mitigate their cost, enabling the participation of interested citizens.
- Condition tax expenditures to the achievement of measurable objectives and set a time limit for them through expiration clauses.
- Regularly assess existing tax expenditures publicly and transparently, including all incentives and fiscal benefits. Their continuity must be conditioned on the verification of specific progress towards legitimate aims in line with the human rights framework, and they must not give preference to, exclusively or largely, high earning sectors and large corporations. Tax expenditures that do not show demonstrable benefits, or which deepen inequalities, must be eradicated.
- Tax benefits should focus on critical activities or sectors, avoiding widespread tax collection waivers. In the case of business incentives, prioritize those linked to investments. All tax expenditures should be established by law and must be supervised by a competent authority.

6. Guarantee transparency in tax expenditures (fiscal benefits).

- Publish all differential treatments established in their tax systems, both at the national and subnational levels, including exemptions, fiscal benefits, waivers, and debt cancellations. Make available this information in open formats, including effective dates, assessments, and reasonableness, as well as information regarding the people and companies who are beneficiaries. This should include disaggregation by income decile, gender, race, region, business type, sector, waived tax obligation, and estimated cost, among other relevant information.
- Quantify their total fiscal cost by beneficiary, sector, and type of benefit or exemption. This should be done both at the national and sub-national levels, including the exceptions contained in bilateral and multilateral agreements. The methodology used to estimate the cost of tax expenditures should be published, explaining the reference framework used.
- Include the publication of tax expenditures in the budgetary cycle calendar to ensure that the final budget accounts for them.
- Give media coverage to all the agreements States subscribe to that grant fiscal benefits to one or more taxpayers.

7. Take the fight against corruption seriously.

- Allocate sufficient resources to the fight against corruption. Conduct training and awareness-raising campaigns for the general public on the social and economic costs of corruption.
- Develop and implement effective regulations to obtain and manage revenue flows from all sources and to guarantee transparency, accountability, and equity. Ensure the recovery of resources lost to corruption and other related crimes in a transparent and timely manner.

8. Improve the effectiveness and quality of public spending.

Overcome biases against investments that have a high impact on rights in the long-term by consolidating a culture of public management assessment. Provide accessible public information on the comparative benefits of different kinds of expenditures by reinforcing public procurement information systems. Establish incentives for public administrations that favor high impact investments, among other measures.

11

STATES MUST ENSURE THEIR FISCAL POLICY DOES NOT RESULT IN RETROGRESSION IN ECONOMIC, SOCIAL, CULTURAL AND ENVIRONMENTAL RIGHTS, EVEN IN CONTEXTS OF ECONOMIC CRISIS

States must:

11.1. Non-retrogression

Refrain from adopting retrogressive measures that affect the enjoyment of economic, social, cultural and environmental rights. Only in exceptional cases, and having previously exhausted all available alternatives to increase fiscal space, could the adoption of this type of measure be considered. Even then these measures should only be used when States can prove they are temporary, necessary, proportional, non-discriminatory, and decided in a participatory manner, with the aim of protecting the totality of rights, and in the context of the full use of maximum available resources. States must provide evidence of resource limitation to explain a retrogressive measure according to objective criteria such as the country's level of development and economic situation.

11.2. Priority

In contexts of economic crisis, the protection of social spending and the rights of disadvantaged populations and groups have maximum priority.

GUIDELINES

According to this principle States should:

1. Avoid austerity or structural adjustment programs and the retrogressive measures they involve.

Explore and exhaust all alternatives in broadening fiscal space. These alternatives include extraordinary taxes on large incomes and other progressive taxation measures before adopting austerity policies. Ensure that they do not undermine national or international human rights obligations.

2. Ensure the protection of human right in contexts of crisis.

- In contexts of economic crisis, protect, maintain, and even increase efforts in social policies and investment, particularly those aimed at disadvantaged people and groups. This can be done by implementing programs that ensure the right to adequate food and income security for people with disabilities.
- Undertake counter-cyclical spending to eradicate poverty and protect employment. Guarantee budget space for counter-cyclical policies that mitigate the effects of the economic crisis on human rights.

3. Carry out impact and accountability assessments on fiscal austerity measures.

Carry out comprehensive assessments of the possible effects of fiscal austerity policies on different national and subnational contexts before making commitments to implement them.

12

STATES ARE EMPOWERED, AND ON OCCASIONS OBLIGED, TO ENCOURAGE OR DISCOURAGE CERTAIN CONDUCTS AND CORRECT EXTERNALITIES THROUGH SPECIFIC FISCAL POLICY INSTRUMENTS, AND TO ADOPT PRIORITY FISCAL MEASURES IN ORDER TO GUARANTEE HUMAN RIGHTS

States:

12.1. Regulatory use

Can, and at times must, use to the maximum taxes, subsidies, and other fiscal policy instruments to create conditions that contribute to the realization of human rights, or to avoid conditions that may undermine them, by pursuing objectives that include halting property speculation, protecting the environment and moving towards a more sustainable development model, and promoting public health.

12.2. Compensation

Must adopt protection and compensation mechanisms to prevent or mitigate possible regressive and negative impacts of some of these instruments on certain groups and ensure that their implementation is coherent with all their human rights obligations.

12.3. Resource mobilization for specific rights

Mobilize and use the maximum of available resources to make effective specific rights without discrimination, including economic, social, cultural and environmental rights. In determining which actions or omissions amount to a violation of this obligation, it is important to distinguish inability from unwillingness of a State party to comply with these obligations. States must demonstrate that every effort has been made to use all resources that are at their disposal in an effort to satisfy, as a matter of priority, those minimum core obligations associated with each right.

GUIDELINES

In accordance with this principle States should:

1. Promote the right to health through fiscal policy.

- As a top priority, allocate resources to guarantee with immediate effect the right to access health facilities, goods and services on a non-discriminatory basis. Prioritize the most disadvantaged groups, among other essential obligations. State parties must move as expeditiously and effectively as possible towards the full realization of the right to enjoy the highest attainable standard of sexual and reproductive health without discrimination. This should be accomplished including through the adoption of budgetary measures and other appropriate means, within a reasonably short period of time.
- Ensure that in the allocation of public resources, priority is given to research in areas with the greatest need for scientific progress in health and other basic needs. This includes needs related to economic, social, and cultural rights and the well-being of the population, particularly with regard to disadvantaged and marginalized groups.
- Integrate regulatory and fiscal measures to protect public health, with incentives and disincentives such as increasing taxes on dangerous substances and eliminating fiscal benefits for activities and products that harm health. Such activities may include, for example, those that encourage the widespread use of toxic agrochemicals. Use the fiscal resources generated by health taxes (taxes on products which have a negative public health impact) to improve health systems and complement fiscal measures with other strategies targeting the reduction of damage to health, such as public education campaigns.
- Adopt effective tax measures to discourage the production, sale, and consumption of tobacco and other toxic substances. Implement tax policies on tobacco products to reduce consumption and prohibit or restrict the sale and/or importation of tax and duty-free tobacco products by international travellers.

2. Promote the right to housing through fiscal policy.

- Adopt tax measures to promote an inclusive housing system and establish housing as a social good. Prevent speculation and excessive accumulation of wealth.
- Promote equity in the distribution of the costs and benefits of urbanization, especially through the competence of subnational governments over territorial regulation and management, which increases the equity value of property.
- Make full use of the revenue raising, redistributive and regulatory potential of property tax, capital gains tax and other fiscal instruments of land/property management. Establish multi-purpose land registers and strengthen the collection of differential taxes on ownership of unproductive land so that speculative property practices are deterred and access to land is facilitated. This should be done in both in rural and urban areas. Promote the development of more compact, and therefore more sustainable, spaces.
- To achieve this, States should update land registers and the financial value of property. They should also review the preferential fiscal treatment of homeowners compared to tenants and subject speculators and investors in luxury housing to higher taxes. Additionally, States should recover profits made by private owners as a result of public investment and direct them towards public purposes.

3. Promote full employment and the right to decent work through fiscal policy.

Take fiscal measures aimed at achieving steady economic, social, and cultural development and full employment, as well as reducing the number of people working in the informal economy. Allocate resources to guaranteed employment programs and public investment that generates decent jobs compatible with a just energy transition and other strategic public objectives. Prioritize people and groups in disadvantaged situations, such as women, who face more challenges in enjoying the right to decent work and fair wages.

4. Promote the right to food through fiscal policy.

- Approve a national strategy to ensure food and nutrition security for all. This strategy should be based on human rights principles that define the objectives and the formulation of policies and corresponding benchmarks. It should also identify the resources available to meet the objectives and the most cost-effective way of using them. Ensure there is budget for the family farming sector and that state subsidies do not disproportionally benefit large farmers, contributing to market concentration and gender inequality.
- States should support family farmers, for example, by sourcing food from them for their food security programs.
- They should immediately ensure access to minimum essential food which is nutritionally adequate and safe to ensure freedom from hunger to everyone. They should use fiscal policy to discourage the consumption of food and drink that damage health by increasing taxes on sugary beverages and increasing subsidies on healthy food.
- High-income States in particular should consider their extraterritorial obligations and assess the impact of their agricultural tariff protections and sectoral policies on lower-income countries. Transnational companies involved in land grabbing, genetically modified organisms, and the biofuel sector, among others, must be regulated in accordance with States' human rights obligations.

5. Promote the right to education through fiscal policy.

Allocate the maximum of available resources to ensure free, quality education, which should continually be improved. This requires, inter alia, instruments for the diffusion of science (libraries, museums, Internet networks, etc.), a strong research infrastructure with adequate resources, and adequate financing of scientific education, ethnic education, and intercultural education. This includes ensuring research into, and the strengthening and protection of, ancestral wisdom and traditional knowledge. Provide access to technology and digital education to ethnic minority and rural communities to promote the right to education and ensure scientific progress in terms of digital equality.

6. Promote the right to enjoy scientific progress and its applications through fiscal policy.

Direct their own resources and coordinate with other States to ensure scientific progress and also ensure that the applications and benefits are distributed and available, especially for marginalized and disadvantaged groups. States have a priority obligation to take all the necessary measures, to the maximum of their available resources, to guarantee access to available vaccines for common contagious diseases to all persons, without any discrimination. In pandemic conditions, States have a priority obligation to ensure access to vaccines to all persons. States should promote open science and open-source publications of research. The results and data from publicly-funded research should be accessible to the public.

7. Mitigate the potential negative impacts of financial instruments that incentivize or disincentivize certain behaviours.

Ensure that the design of these instruments favours progressivity and, in all cases, use resources generated by these instruments progressively and fairly. Consider the implementation of subsidies and other compensatory direct expenditures, the compensation of the additional revenue with a reduction in the tax burden of lower-income population, and the elimination or reduction of regressive taxes.

IV. Responsibility of non-state and supra-state actors, and the extraterritorial obligations of States

13

STATES, AND THE INTERNATIONAL INSTITUTIONS OF WHICH THEY ARE MEMBERS, MUST OFFER ASSISTANCE AND INTERNATIONAL COOPERATION IN FISCAL MATTERS. THEY MUST CREATE AN ENABLING GLOBAL GOVERNANCE ENVIRONMENT WITH THE AIM OF ACHIEVING THE FULL REALIZATION OF HUMAN RIGHTS

13.1. Enabling international environment

States must create an international environment enabling the effective realization of human rights in matters relating to taxation and financial regulations, including the fight against illicit financial flows.

13.2. International cooperation

States must promote international cooperation with a human rights focus and support national efforts to realize rights and promote equality on the basis of gender, ethnicity, race, territory and other criteria. They must allocate sufficient financial resources for human resource and institutional capacity-building and strengthening. They should focus in particular on small, highly indebted Caribbean countries and other countries in vulnerable situations. When they receive support programs from international financial institutions, both States and these institutions must respect human rights in the fiscal conditionality clauses, and loan conditions must not unjustifiably reduce the State's capacity to respect, protect and effectively realize human rights.

13.3. Extraterritorial obligations

According to their extraterritorial human rights obligations, States must abstain from any conduct that undermines another State's capacity to fulfill their own obligations. This may include facilitating tax abuse or promoting aggressive tax competition and the resulting "race to the bottom" in taxing multinational corporations. They must undertake assessments of the extraterritorial effects of laws, policies and practices that may unduly restrict the fiscal space of other States. This may include measures agreed to by members of an international organization. If required, they must avail of all the flexibilities offered by international instruments to ensure the full realization of rights on a global scale. Otherwise they must move towards other concerted measures, including the application of exceptions to those instruments that hinder the fulfillment of rights.

13.4. International institutions

International financial institutions and other inter- and supra-state institutions, as subjects of international law, must respect human rights and fulfill all obligations imposed by the general rules of international law. The specialized agencies of the United Nations, in particular, must comply with the human rights provisions contained in the UN Charter. These institutions must prove that their policies, practices and economic reform measures will serve to fulfill, and not undermine, the human rights obligations of States. They must refrain from designing, adopting, financing and implementing fiscal measures that directly or indirectly hinder or affect the enjoyment of human rights, in particular with regard to countries that are highly dependent on external financing.

When a State makes decisions as a member of an international financial institution or grants bilateral loans, it must consider its human rights obligations and abstain from establishing fiscal policy conditionalities that could restrict the policy space of other States to comply with their own human rights obligations.

GUIDELINES

In accordance with this principle States should:

1. Incorporate a human rights focus in the negotiation of international treaties on fiscal matters and in their cooperation with tax administrations.

- Consider their human rights obligations in other international agreements so that they do not affect the revenue raising capacity of any parties.
- When States are able to do so, provide economic and technical assistance to strengthen the capacity of tax authorities in other lower-income countries.
- High-income countries should contribute toward the development of a global transfer-pricing database that would give customs officials access to global average prices of products.

2. Create a global tax body and a binding treaty on fiscal matters and strengthen regional cooperation.

- Consider supporting the creation of a global body which would allow all countries to have an equal say in the setting of standards and decision-making on issues related to tax matters. This body should be in line with the capacities and interests of all States and should promote a financial architecture at the service of sustainable development, gender equality, and human rights.
- In the framework of the aforementioned body, States should consider adopting a universal binding international treaty to regulate international financial issues. These include the distribution of taxing rights to counter the power imbalance among jurisdictions to address challenges of taxing the digital economy, the responsibilities of actors involved in international cooperation in the exchange of information, the interests of low- and middle-income countries, the prosecution of fiscal crimes, the protection of whistle-blowers who report tax abuses, and assistance for tax matters. Human rights obligations must be considered in the framework of a treaty of this nature and in other international negotiations on taxation.
- Create and strengthen regional mechanisms to confront liquidity constraints and access financing under favourable conditions (including development banks). Coordinate tax policies to curb competition among States in the region. Improve cooperation on financial matters and encourage the adoption of bloc positions in international negotiations on taxation, debt, and the international financial architecture.

3. Combat abusive tax practices, ensuring the automatic exchange of information and other necessary measures.

- Fight against abusive tax practices, especially of transnational companies – such as under-invoicing exports, over-invoicing imports, royalties, intragroup loans, and arms-length loans. Combat the practice of abusive transfer pricing and intensify international cooperation on tax matters.
- Provide high levels of transparency and guarantee automatic information exchange on the activities of multinational companies. Ensure full participation and access of all countries to that information by means of regular and systematic mechanisms. Make the information public and accessible within a specified time period.

4. Halt the race to the bottom on corporate tax and cooperate for effective taxation on multinational corporations.

Consider the possibility of taxing multinational companies as one unit and imposing an effective minimum corporate tax rate.

5. Combat low-tax jurisdictions.

Combat tax havens and impose sanctions and other measures to discourage taxpayers from avoiding taxes through these jurisdictions. Create lists of tax havens that are used in the effective implementation of anti-avoidance measures. These lists should be based on solid criteria such as low effective corporate tax rates, the existence of harmful regimes, and the lack of effective information exchange.

6. Design an orderly debt restructuring mechanism and strengthen international cooperation to ensure the provision of external financing that is beneficial for guaranteeing rights.

Como parte de su deber de cooperar para movilizar el máximo de recursos disponibles para el cumplimiento universal de derechos económicos, sociales y culturales, los Estados deben contribuir, de acuerdo con sus capacidades, a la disponibilidad de una oferta de financiamiento en condiciones favorables particularmente para los países con mayores necesidades, a través incluso de la financiación adecuada de bancos de desarrollo. La cooperación internacional en temas de deuda debe tener en cuenta la magnitud de los riesgos que imponen circunstancias como las pandemias, la crisis climática y los desastres naturales sobre los países deudores, con el fin de diseñar

7. Act responsibly as members of international financial institutions.

International financial institutions, both when they make loans and when they provide technical assistance on fiscal matters, should:

- Interpret their mandates in line with international human rights instruments. Incorporate explicit and effective commitments in their policies on loans, surveillance, and technical assistance.
- Abstain from promoting the application of economic reforms that could give rise to human rights violations. These reforms include the implementation of austerity measures as conditionalities attached to loans. To achieve this they should carry out ex ante and ex post assessments of the foreseeable effects on human rights (either in the form of loans and their associated conditionalities or technical surveillance and assistance). The systematic consideration of the human rights impacts of such reforms or economic policy is aimed at ensuring that harm is prevented, compensated for and not repeated.
- Multilateral banks and other financial institutions that promote development must adopt standards of appropriate due diligence to prevent the negative impacts of the projects they finance and assume responsibilities when these arise.
- Contribute effectively to ensure the full enjoyment of rights and reduce gender, ethnic and racial, and any other type of inequality in the exercise of their mandates. To this end they can establish safeguards for the protection of human rights in the context of assistance to States and include these dimensions in their assessment impacts.
- Promote progressive taxation and use their technical capacity to help governments to broaden their fiscal space and redistributive capacity in accordance with their human rights obligations.
- Carry out consultations with the people and communities most affected by the measures, as well as with civil society. In general strengthen transparency, consultation, and participation in the design, review, and assessment of assistance, whether it is technical assistance or loans.
- Incorporate a human rights dimension into debt sustainability analysis and participate in negotiations on debt relief and restructuring. This should be done with the aim of supporting the freeing up of fiscal space to safeguard the capacity of States to meet their human rights obligations.
- Promote accountability of borrower States in relation to their human rights obligations.
- In line with their specific mandates, facilitate the collection of data and estimates of the volume and composition of illicit financial flows. This should be done to monitor progress in implementing target 16.4 of the Sustainable Development Goals on illicit financial flows.

14

NON-STATE ACTORS, INCLUDING COMPANIES AND THEIR INTERMEDIARIES, HAVE HUMAN RIGHTS RESPONSIBILITIES IN RELATION TO THEIR FISCAL CONDUCT

Non-state actors, including companies, intermediaries, standard-setting organizations, and professionals of the fiscal planning sector must:

14.1. Respect rights

Refrain from designing, adopting, recommending and financing actions, policies, programs and practices that directly or indirectly hinder the enjoyment of human rights, or that exercise undue influence on the fiscal policy of States at the expense of human rights. Non-state actors must refrain from invoking other international law instruments, either in their national territory or abroad, in a way that is inconsistent with human rights.

14.2. Pay their fair share

Comply with both the letter and the spirit of tax laws and regulations of the countries in which they operate, and abstain from practices of aggressive tax planning and transfer price fixing. In the context of fiscal policy, the relationship between human rights and business manifests through businesses' payment of tax contributions to the public treasury, which in turn the State allocates to fulfill its human rights obligations through public spending. Corporations should pay fair taxes in the place where they operate.

14.3. Private actors' responsibilities on debt matters

Prevent and contribute to resolving unsustainable debt situations, as part of the responsibility of private creditors and credit rating agencies to respect human rights. In the case of creditors, this includes the obligation to perform due diligence on the creditworthiness and ability to repay of the borrower as well as the duty to refrain from providing a loan in circumstances where the lender is aware that the funds will be used for non-public purposes or for a non-viable project. It also includes the responsibility to engage in relief and restructuring mechanisms designed by the international community.

14.4. Coherence of normative standards

Review and adapt public or private law standards pertaining to financial, accounting, tax, or fiscal matters to the normative framework of international human rights law.

GUIDELINES

In accordance with this principle, non-state actors should:

1. Conduct due diligence procedures appropriately.

- Adopt appropriate policies and due diligence procedures to prevent tax evasion and avoidance.
- Incorporate fiscal governance and tax discipline as significant elements of control and risk management mechanisms. Identify and fully assess financial, regulatory, and reputational risks associated with taxation.

2. Conduct impact assessment of their corporate practices.

- Carry out *ex ante* and *ex post* assessments of the impact of their activities on human rights and gender equality.
- Design and build internal assessment systems that prevent or mitigate the human rights impacts of any tax structure or transaction.

3. Adopt transparency practices and accountability mechanisms.

- Take measures to show publicly that they pay taxes in the place where their business operations actually take place. Corporations should also demonstrate that they do not solely register profits through legal entities located in jurisdictions with low or no taxes.
- Publish information that enables stakeholders in every jurisdiction where they have a subsidiary, branch, or tax residency to see how their taxable income, profit, and gains are calculated and internationally distributed.
- Present disaggregated information through country-by-country reporting, including publishing information about the taxes they pay to each country in which they operate.

4. Adopt regulations for prevention and sanction in the case of lawyers and accountants who facilitate tax abuses.

- Refrain from contracting, or if necessary sanction, those who facilitate fiscal abuse, such as lawyers and accountants.
- Commercial Banks, financial institutions, financial services providers, tax lawyers, and accountants must exercise due diligence with their clients and should not participate in business activities that have the principal activity of facilitating tax evasion and avoidance. These actions undermine the enjoyment of human rights. Industry and profession-specific guidelines should be developed to ensure compliance.

5. Adapt international standards in financial, accounting, tax, and fiscal matters to the human rights framework and to the needs of the Global South.

- Decolonize standards setting in these areas by strengthening the negotiating power of States and civil society in low- and middle-income countries. Promote the establishment of standard setting that has greater democratic legitimacy, with strict adherence to and coherence with international human rights law.
- Given the influence of non-state actors on States' capacity to assert their sovereign fiscal decisions, public and private law standards in financial, accounting, tax and fiscal matters must be harmonized with the legal framework of international human rights law.
- No State, nor the population under its jurisdiction, should be subject to a regulatory regime – public or private, domestic or international – that has been built without offering opportunities for participating in its creation, according to the right of self-determination.

V. Reparations and mechanisms of implementation

15

STATES MUST PREVENT HUMAN RIGHTS VIOLATIONS AND, WHEN THEY DO OCCUR, ESTABLISH APPROPRIATE REPARATIONS FOR HUMAN RIGHTS VIOLATIONS RELATED TO FISCAL POLICY, WHETHER THEY AFFECT CIVIL, POLITICAL, ECONOMIC, SOCIAL, CULTURAL OR ENVIRONMENTAL RIGHTS

States must:

15.1. Justiciability

Establish accessible and participatory channels to challenge fiscal decisions that may be contrary to human rights obligations. Demand accountability and remedy the negative consequences of fiscal policy on human rights. Recognize that the right to legal remedy in cases of human rights violations is applied equally to all rights and the involvement of financial matters is not an obstacle to the justiciability of rights.

15.2. Strengthening

Strengthen the capacity of the legal system and national human rights institutions to deal with fiscal policy.

15.3. Protection

Ensure effective protection for those who disclose cases of fiscal abuse.

15.4. Regulatory/audit/corruption agencies

Take appropriate steps, either by legal, administrative, or legislative action, or other appropriate means, to prevent and effectively remedy human rights violations caused by the State's tax practices or by third party non-compliance with tax obligations. Take appropriate steps to prevent and remedy misappropriation of public funds and other forms of corruption that compromise public resources.

GUIDELINES

In accordance with this principle States should:

1. Establish mechanisms for remedying human rights violations through fiscal policy.

- Establish accessible channels through which people can challenge, dispute, demand implementation or request accountability from the authorities on compliance with human rights obligations relating to fiscal policy. These channels should include the possibility of requesting, for example:
  - The review and adoption of corrective mechanisms for expenditure items that have negative impacts on human rights.
  - The adoption of fiscal measures to remedy neglected human rights problems.
  - Detailed reports and information on decisions adopted in relation to tax, debt, budgets, and sale of public assets, among others.
  - The demand for prompt action in the event of omissions in existing commitments, and
  - The investigation and adoption of corrective mechanisms against possible mismanagement of public resources.
- Those who report or inform of fiscal abuse ("whistleblowers") must be guaranteed confidentiality and appropriate channels for complaints.

2.Strengthen national human rights institutions, the Judicial Council, and other bodies empowered to establish sanctions and reparations.

- Strengthen the role of national human rights institutions in monitoring collective interests in relation to fiscal policy. This can be accomplished by creating special units for these matters, training staff for that purpose, and ensuring that they have adequate budgetary and technical resources.
- Train judicial officials for quasi-judicial and administrative bodies and ombudsperson offices. Adopt other necessary measures so that judicial decisions and legal opinions issued by constitutional courts on fiscal and tax matters take international human rights obligations into consideration.
- Allocate budgetary, technical, and human resources to the justice system to ensure its sustainability. This includes assigning additional resources when delays arise owing to lack of resources, and providing legal assistance to obtain remedies within maximum available resources.

3. Adopt mechanisms to facilitate deliberation and democracy in judicial processes involving fiscal matters.

Prioritize a dialogical approach in the judicial control of fiscal policy decisions. Provide mechanisms to inform judicial procedures on these matters, such as interventions by citizens and civil society organizations, the active publication of relevant decisions, and the availability of indicators that can guide the monitoring of compliance with court orders, among others.

4. Strengthen audit institutions and incorporate a human rights approach in fiscal control.

- Monitor, evaluate, and audit public funds to promote sound financial management. Evaluate the efficacy, adequacy, and equitability of the distribution of resources allocated to the implementation of human rights, with effective monitoring and control mechanisms, in particular at the regional and subregional levels.

- These institutions must ensure the execution of resources in a timely, effective, transparent and efficient manner, according to the resource allocation foreseen in the budget. They must ensure correspondence between the planning and execution of resources, setting goals and indicators to facilitate monitoring, and establishing accountability mechanisms with the possibility of citizen participation. They must incorporate a focus on gender, race and ethnicity, and ensure that the rights of disadvantaged groups are considered as a priority in their monitoring and assessment activities, carrying out consultations when relevant.

- Parliaments in particular should perform their surveillance duties and proactively inform their constituents of the aims and consequences of fiscal policies.

The Steering Committee of the Initiative for Human Rights Principles in Fiscal Policy is constituted by the following organizations: