KEY CONCEPTS
TAXES, BUDGETS & HUMAN RIGHTS

Key Concepts is our series that breaks down complex topics for readers keen to unlock the power of human rights to build just and sustainable economies.

HERE, WE ANSWER:

- What is fiscal policy, and why do we need to transform it?
- What do we gain from looking at fiscal policy through a human rights lens?
- What do human rights obligations say about the actions needed to ensure fiscal justice?
- How can we hold governments and other powerful actors accountable for actions in this area?

CENTER for ECONOMIC and SOCIAL RIGHTS

- **Fiscal policy dictates how governments collect and spend public money. Decisions about this mark the difference between a life of dignity and one of deprivation for billions of people. This makes fiscal policy a key tool to fight inequality and poverty.**

- **Over the last 40 years, most governments have neglected this redistributive potential. Instead, they've cut expenditures and minimized taxes on those most able to pay. The result has been increased inequalities, poverty, and suffering for people and communities.**

- **This can change. Human rights set concrete standards for how to transform fiscal policy to share wealth and ensure dignity for all.**

1. What is fiscal policy, and why do we need to transform it?

Fiscal policy is the tool governments use to raise and spend public money, to influence the economy and achieve certain social and economic objectives. The government's key fiscal policy document is its budget. This sets out: how much money it intends to generate through taxation and borrowing (revenue); from whom (sources), and how it will be spent (allocations); its overall balance (surplus in cases where revenue is higher than expenditures or deficit when it's the other way around). Budgetary decisions reflect a government's political priorities. They directly impact what's available, for whom, and where—affecting different communities in different ways.

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We all have a stake in ensuring that governments raise enough money to meet everyone's needs and to invest in policies that can tackle poverty, inequality, and other social problems.

At the individual level, it ensures that there are adequate public services (such as healthcare, education, and sanitation) that fulfill everyone's basic needs, and programs to protect against life's uncertainties like unemployment, natural disasters, disease, and more. On a collective level, the use of public resources can help to tackle centuries of exclusion towards certain groups (like women, indigenous peoples, people with disabilities, LGBTIQ+ communities, and more) who have been systematically denied their rights. In fact, any group fighting for social justice is going to face, at some point, the question of "how to pay" to fix the problem.

Over the last 40 years, most governments have adopted reforms to "free" or "liberalize" markets, with increased economic growth put forward as the overriding goal of fiscal policy. The philosophy behind this approach is that government intervention in the economy will stifle private investment and even disincentivize people from working. So taxes on profits and high earnings are dramatically lowered, with the stated aim of augmenting the overall amount of resources available in the economy. As a result, fiscal discipline—demonstrated by reducing budget deficits through cutting spending—has emerged as a top priority.

Efforts to reduce budget deficits have usually involved the introduction of fiscal austerity (sometimes termed "consolidation"). Austerity is often characterized by spending cuts, which results in decreased investment in public services and rolling back protections and entitlements. Tax reforms are another key feature of austerity. Often, these take less from the wealthy and corporations, with the idea that investors are the primary engines of the economy. With budgets strained, governments have increasingly fallen back on indirect taxes on consumption that fall more heavily on those with less and resorted to borrowing on disadvantageous terms, paying debts that eat up more and more of the budget. A common feature of these measures is that they've been pushed by political pressure from powerful elites, foreign investors, and international financial institutions.

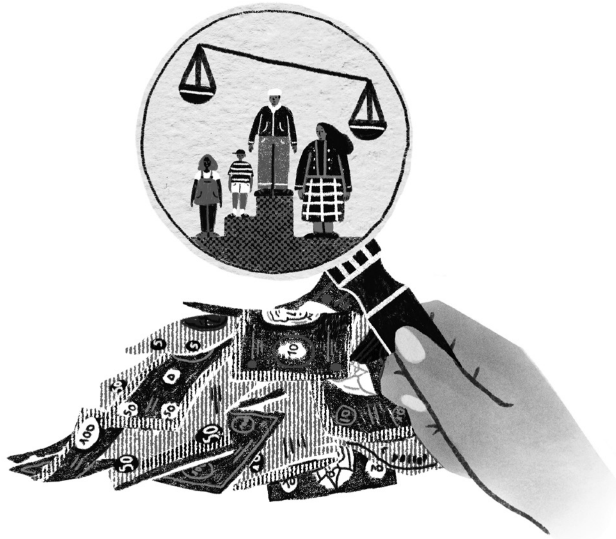
The COVID-19 pandemic has dramatically amplified the effects of austerity on inequalities of all kinds. Stripped-back public health systems from Italy to India were left ill-equipped to respond. People living in poverty, racial and ethnic minorities, refugees and immigrants have suffered the highest levels of infection and mortality rates. Women's livelihoods have also been hit severely—with increased levels of gender-based violence, intensifying care responsibilities, skyrocketing unemployment and little to no social protection for many of them. Meanwhile, the global tax system is riddled with loopholes that allow the world's wealthiest individuals and corporations to avoid paying their fair share. Untaxed profits amounting to trillions of dollars are moved "offshore" while people struggle to survive.

The fiscal policy decisions governments make to respond to the pandemic and to 'build back better' will directly affect such inequalities. To respond to the global public health crisis and the economic fallout, there has been agreement that a massive mobilization of resources—often referred to as "fiscal stimulus"—is needed to protect people's lives and livelihoods and mitigate the ongoing crises. Most higher-income, most higher-income countries have introduced economic relief packages worth billions to guarantee people's incomes and support collapsing businesses. But there is also an urgent need to transform the way countries raise resources to sustain the investment necessary to ensure a just recovery, and how wealthier countries constrain the ability of poorer ones to do so.

2. What do we gain from looking at fiscal policy through a human rights lens?

Traditionally, the economic impact of fiscal policy has received much more attention than its social impact. Narrowly interpreted indicators of macroeconomic stability, such as inflation rates and GDP growth, have been the primary focus in determining whether or not fiscal policy is "effective". But there can be no doubt that the fiscal policy choices made by governments — influenced by other powerful actors—mark the difference between a life of dignity and one of deprivation for literally billions of people.

Centering human rights in our analysis of fiscal policy makes that explicit. It puts people first in how the purposes of fiscal policy are conceptualized. This is sometimes referred to as the four "Rs" of fiscal policy: revenue; redistribution; re-pricing; and representation. Looking at



fiscal policy through this lens, allows us to see how critical it is to realizing people's human rights.

a. Revenue: Most directly, fiscal policy raises and allocates revenue needed to finance critical infrastructure, public services, and social programs. Increases and decreases in this revenue directly impact what's available, to whom, and where. Drawing on human rights norms can help in determining what needs to be prioritized. They call for investments that provide everyone – regardless of income – with basic necessities, including clean water, quality education, adequate healthcare, public transport and decent housing. They also call for investment that responds to the specific needs of particular groups, such as shelters for survivors of domestic abuse or services that enhance access to employment for people with disabilities.

b. Redistribution: Fiscal policy allows for the redistribution of benefits across society. Progressive taxes on income and wealth mean wealthy people and large corporations pay proportionally more than poorer people and small businesses. This helps curb inequalities between individuals and between groups - especially when the funds raised are spent on accessible, high-quality public services and other public goods. Regressive taxes on consumption do not take into account the ability to pay. Drawing on human rights standards and principles can help us determine how resources can be raised and distributed in a fair, just, and gender-responsive manner. The norms of equality and non-discrimination place an obligation on governments to close the gap between different groups—rich and poor, women and men, different racial and ethnic groups. They give us a tool to demand that tax policy be explicitly focused on pursuing equity; including by tackling the concentration of wealth at the top.

c. Re-pricing: Fiscal policy can re-price (incentivize or disincentivize) different behaviors. This is a way to limit public "bads" such as tobacco consumption and carbon emissions or to encourage public "goods" such as investment in specific sectors or the employment of particular groups. Of course, this works in the opposite direction, too. Tax breaks effectively act as subsidies that make it cheaper to continue polluting or get away with exploitative labor practices. Drawing on human rights standards can help us determine what counts as a public bad or a public good. In particular, developing norms about the conduct of transnational corporations and other business enterprises set standards of conduct we should hold the private sector to, including through fiscal incentives.

d. Representation: Fiscal policy is linked to governance and political representation. Relying more on tax revenues (as opposed to loans, foreign aid etc.) can strengthen democracy, because taxpayers have a vested interest in holding governments to account for how their money is spent.

At the same time, the concentration of wealth also concentrates political power, which can undermine democratic processes. Drawing on human rights standards and principles can help us demand that fiscal policymaking be more participatory, transparent, and accountable.

3. What do human rights obligations say about the actions needed to ensure fiscal justice?

Using human rights to define the goals of fiscal policy, essentially means that:

- The priority of a government's tax and budget policies should be to make sure people can enjoy their rights in reality.
- The process of tax and budget policy-making should be democratic and allow for the meaningful participation of people affected by it.

These goals reflect substantive and procedural norms set out in legally binding human rights treaties that most of the world's governments have signed up to. These impose a range of obligations on governments, including to take concrete steps to guarantee people's rights using the *maximum of their available resources*. This has clear implications for how governments spend and raise money.

Essentially, governments must raise money in a way that generates sufficient revenue to finance the infrastructure, goods and services needed to guarantee people's rights - from social housing to clean water to quality healthcare and schools. But the way that taxes are raised - and from whom - must also be equitable, based on the principle of ability to pay. In this sense, taxation (like other policies) must contribute to remedying inequalities between groups.

Some actions that would be in line with this obligation include:

- Creating a more progressive tax system overall, including by decreasing reliance on regressive, 'indirect' taxes on consumption (such as sales taxes and VAT), in favor of more progressive 'direct' taxation on income and wealth (on rich individuals and large corporations).

- Introducing or boosting taxes on property, wealth, and other assets. The fortunes of the richest are mostly held in assets (e.g. stocks, shares, and real estate) rather than earned through wages. But wealth tends to be taxed at very low rates compared to income. According to Oxfam, the world's billionaires increased their collective net worth by almost 70% ($5.5 tillion) in the first 18 months of the pandemic. Meanwhile, 5% tax on the richest 5% of US households could raise $2 trillion.

- Taxing "excess" profits at a high rate. This fiscal instrument sets a very high tax rate (e.g. 75%) on any profit over a certain threshold. It's been used primarily in wartime. But, it's also been proposed as an appropriate response to profiteering from COVID-19. Large tech companies and online retailers experienced huge bumps in profits due to the pandemic, while many small businesses collapsed. Amazon increased their profits by nearly 200%, for example.

Whether the revenue raised advances people's rights depends on how it is spent. So, tax policies and budgetary decisions must be analyzed together. Human rights obligations also give us a tool to interrogate decisions about resource allocations. Do they ensure that public services are accessible, affordable, and of good quality? Do they ensure adequate income support? Or are public funds being directed towards businesses with negative social and environmental impacts?

Of course, governments have a margin of discretion deciding on how they raise and spend money. But, these decisions must be aligned with specific human rights norms. In particular "deliberately retrogressive" measures are a violation of a government's human rights obligations, unless such measures can meet very strict criteria. Retrogression means a backsliding in the enjoyment of economic, social and cultural rights. For example, if expenditure cuts mean that more people are living in poverty, or fewer children are finishing school. To be justified, policies that lower people's enjoyment of a right must be shown to be: temporary; necessary and proportionate (which includes considering whether other options would be more detrimental); non-discriminatory; ensure that people can still enjoy "minimum essential levels" of their rights; and only be adopted after considering all other options, including financial alternatives.

Government obligations do not stop at their own borders. They have duties (known as extraterritorial obligations) to ensure that their actions don't harm people in other countries. This certainly has implications for governments' fiscal policy, especially for those governments with a lot of international influence and power.

For example, lowering corporate tax rates or offering unwarranted tax incentives encourages a race to the bottom that undermines other governments' ability to mobilize resources. Presiding over low tax jurisdictions or tax havens siphons off resources from countries that desperately need more money to spend on health, education, or gender equality.

It also includes when governments act as members of international organizations (such as the International Monetary Fund or World Trade Organization) that can effectively force governments to take fiscal policy decisions which harm people's rights. Governments must take positions that push the organization to act consistently with their obligations to respect, protect, and fulfill people's rights.

In order to achieve an international order in which rights can be realized, there are several measures that governments should take:

- Preventing tax abuse: Measures for cracking down on abusive tax practices include shutting down tax havens, ending anonymous corporate ownership and taking measures to ensure multinational corporations can't hide their profits or "shift" them to low-tax jurisdictions.
- Stop harmful tax competition: one way of doing so is through a global minimum corporate tax. However, the one approved by the G20 has a series of major flaws, including a threshold which is far too low.
- Ensure that decisions on the global tax system are taken in a democratic, truly inclusive forum, rather than behind closed doors at the G7 or OECD.

4. How can we hold governments and other powerful actors accountable for their actions in this area?

Much of the economic instability of recent years, as well as the widespread deprivation that continues alongside extreme wealth, can be traced back to governments' failure to comply with their human rights obligations when making decisions about fiscal policy. On the one hand, this has opened up space for debate about how to do things differently. But, that said, the complexity and technicality of the global tax system operates in a way that privileges powerful vested interests. Traditional approaches to human rights advocacy have struggled to meaningfully challenge these interests. Holding governments and others to these obligations demands that we be bolder and more creative in our strategies and tactics, including by:

a) Decoding the injustice of the global tax system

Traditional tools for human rights research have been better at zooming in to document the symptoms of poor government spending: patients denied healthcare, children not able to go to school, families cut off from income support. They're less helpful in zooming out, to connect the dots between these everyday struggles, governments' fiscal policy decisions, and the complex global tax system. To interrogate these root causes more rigorously, CESR has developed OPERA, a framework that examines a problem through four dimensions: Outcomes, Policy Efforts, Resources, and Assessment. We've used OPERA to bring together data shedding new light on how discriminatory budget decisions and unfair tax policies impact people's rights, from Brazil, Peru, and Colombia, to Ireland, South Africa and Egypt. Evidence from this research has supported the introduction progressive tax reforms in Guatemala and the repeal of austerity measures in Spain.

b) Setting an agenda for rights-based reform

The obligations outlined above give us the "scaffolding" for how fiscal policy decisions could be made differently. But, they're often still described quite broadly and abstractly. What does "sufficient" revenue or "adequate" income support mean in a particular context, for example? To answer questions like this, we need to unpack how human rights standards apply to tax and budget policies more clearly and translate them into more concrete guidelines for the design, implementation, and assessment of fiscal policies. The Principles for Human Rights in Fiscal Policy (a broad-based initiative in Latin America co-led by CESR) are an example of how to do this. Human rights commitments are increasingly being used to push for fiscal reforms in different contexts—from wealth taxes across Latin America to universal basic income in South Africa.

c) Collective advocacy for fiscal justice

Building collective power—across various movements working for social justice—is critical to counter the deeply entrenched influence of beneficiaries of the status quo: the wealthy elites and powerful companies who avoid paying trillions of dollars of tax and pressure governments to keep skewing the system in their favor. This is obviously easier said than done! Gaps remain between efforts to influence technical debates about specific policy reforms and efforts to mobilize popular support for broad demands—e.g. that the 1% pay their fair share. At CESR, we're striving to break down these silos by participating in international networks such as the Global Alliance for Tax Justice, supporting the Independent Commission for the Reform of International Corporate Taxation (ICRICT), and working closely with feminist advocates for tax justice.

Want to know more?

Here are some additional resources on this issue:

- Principles for Human Rights in Fiscal Policy: A ground-breaking normative tool developed by civil society groups across Latin America that distills the key human rights principles applicable to tax and budget policies and translates them into more concrete guidelines for the design, implementation, and assessment of fiscal policies.
- Dismantling the Dogmas: Briefing that debunks 10 commonly held misconceptions about why fiscal consolidation policies are necessary. In the process, it makes a strong case for progressive structural tax reforms that are redistributive and would, in the long term, reduce inequality, guarantee rights and promote sustainable development.

- Assessing Austerity: offers an adaptable methodological framework for and practical guidance on the content and process of conducting effective Human Rights Impact Assessments (HRIAs) of fiscal consolidation measures.
- Lima Declaration on Tax Justice and Human Rights: Endorsed by 157 organizations worldwide in 2018, calls for deep reforms to tax policies and practices to bring them in line with human rights standards and principles. It has set the stage for concerted collaborative efforts across the tax justice, women's rights, environmental justice, and human rights communities.
- Recovering Rights: These collaborative briefings translate human rights principles into concrete policy recommendations to transform the economic system in the wake of COVID.
- Freeing Fiscal Space: Article by Ignacio Saiz on how wealthier countries and international financial institutions need to lift the barriers their debt and tax policies impose on the fiscal space of low- and middle-income countries as a global public health imperative and a binding human rights obligation.
- Spotlight Reports: Released annually, they are the most comprehensive global civil society assessment of progress on the sustainable development agenda and the systemic obstacles to its achievement, crafted by CESR and partners. The various editions include many analyses and recommendations on rights-based reforms to fiscal policy needed in order to achieve economic justice and tackle inequalities within and between countries.