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COMMITTEE ON FISCAL STUDIES

University of Nairobi

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To
The UN Independent Expert on the effects of foreign debt
hrc-ie-foreigndebt@un.org

Subject:
Call for Input: The Fiscal Social Contract and the Human Rights Economy

The **Committee on Fiscal Studies** is pleased to submit this input in response to your call for contributions to inform your thematic report on **"The Fiscal Social Contract and the Human Rights Economy,"** to be presented at the 79th session of the United Nations General Assembly in October 2024. Our submission specifically addresses **question 9** in your call for input:

"9. From a policy and legal perspective, what are the financial responsibility of a state as regards human rights and tax allocation. In this context, how the state obligations to immediate and progressive realization of human rights can be assessed?"

Overview

As a committee dedicated to the study of fiscal policies and their impact on human rights and development, we believe that the financial responsibility of a state regarding human rights and tax allocation is a critical issue that merits serious attention from policymakers, legal experts, and human rights advocates alike.

From a **policy perspective**, the intersection of a state's financial responsibility, human rights obligations, and tax allocation is rooted in the fundamental principles of human rights law. The Universal Declaration of Human Rights and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) establish the obligations of states to respect, protect, and fulfil human rights. These obligations extend to the realm of fiscal policy and tax allocation, as the resources generated through taxation are essential for the realization of human rights, particularly economic, social, and cultural rights.

The ICESCR, in particular, requires states to take steps, to the maximum of their available resources, to progressively achieve the full realization of the rights recognized in the Covenant. This principle of progressive realization acknowledges that the full realization of human rights may not be immediately possible due to resource constraints. However, it also imposes an obligation on states to make continuous and deliberate efforts towards the full enjoyment of human rights over time.

In this context, the financial responsibility of a state to allocate resources towards the realization of human rights **is not a matter of discretion, but a legal obligation**. States must demonstrate that they are making every effort to mobilize, allocate, and spend resources in a manner that prioritizes the progressive realization of human rights, with a particular focus on the rights of the most marginalized and vulnerable groups.

This financial responsibility requires states to design tax systems that are fair, progressive, and aligned with human rights principles. Regressive tax policies that place a disproportionate burden on the poor and vulnerable are incompatible with human rights obligations. Instead, states should focus on developing tax norms that ensure a more equitable distribution of the tax burden, with **a particular emphasis on taxing wealth and high incomes**.

Moreover, the mobilization of resources through progressive taxation should be explicitly linked to the achievement of human rights and the Sustainable Development Goals (SDGs). The SDGs provide a comprehensive framework for advancing human rights across various dimensions, including poverty reduction, health, education, gender equality, and environmental sustainability. By aligning tax policies with the SDGs and using tax revenues to finance SDG-related programs and initiatives, states can demonstrate their commitment to fulfilling their human rights obligations.

In addition to designing fair and progressive tax systems, the financial responsibility of states in the context of human rights also **requires them to leverage technology and data** to enhance the effectiveness and efficiency of tax administration. In the digital age, data has become a valuable asset that can be monetized and used to generate revenue. States should explore innovative ways to tax the digital economy, such as through the implementation of digital services taxes or the taxation of data flows.

From a **legal perspective**, the assessment of a state's compliance with its obligations to allocate resources towards the immediate and progressive realization of human rights requires a comprehensive analysis of its fiscal policies and practices. This assessment should consider factors such as the adequacy and equity of resource mobilization, the prioritization of human rights in budgetary allocations, the effectiveness of public expenditure management, and the impact of fiscal policies on the enjoyment of human rights, particularly for marginalized and vulnerable groups.

In conclusion, the financial responsibility of a state as regards human rights and tax allocation is a fundamental obligation that requires the design of fair and progressive tax systems, the alignment of tax policies with the SDGs, and the leveraging of technology and data to enhance the effectiveness of tax administration. In light of this, states must demonstrate their commitment to the immediate and progressive realization of human rights through the following **10 recommendations that we put forward**:

Recommendations

1. Progressive tax reforms:

- Encourage states to conduct comprehensive tax policy reviews to identify opportunities for enhancing the progressivity and fairness of their tax systems.
- Recommend the introduction of wealth taxes, such as property taxes, inheritance taxes, and capital gains taxes, to address inequalities and generate additional revenue for social spending.
- Advocate for the reduction or elimination of regressive taxes, such as flat-rate consumption taxes, which disproportionately burden the poor.

2. International tax cooperation:

- Call for the strengthening of international tax cooperation to combat tax evasion, tax avoidance, and illicit financial flows, which deprive states of much-needed revenue for the realization of human rights.
- Encourage states to participate actively in the United Nations' work on tax matters.
- Promote the sharing of best practices and technical expertise among states to enhance the effectiveness of tax administration and enforcement.

3. Participatory budgeting and expenditure tracking:

- Recommend the implementation of participatory budgeting processes that involve citizens, civil society organizations, and marginalized groups in the allocation of public resources.
- Encourage states to establish transparent and accessible mechanisms for tracking public expenditures, such as online portals and regular reporting, to enhance accountability and public trust.
- Advocate for the use of human rights impact assessments in the design and evaluation of fiscal policies and budgets.

4. Domestic resource mobilization and debt sustainability:

- Emphasize the importance of domestic resource mobilization as a key strategy for reducing dependence on foreign debt and enhancing the sustainability of human rights financing.
- Encourage states to set ambitious but realistic targets for increasing tax revenue as a percentage of GDP, in line with their human rights obligations and development priorities.
- Call for the establishment of a multilateral debt restructuring mechanism to address the unsustainable debt burdens of many developing countries, which limit their ability to invest in human rights and the SDGs.

5. Monitoring and accountability:

- Stress the importance of regular monitoring and reporting on states' compliance with their financial responsibilities regarding human rights and tax allocation.
- Encourage the use of human rights indicators and benchmarks to assess progress in the realization of human rights through fiscal policies.
- Call for the strengthening of national human rights institutions and other independent oversight bodies to monitor and investigate the human rights impact of fiscal policies and practices.

6. Data-driven tax policies:

- Encourage states to invest in the collection, analysis, and use of disaggregated data on the impact of fiscal policies on different population groups, particularly marginalized and vulnerable communities.
- Recommend the use of data-driven tools, such as microsimulation models and tax expenditure assessments, to inform the design and evaluation of tax policies from a human rights perspective.
- Promote the use of data to identify and address patterns of discrimination or disparate impact in tax systems.

7. Digital tax administration:

- Advocate for the digitalization of tax administration processes, such as tax registration, filing, and payment, to enhance efficiency, reduce compliance costs, and minimize opportunities for corruption.

- Encourage states to leverage digital technologies, such as machine learning and data analytics, to improve tax enforcement and combat tax evasion and avoidance.
- Stress the importance of ensuring that the digitalization of tax administration is inclusive and accessible to all, including those with limited digital literacy or access to technology.

8. Taxation of the digital economy:

- Recommend the development of fair and effective approaches to taxing the digital economy, such as the allocation of taxing rights based on the location of users or the introduction of digital services taxes.
- Encourage international cooperation and coordination to address the challenges of taxing multinational digital platforms and ensure that the benefits of the digital economy are shared equitably.
- Emphasize the need to balance the taxation of the digital economy with the protection of human rights, such as freedom of expression, privacy, and data protection.

9. Data as a taxable asset:

- Recognize data as a valuable economic asset that can be traded, monetized, and taxed.
- Encourage states to develop frameworks for assessing the value of data and establishing appropriate tax rates and mechanisms.
- Explore the potential of taxing data transactions, such as the sale or licensing of data, as a means of capturing a share of the value generated by the digital economy.

10. Taxation of data flows:

- Examine the feasibility of taxing cross-border data flows, particularly those associated with digital services and e-commerce.
- Consider the introduction of a data tax or digital services tax that would be levied on the transmission or processing of data across borders.
- Encourage international cooperation and coordination to prevent double taxation and ensure the fair allocation of taxing rights among states.

Conclusion

The recommendations put forward here provide a comprehensive framework for reinforcing the financial responsibility of states as regards human rights and tax allocation. By implementing progressive tax reforms, strengthening international tax cooperation, promoting participatory budgeting, investing in capacity building, mobilizing domestic resources, ensuring monitoring and accountability, leveraging data-driven tax policies, digitalizing tax administration, and developing fair approaches to taxing the digital economy and data flows, states can demonstrably fulfil their legal obligations to allocate resources towards the realization of human rights.

These recommendations underscore the importance of designing fiscal policies that are equitable, transparent, and aligned with human rights principles, while also harnessing the potential of technology and data to enhance the effectiveness and efficiency of tax administration. By adopting these measures, states can generate the necessary resources to progressively realize human rights, particularly for marginalized and vulnerable groups, and contribute to the achievement of the Sustainable Development Goals.

The UN Independent Expert's report, by focusing on these critical areas, can provide valuable guidance to states, civil society, and other stakeholders in strengthening the fiscal social contract and promoting a human rights economy. The realization of human rights is inextricably linked to the ability of states to mobilize and allocate resources effectively and equitably, and the recommendations put forward by us offer a roadmap for fulfilling this fundamental responsibility.

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