



FISCAL JUSTICE AND HUMAN RIGHTS

AN ADVOCACY TOOLKIT



CENTER FOR ECONOMIC AND SOCIAL RIGHTS

SOCIAL JUSTICE THROUGH HUMAN RIGHTS

FISCAL JUSTICE AND HUMAN RIGHTS

AN ADVOCACY TOOLKIT

July, 2020

With the support of



FORD
FOUNDATION

© Center for Economic and Social Rights

Table of contents

List of Graphics, Illustrations and Case Studies	5
Acronyms	6
Acknowledgements	9
Introduction	11
What is Fiscal Justice and Why is it important for the human rights agenda?	12
Why is it important to get involved in fiscal justice advocacy globally and regionally?	
Why do technical and normative organizations play a key role?	15
When and in What Way Can CSOs Impact those who Monitor Fiscal Policies?	20
Global Advocacy	22
UN Treaty Bodies	23
<i>What is their origin? How are they structured and what are their main functions?</i>	23
<i>Opportunities and challenges for CSOs to participate</i>	25
United Nations Human Rights Council and Independent Experts	38
<i>What is the Human Rights Council and what are its main functions?</i>	38
<i>What opportunities exist for CSOs to participate before the Council?</i>	39
International Monetary Fund	49
<i>What is the IMF's international role and why is it important for human rights?</i>	49
<i>How can CSOs advocate? Opportunities and challenges</i>	52
Organization for Economic Co-operation and Development (OECD)	56
<i>What is the OECD's role and why is it important for human rights?</i>	56
<i>How can CSOs advocate? Opportunities and challenges</i>	59

Monitoring and Follow-Up Mechanisms for the 2030 Agenda	63
Financing for Development Agenda	67
Regional Advocacy	71
Inter-American Commission on Human Rights (IACHR) and Inter-American Court of Human Rights (IACtHR)	71
<i>What is their origin and core functions?</i>	71
<i>How does the Commission operate? Some of its promotion and monitoring mechanisms. Opportunities for CSO participation</i>	74
UN Regional Economic Commissions: Economic Commission for Latin America and the Caribbean (ECLAC)	76
<i>What is ECLAC and why is it important for the fiscal agenda?</i>	82
<i>What opportunities exist for CSOs to participate and advocate in this arena?</i>	83
Domestic Advocacy	85
Conclusions	87

List of Graphics, Illustrations and Case Studies

Illustration 1. Some key questions about fiscal policy	12
Illustration 2. Brief explanations of some essential human rights terms	14
Graphic 1. The phases of fiscal policy from a human rights perspective	13
Graphic 2. Some of the ways in which civil society can impact fiscal policy	16
Graphic 3.	
Key actors for advocacy in the intersection between fiscal policy and human rights	21
Graphic 4.	
Global spaces in fiscal policy and human rights and potential targets for advocacy	24
Case Study 1: Switzerland and Spain	36
Case Study 2: Two cases of special procedures relevant to the fiscal justice agenda	45
Case Study 3: Bringing a rights perspective to corporate tax reform	61
Case Study 4: Bringing a human rights perspective to monitoring the 2030 Agenda and the debate on financing development	69
Graphic 5. Regional mechanisms in the field of fiscal policy and human rights in the Americas and advocacy channels	72
Case Study 5: Principles and Guidelines on Fiscal Policy and Human Rights	77
Case Study 6: Strengthening the capacities of National Human Rights Institutions (NHRIs) to approach fiscal issues	86

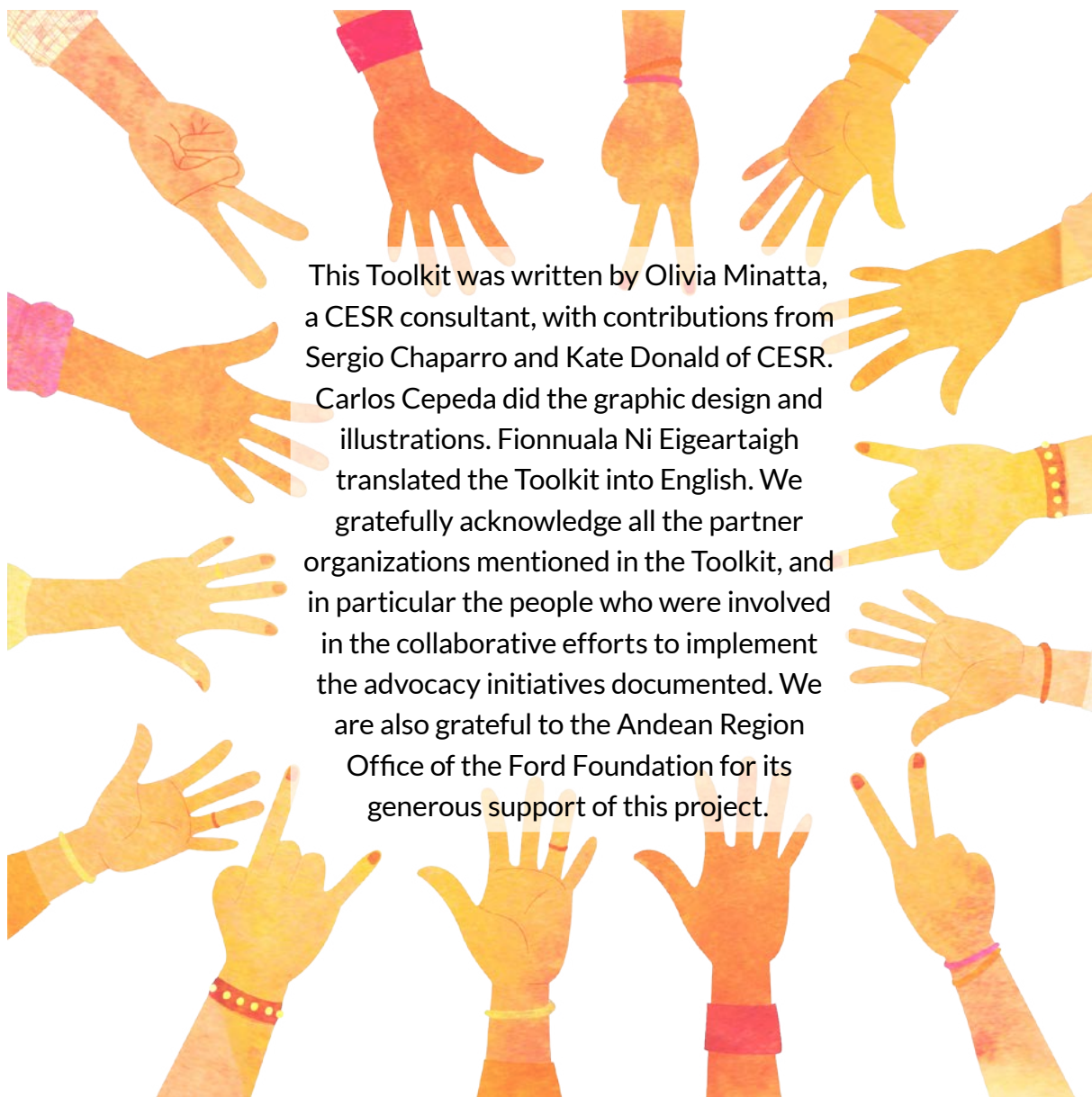
Acronyms

AAAA	Addis Ababa Action Agenda
LAC	Latin America and the Caribbean
APEC	Asia Pacific Economic Cooperation
IDB	Inter-American Development Bank
WB	World Bank
ACHR	American Convention on Human Rights
HRC	Human Rights Council
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEDAW	
Committee	Committee on the Elimination of Discrimination against Women
CESR	Center for Economic and Social Rights
CPD	Convention on the Rights of Persons with Disabilities
CESCR	Committee on Economic, Social and Cultural Rights
CRPD	Committee on the Rights of Persons with Disabilities
ECLAC	Economic Commission for Latin America and the Caribbean
ESCR	Economic, Social and Cultural Rights
ECOSOC	United Nations Economic and Social Council
FfD	Financing for Development
FSDO	Financing for Sustainable Development Office
G7	Group of Seven
G20	Group of Twenty
G24	Group of Twenty Four
GDP	Gross Domestic Product
HR	Human Rights
IACHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
ICESCR	International Covenant on Economic, Social, and Cultural Rights
IE	Independent Expert
IFI	International Financial Institutions
IMF	International Monetary Fund
NHRI	National Human Rights Institutions
VAT	Value-added tax
LOI	List of Issues
LOIPR	List of Issues prior to reporting
LGBTQI	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex
OECD	Organization for Economic Co-operation and Development

GC	General Comment
OHCHR	Office of the United Nations High Commissioner for Human Rights
ILO	International Labour Organization
CSO	Civil Society Organisations
SR	Special Rapporteur
SR on	
ESCER	Special Rapporteur on Economic, Social, Cultural and Environmental Rights
OPERA	Outcomes, Policy Efforts, Resources, and Assessment
PSS	Protocol of San Salvador
UN	United Nations
UNDESA	United Nations Department of Economic and Social Affairs
UNICEF	United Nations Children’s Fund
UPR	Universal Periodic Review
WGPSS	Working Group of Protocol of San Salvador



Acknowledgements



This Toolkit was written by Olivia Minatta, a CESR consultant, with contributions from Sergio Chaparro and Kate Donald of CESR. Carlos Cepeda did the graphic design and illustrations. Fionnuala Ni Eigearthaigh translated the Toolkit into English. We gratefully acknowledge all the partner organizations mentioned in the Toolkit, and in particular the people who were involved in the collaborative efforts to implement the advocacy initiatives documented. We are also grateful to the Andean Region Office of the Ford Foundation for its generous support of this project.

Introduction



The way in which States mobilize and invest public resources is crucial to guaranteeing rights. Fiscal policy –understood as a set of instruments used to manage public finances– is strategic in advancing towards the full realization of rights and in the building of more equal societies. The aim of the Toolkit is to support organizations interested in carrying out effective advocacy on fiscal policy issues using the human rights lens/approach as an instrument. As the world of organizations and institutions involved in these issues may seem complex or inaccessible, it is important to begin with some remarks explaining how it is possible to approach these actors.

There is no need to be an expert in how institutions such as the International Monetary Fund (IMF) or the human rights committees operate to engage in advocacy. First, one needs to find the right channel. Second, many of these spaces are not as inaccessible as they seem – well-established mechanisms for advocacy exist which have led to significant advances. Moreover, it is always possible to collaborate with other civil society organizations that already have experience in this area.

Working from these premises, the Toolkit describes some of the key institutions where it is possible to advocate in order to transform fiscal policies, particularly globally and regionally. It also outlines their most relevant functions and provides information on useful spaces for civil society advocacy efforts.

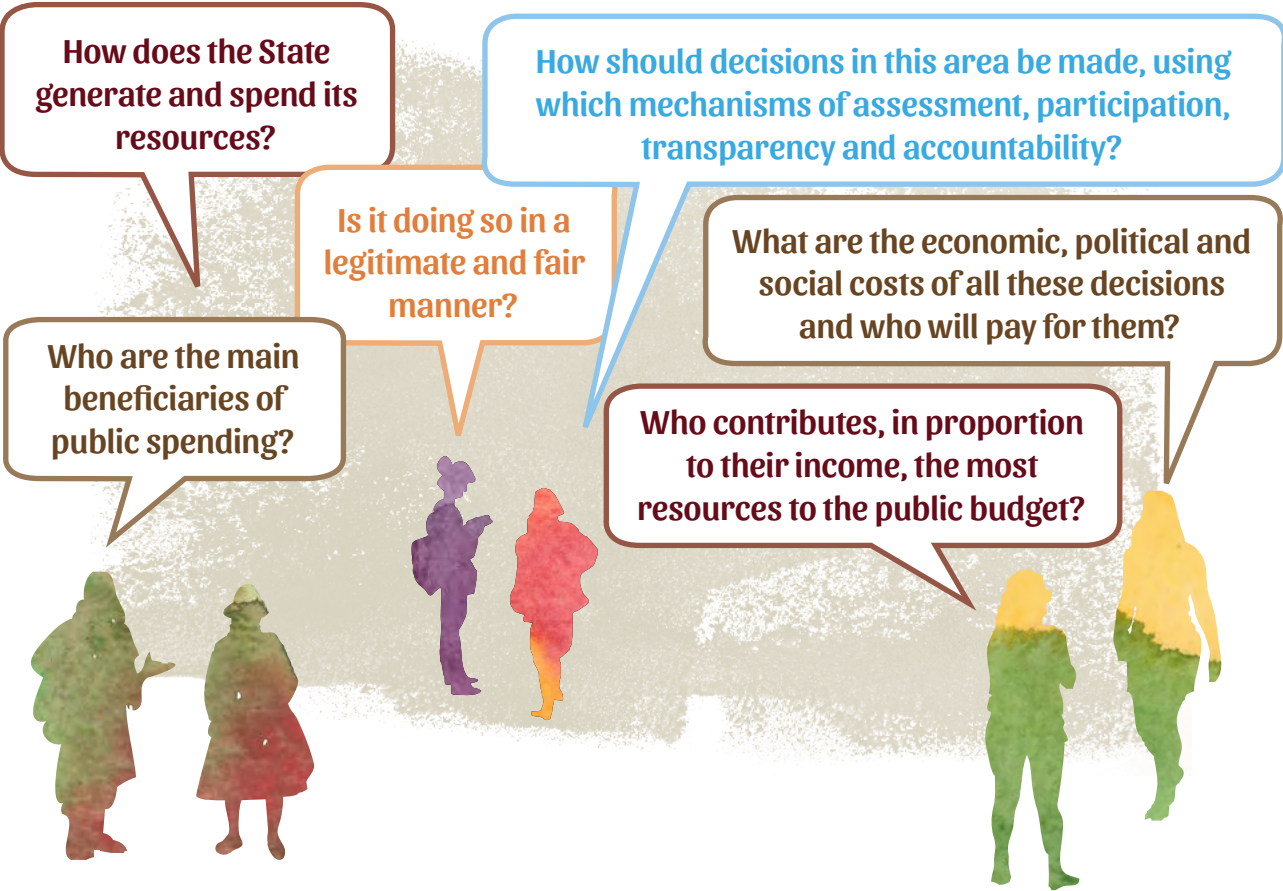


It is important to point out that there is no single appropriate advocacy strategy, as it will depend on the objectives of each organization as well as the context. The Toolkit aims to help organizations make informed decisions by sharing the lessons learned by the Center for Economic and Social Rights (CESR) and other partner organizations.

What is Fiscal Justice and why is it important for the human rights agenda?

Getting to know a government’s fiscal policy is the best way to know what its real priorities are. Fiscal policy not only refers to how States use their resources –how they allocate and implement the budget– but also how they generate resources to finance public spending. In effect, fiscal policy defines who will benefit from the State’s resources and who will assume the costs of those benefits. Focusing on fiscal policy, therefore, leads to the type of questions shown in the following illustration.

Illustration 1.
Some key questions about fiscal policy



Answering these questions can help us to understand whether the State is fulfilling its obligation under international human rights norms to adopt all the necessary measures, through mobilizing the maximum of available resources, for the full realization of human rights, respecting criteria of equality and non-discrimination (see Illustration 2).

Human rights norms offer a binding framework for States which serves as a benchmark to determine if decisions relating to public resources are being made fairly or not. In other words, human rights help to define the basic demands relating to fiscal justice (see Graphic 1).

Graphic 1. The phases of fiscal policy from a human rights perspective

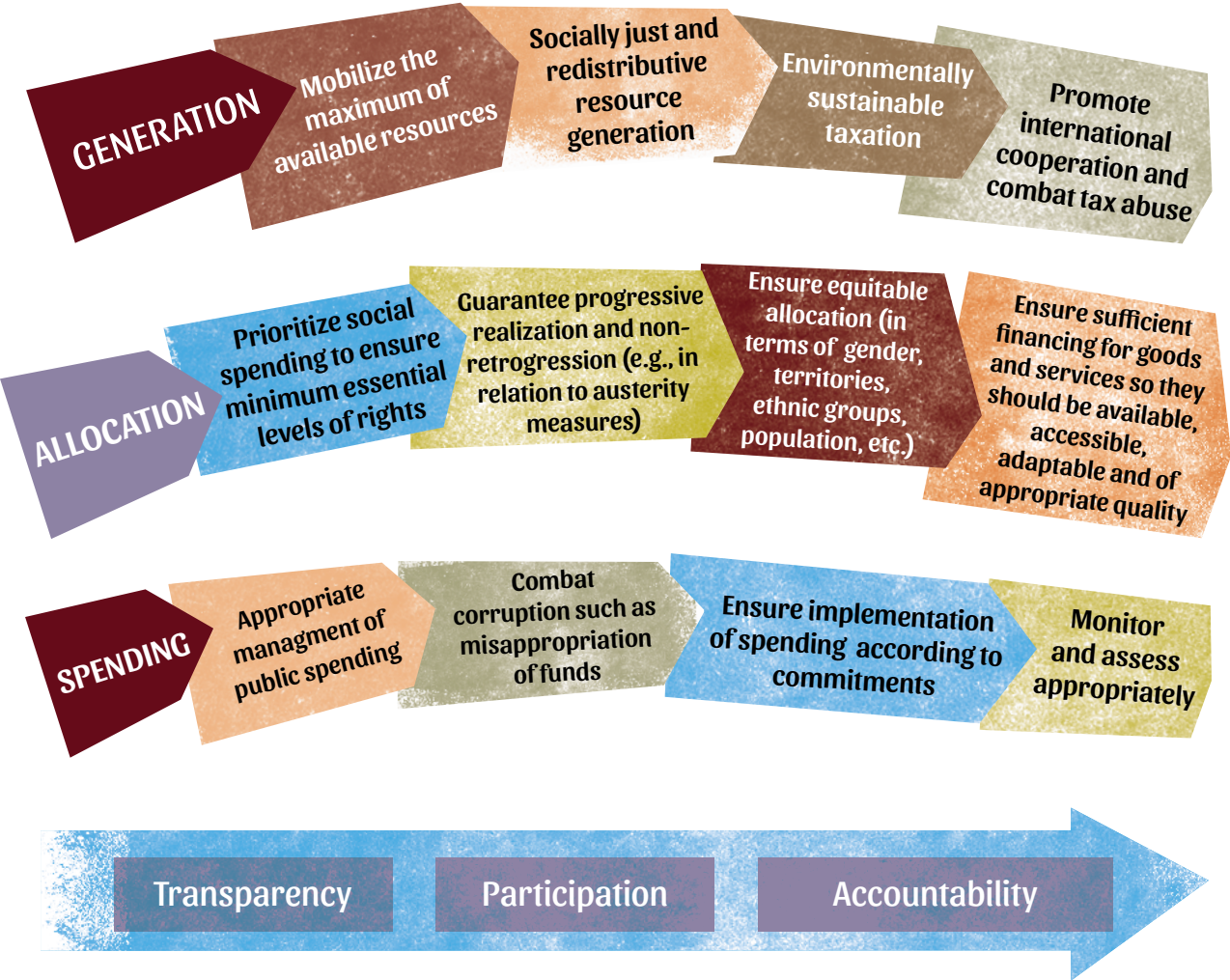


Illustration 2. Brief explanations of some essential human rights terms

Obligation to take steps: States must adopt legislative, judicial, budgetary, administrative and other measures to effectively realise economic, social and cultural rights. (Source: International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Covenant, General Comments of the Committee on Economic, Social and Cultural Rights).

Maximum available resources: States must adopt measures to realize rights using the maximum of available resources, including resources provided through international cooperation (Source: Covenant, Optional Protocol, General Comments).

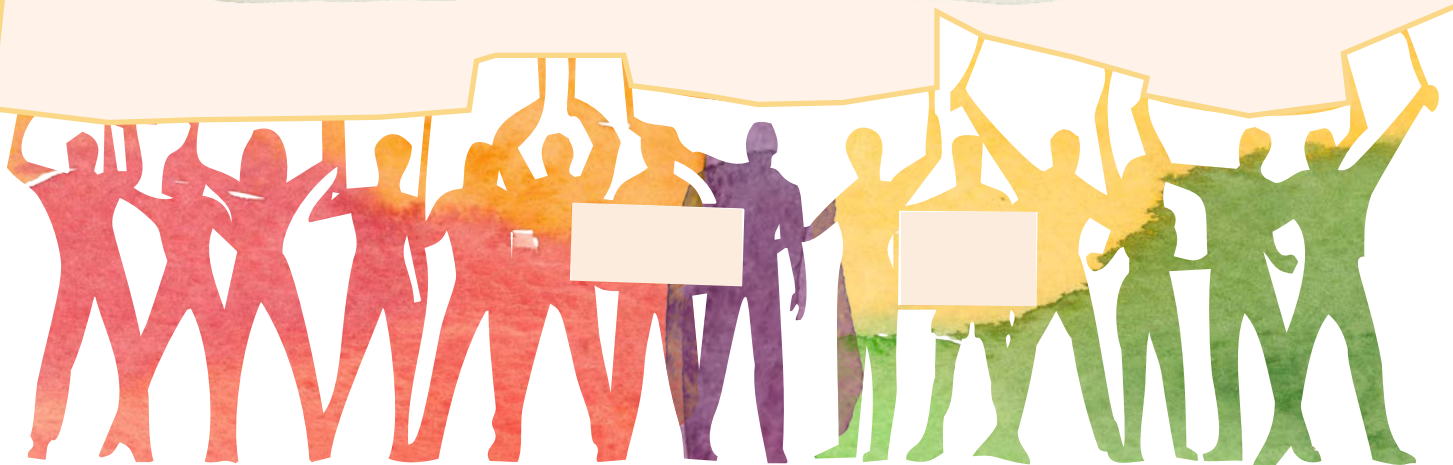
Minimum essential levels: States have the immediate obligation of prioritizing the universal achievement of minimum essential levels of enjoyment of each of the rights (Source: General Comment No. 3).

Non-discrimination: States must guarantee substantive equality in the enjoyment of rights and in the measures adopted to effectively realize them (Source: Covenant and General Comments).

States have the obligation to ensure that the relevant goods and services necessary to effectively realize these rights are available, accessible, acceptable and of appropriate quality (the AAAQ framework). These goods and services must be provided in a non-discriminatory manner. (Source: General Comments).

Progressive realization: States must advance expeditiously towards the full realization of these rights, without deliberate reversals (Source: Covenant, Article 2).

Participation, accountability and transparency (PANTHER principles): States must ensure these principles are applied during the process of developing and monitoring policies. (Source: General Comments).



Assessing fiscal policy is key to not only finding out if specific plans and programs exist which will guarantee the rights of all the population, particularly the most disadvantaged groups, but also whether the financing is sufficient and sustainable, and if it will lead to greater levels of socioeconomic equality. Without resources, there are no rights, and fiscal policy determines the scope of other policies insofar as it establishes the amount of resources available to finance them. In this sense, understanding fiscal issues and their relation to the human rights agenda helps to dismantle dogmas that are frequently used to officially justify policies as if “there is no alternative.” In reality, these dogmas are limited options that obscure deep reversals and regressive decisions for human rights, including the perpetuation of inequality, unemployment and poverty.¹

The need to connect fiscal policy decisions with the agendas of other movements, including human rights, is underlined by the obligations imposed on States by the 2030 Agenda for Sustainable Development and its 17 Goals, which is explicitly based on international human rights treaties. Fulfilling these commitments implies finding a viable source of financing and resource mobilization. Having a fiscal and development policy with a human rights approach means States adopting financing measures that are different from the policies traditionally presented as necessary –such as reducing public spending on health and education. Yet preparing the terrain for these alternatives involves combatting phenomena which prevent fiscal decisions from prioritizing rights, such as State capture by elites, corruption, the prevalence of beliefs and dogmas contrary to fiscal justice, and the lack of participation of social movements in fiscal decisions.

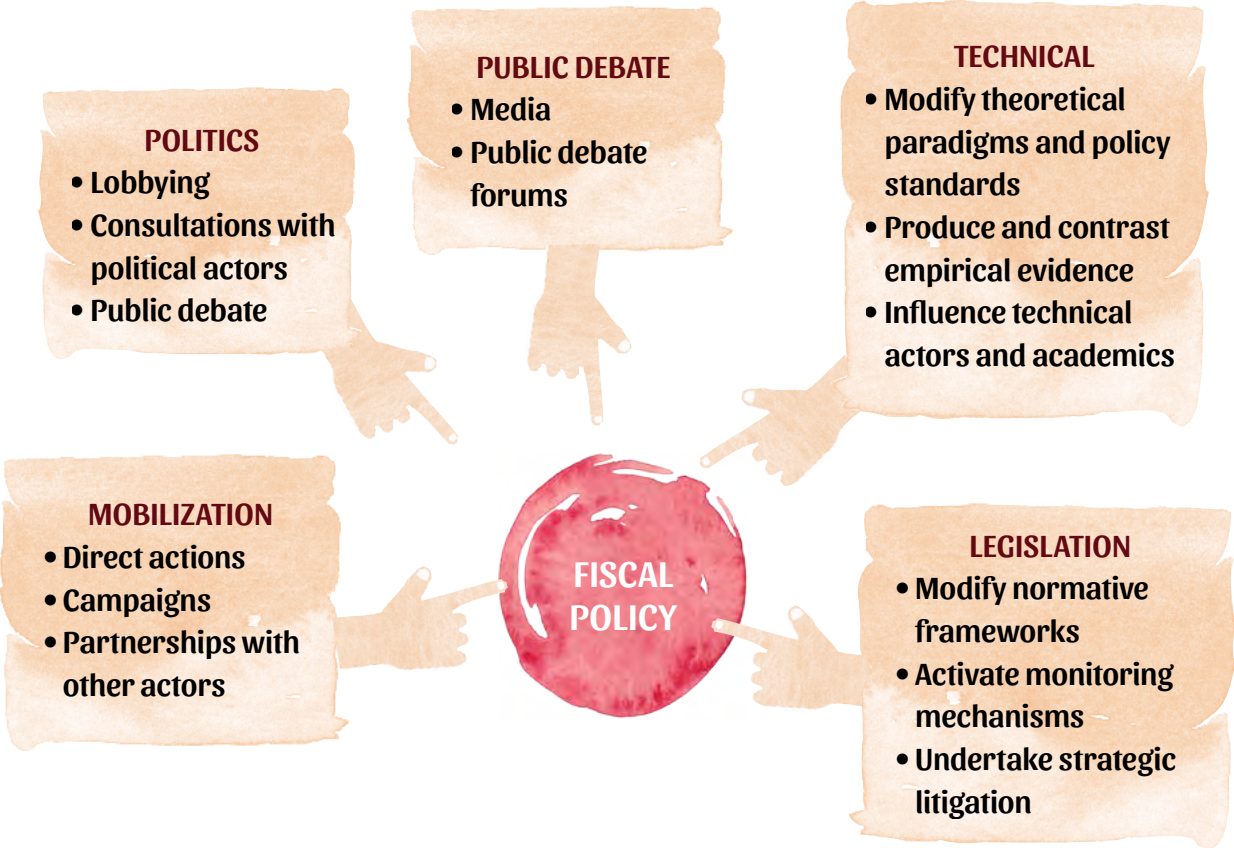
Why is it important to get involved in fiscal justice advocacy globally and regionally? Why do technical and standard-setting bodies play a key role?

If the objective is to bring about a change in fiscal policies, there are several ways in which civil society organizations can make an impact. One way is through direct mobilization, demanding that decision-makers carry out changes in these policies (either through direct action or campaigns and partnerships which encourage others to mobi-

¹ For an in-depth exploration of some of the most frequent dogmas used against fiscal justice see: CESR, 2019. Dismantling the Dogmas of Austerity and Fiscal Injustice in Latin America.

lize). A second approach is getting involved in politics, engaging with actors who are responsible for fiscal decisions, such as parliaments, ministries of finance and political parties. A third course of action is through public debate, influencing the way fiscal policy is spoken about and identifying the reforms needed, in order to create a favorable climate so policy changes can be implemented. A fourth method is the technical option, contributing to modifying the theoretical paradigms or international standards which underpin these policies, by generating evidence of policy impacts and working with actors in academia and specialized technical organizations who can influence these issues. And finally, a fifth strategy is through work in the legal arena, transforming the normative frameworks that shape the formulation of these policies, by activating monitoring mechanisms and resorting to strategic litigation in cases of non-compliance with the laws.

Graphic 2. Some of the ways in which civil society can impact fiscal policy



These methods are complementary and can be mutually reinforcing. Advocacy in each of these areas can happen at the international, regional and national levels. In each context, decisions about which areas of action to prioritize, and which actors to focus on, will benefit from a strategic analysis of the level of influence of allies, opponents and neutral actors, and the ways in which they could catalyze or block the desired changes.

This *Toolkit* focuses on international and regional actors who have enormous influence on the policies adopted nationally, mainly through the technical and legal fields. This focus is justified for the following reasons:

- We live in a globalized world, where economies and fiscal policies in particular depend to a large extent on processes that happen globally and on decisions made regionally and internationally. One example of this is the influence of the International Monetary Fund (IMF) on policies adopted at the domestic level. Generating agreements and systems of accountability in these international organizations is fundamental for three reasons. First, to compensate the absence or shortage of internal mechanisms which can monitor the fiscal programs implemented domestically. Second, because negotiation processes and key decision making take place inside these organizations, directly or indirectly influencing domestic policies and making it necessary to be aware of these processes in order to advocate. Third, because multinational corporations have been consolidating a system of global and regional economic governance operating in their favour, which needs to be opposed by views in the public interest.
- Although mobilization, political advocacy and public debate are important channels for transforming fiscal policies, they depend to a large extent on the technical paradigm and normative framework in which they take place. The economist John Maynard Keynes said that the power of ideas is usually underestimated, although the world is in effect governed by little more than ideas. So in this sense, those who believe themselves to be quite “practical” and thus exempt from any intellectual influences are usually themselves influenced by some deceased economist. In this respect, the paradigms used by international financial institutions end up exercising a decisive influence at the domestic level and are a strategic terrain for advocacy. Similarly, as public financial activity is heavily regulated by international norms and standards, impacting those stan-

dards is key to enacting policy changes. When evidence of the human rights impacts of fiscal austerity policies is brought to organizations such as the IMF, or when fiscal policy approaches used by UN Human Rights Committees and the Inter-American Commission on Human Rights are strengthened, the framework of justification is enhanced and so is the paradigm which underpins the design of such policies (see Graphic 3).

- Given the rift between fiscal policy decision-making and States' obligations according to international human rights law, it becomes incumbent to connect human rights institutions with the financial world and with the organizations that assess sustainable development and its financing. In this respect, it is important to remember that fiscal policy does have human rights impacts and therefore must be guided, as with any other area of State action, by the State's obligations. **Civil society organizations play a key role in making governments comply with these obligations.** They bring a human rights perspective to organizations that make decisions on economic governance, paving the way for alternative policies that are fairer and more effective; and, at the same time, bring the fiscal agenda to human rights organizations, showing that competition for resources is a fundamental area to monitor in order to guarantee human rights. This dual task involves overcoming disciplinary barriers and building solid partnerships among movements, and makes collaborative work all the more necessary.

The importance of collaboration between the fiscal justice and human rights movements.

In 2015, over 150 civil society organizations endorsed the Lima Declaration on Tax Justice and Human Rights, a manifesto on the importance of strengthening collaboration between movements to advance tax justice through human rights and to realize human rights through tax policy. The Declaration, in addition to being a foundational document on the conceptual links between these fields, has also spurred a series of collaborations, some of which are referred to in this Toolkit. These collaborations have enabled knowledge pooling, broader strategies and closer links between actors who usually operate in relatively autonomous areas of advocacy.

In 2018, CESR convened a strategic meeting, Beyond Boundaries, in order to analyze collaboration between movements and to extract lessons on the importance of collaborative work and how to foster it. Following are some of the conclusions made in the report:

- Cross-boundary collaboration, rather than being an option, is in fact essential to building collective power, creating a more integrated response across fields, and expanding the knowledge needed to confront systemic inequities, such as extreme economic inequality and fiscal and climate injustice.
- Factors that foster and inhibit collaboration were identified. Among the inhibitors were the failure to recognize ideological divides and power hierarchies within and across movements, as well as the fragmented nature of their financing and the lack of spaces for conceiving new strategies. Factors that enable effective collaboration are building shared agendas between different actors around specific injustices affecting multiple groups and building trust for working together rather than duplicating efforts.

The importance of collaborating and building lasting partnerships is, therefore, a cross-cutting recommendation of this Toolkit.

When and in What Way Can CSOs Impact those who Monitor Fiscal Policies?

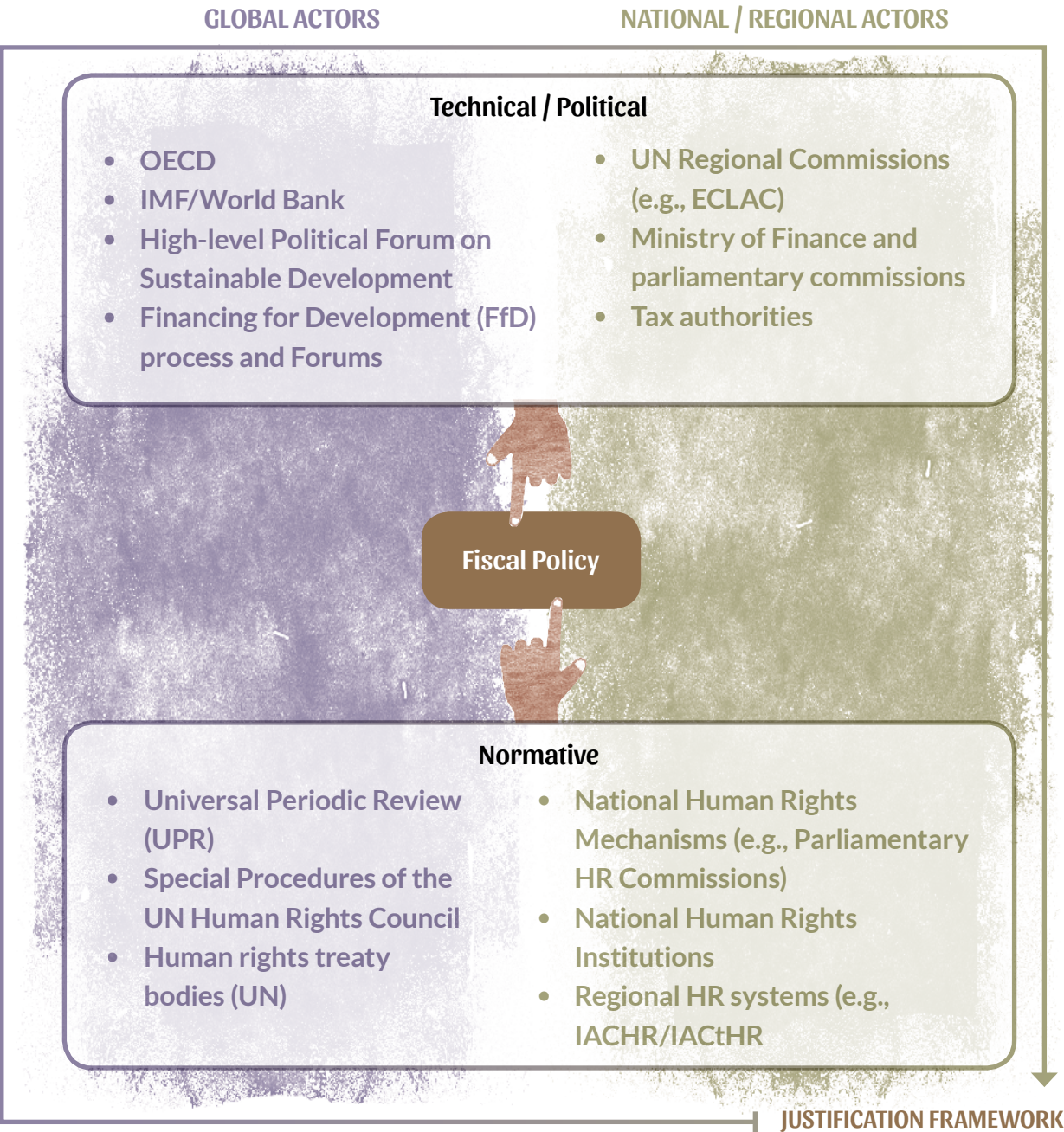


Currently, there is no one body where all international fiscal policies are defined. In fact, there is no body dependent on the United Nations where these decisions are adopted in an equal manner, with the participation of all member States – as it is the procedure with other issues relating to the human rights agenda, such as trade or labor matters. However, there are several bodies directly related to fiscal and development issues, and although they are controlled by just a few countries, they have a huge global impact.

In this section, we will briefly review the relevant actors and institutions located in the intersection between fiscal policy and human rights, including global, regional and national actors. In each case, we will analyze its purpose and composition, how decisions are adopted, why it is important, and the opportunities and challenges for civil society organizations.

Graphic 3.

Key actors for advocacy in the intersection between fiscal policy and human rights



Global Advocacy

International advocacy efforts (both regional and global) offer opportunities to:

- **make visible** human rights problems hidden or denied by national authorities or which require coordinated responses between States;
- **broaden or define established standards** in international instruments, regulations and agreements – which subsequently could be invoked in different judicial and/or extrajudicial forums and bodies;
- generate new mechanisms for **accountability** on documented violations which lack an adequate response at the domestic level

This does not mean that the international order is a space where all parties have equal participation and voting rights, or where all decisions derive from transparent and participatory procedures, guaranteeing the interest of lower-income countries. On the contrary, as happens in politics in general at the domestic level, international organizations also manifest power relations, where some countries, institutions (and in some cases, specific people) have greater influence over decision making. This means that civil society organization must be prepared to operate within a variety of dynamics, in which outcomes may not always match what is initially expected.

Within the United Nations (UN), there are bodies responsible for the promotion and protection of human rights (generally created within the framework of international human rights declarations and instruments), such as the United Nations Treaty Bodies and the different mechanisms of the Human Rights Council. There are also bodies which, although they deal with other specific areas (particularly fiscal issues), have a direct impact on human rights enjoyment from people on the ground, such as the World Bank (WB) and the IMF. One of the main objectives of CESR has been to ensure that human rights bodies start to include fiscal issues in their analyses, and also bring human rights standards to institutions that influence fiscal policy. So what are these agencies and bodies, how are they structured, and what procedures do they follow to adopt decisions on fiscal policy and human rights? (See page 24)



PHOTO: RICK BAJORNAS

Palacio de las Naciones Unidas en Ginebra, Suiza.

UN Treaty Bodies

What is their origin? How are they structured and what are their main functions?

There are currently 10 United Nations Treaty Bodies or Committees of Experts. They were created within the framework of the ten main international human rights treaties. For example, the Committee on the Rights of Persons with Disabilities (CRPD) and the Committee for the Elimination of Discrimination against Women (CEDAW Committee) arose from the Convention on the Rights of Persons with Disabilities (CRPD) and the

Graphic 4. Global spaces in fiscal policy and human rights and potential targets for advocacy

Actor	Global advocacy space	Type of mechanism	Target for advocacy	Advocacy for what purpose?
Civil society	UN	Human Rights Mechanisms	<ul style="list-style-type: none"> • Treaty Bodies • Special Procedures • Universal Periodic Review 	<ul style="list-style-type: none"> • To advance standards on human rights and fiscal policy, and to assess concrete human rights concerns • To raise awareness on concrete human rights concerns • To raise awareness about concrete human rights concerns among other States
		Financial Bodies	<ul style="list-style-type: none"> • IMF 	<ul style="list-style-type: none"> • To influence political decision-makers / To conduct human rights impact assessments of austerity measures and adopt alternative policies.
		2030 Agenda	<ul style="list-style-type: none"> • High-Level Political Forum on Sustainable Development • Forum on Financing for Development 	<ul style="list-style-type: none"> • Despite its weaknesses as an accountability mechanism, it is a space to promote rights-based policy alternatives to comply with the SDGs • To influence policy guidelines on how to mobilize resources for complying with the 2030 Agenda
	OECD	Multilateral spaces	<ul style="list-style-type: none"> • Inclusive Framework • LAC Fiscal Initiative 	<ul style="list-style-type: none"> • Influencing global tax and fiscal governance decisions made there • Bring to the discussions a civil society perspective, influencing negotiations or participating in forums.
		Technical Organizations	<ul style="list-style-type: none"> • Thematic Committees 	<ul style="list-style-type: none"> • Use and influence the standards generated by these committees to advocate for human rights based fiscal policies

Convention for the Elimination of All forms of Discrimination against Women (CEDAW), respectively.

The Treaty Bodies are committees of independent experts and their main function is to promote and monitor compliance with the Convention's provisions by the States parties, fundamentally through the preparation of assessments with specific recommendations for the periodic reviews that each country must present. The committees also prepare General Comments (GC) with authoritative interpretations of the treaties. Furthermore, almost all the Treaty Bodies have gained quasi-judicial functions, insofar as they resolve individual petitions by means of procedures established in Special Protocols.

The Treaty Bodies are not permanent, which means they only meet at certain times of the year for a certain number of weeks. These meeting periods are called "sessions" and vary according to the number of reports and petitions to be reviewed by each specialized body. Generally, there are two or three sessions each year and the set dates are available on the official UN [webpage](#).

During the sessions, which take place in the UN's Geneva headquarters, the specialized Bodies have audiences with the countries undergoing review, resolve individual petitions and discuss the drafting of future General Comments.

Opportunities and challenges for CSOs to participate

Civil society organizations can participate in the country reviews, in the presentation of individual petitions and in consultation processes for the drafting of general comments.

The periodic review system of States members

Each member State is obliged to present an initial report and periodic reports informing the Human Rights Council of all the measures (legislative, administrative, judicial, budgetary, etc.) that have been undertaken to achieve the commitments assumed in each Convention, as well as the practical outcomes. The obligation to report derives from the different Conventions ratified by the member States, and the deadline for presenting the periodic reviews is stipulated in the concluding observations which each

committee makes for each country. For example, if we want to know when the Argentinian government is due to present its next periodic review to the CEDAW Committee, we should look at the last concluding observations presented to that country.

Generally, countries are reviewed every four years by each Body, (reviews might coincide or happen at different times), and the list of countries to be reviewed in each session is published in advance on the official UN [webpage](#). Usually, the procedure consists of the presentation of the periodic review by the State, in which it describes the efforts made to advance the objectives of the Convention, based on the recommendations made in the last final report. Before the session commences, a Pre-sessional Working Group or Task Force creates a List of Issues (LOI) which requests more detailed explanations, or more information on certain points from the State, or it may ask the State to address new points. The State can resubmit a written report based on the list of issues, and this forms the basis of the Audience. It's worth noting that some Bodies have introduced a [simplified procedure](#), but its application depends on the acceptance of this procedure by each State. For example, the Human Rights Committee omits the presentation of a periodic report and directly requires the State to respond to a list of issues prior to reporting (LOIPR).

The most important point about this process is that during the period prior to the session (usually, some weeks before the session), the Pre-sessional Working Group usually requests civil society organizations to present “shadow reports” virtually. Essentially the aim is for CSOs to propose relevant issues which the Body could discuss in its final report (and which it should question the State about). CSOs can also provide information (evidence, statistics, concrete cases and situations) which could be useful for analyzing compliance with the country's commitments to the Convention. They can also provide reports before the adoption of the Lists of Issues (generally, two or three months before the session), with the aim of providing suggestions for the list. The shadow reports are usually published on the Committee's official webpage together with all the contributions received.

During the sessions, an oral audience or “constructive dialogue” takes place with the States' representatives. Generally, CSOs can attend the audiences, and also the formal and informal meetings organized by the Committee members, the UN Secretariat or sometimes by partner organizations based in Geneva. These opportunities to

What is a “shadow report”?



A shadow report is a report prepared by civil society actors that provides extra information for the UN Treaty Bodies in addition to that officially provided by governments. They are very useful documents for developing aspects that are omitted (or sometimes distorted) by governments. They can include individual and collective cases, diagnoses and statistics (not necessarily official) and comments on the responses of the States’ representatives, as well as specific concerns of civil society.

influence the expert members may result in the States’ representatives being asked certain questions, or in recommendations in the Concluding Observations or simply in items being added to the Body’s agenda. Using effective advocacy strategies, these recommendations have proven effective in bringing about changes in legislation and in States’ policies (see case studies below).

General Comments

General Comments² are prepared by the Bodies and their purpose is to provide the interpretation and scope of a particular article or section of the Convention whose compliance they monitor. Unlike concluding observations, general comments do not refer to particular countries but to a subject matter related to that Body’s expertise.

General Comments are considered to be official and authorized interpretations of each Convention. They contain valuable information both for CSOs –insofar as they are declarations by independent experts and may serve to guide regulations and judicial decisions– and for the Committees themselves, who will apply them in future recommendations and in the analysis of individual cases.

1 2 The CEDAW Committee uses the term “General Recommendations.”

Specifically, **General Comment 24** in 2017 was prepared by the Committee on Economic, Social and Cultural Rights (CESCR) and it afforded significant progress for the fiscal justice agenda. Among other things, CESCR emphasized that the States' parties obligations in relation to the Covenant included the application of progressive fiscal systems, in addition to the adoption of measures to hinder corporate strategies of tax avoidance and evasion. Specifically, it mentions the obligation of States to combat abusive fiscal practices by transnational corporations by means of international cooperation on taxation – such as the transfer of business profits to jurisdictions with lower or zero taxes, known as profit shifting. Furthermore, the CESCR condemned the practices of lowering corporate tax rates with the sole purpose of attracting investors, and providing excessive protection for bank secrecy, insofar as they “undermine the ability of all States to mobilize resources domestically to realize Covenant rights.”

The evidence presented and the arguments put forward during the processes when the Bodies review country reports (see case studies below) were a means of introducing the subject and proving – in this case to the CESCR – the need to place greater emphasis on fiscal issues. Likewise, **General Comment 24** serves as input to continue pursuing the fiscal justice agenda both in other human rights forums and with other agents of economic governance.³

The opportunities for civil society participation during the preparation of General Comments tend to be more informal than during the country review process. Generally, they consist of informal conversations with Body members, or else a draft version is circulated and organizations are asked to comment on it. In the case of **General Comment 24**, the CESCR held a **discussion** day in Geneva, at which civil society organizations were able to contribute their comments to the draft version previously circulated.

System of individual petitions

Of the 10 Treaty Bodies, eight have established a system of individual petitions, either in additional Optional Protocols to the Convention (such as the Human Rights Committee and the CESCR), or in the Convention itself (CEDAW and CRPD). While

³ See: Initiative for Human Rights Principles and Guidelines in Fiscal Policy in Latin America, 2019. “Commentaries to the OECD call for public input on the tax challenges of digitalisation, and possible solutions.”

there may be slight differences between the different regulations, in general the petition consists of a written submission, through which the individuals of a State party may allege violations of the rights protected by the Convention. Both parties (petitioner/complainant and State) may provide their version of the judicial facts and arguments, which will result in a decision by the Committee as to whether or not violations have taken place and provisions to resolve the infraction (Communications). Although the Treaty Bodies lack the capacity to execute individual resolutions, they are considered to be interpretations of the Convention’s provisions by the specialized Bodies tasked with monitoring compliance, following a procedure that States parties have committed to. Additionally, some of the Committees have established monitoring procedures for these resolutions.⁴

The system of individual petitions can be useful in advancing interpretations or providing visibility of the concrete impacts that certain fiscal measures have on some disadvantaged groups. One challenge faced by organizations is that the States’ non-compliance with the communication does not involve a high cost, insofar as these mechanisms still have low visibility. However, if there is an appropriate advocacy and monitoring strategy, these communications have proven effective in remedying human rights violations.⁵



4 See CESCR, “Working methods concerning the Committee’s follow-up to Views under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.”
5 See resources and case studies on the implementation of these decisions by the Strategic Litigation Working Group of ESCR Net.

What are the opportunities and challenges of advocating within the UN Treaty Body system?



Opportunities

The Committees of Experts are people who are professionally dedicated to the themes involved and, for the most part, their members are genuinely interested in advancing the Convention's implementation as far as possible. This creates a space for broadening interpretations of the Convention in a way that is favorable for Human Rights agendas, and this can be used by human rights bodies to incorporate fiscal justice issues in their analysis.*

The Committees are very receptive to the information provided by civil society, because it enables them to assess countries more effectively and to put forward more specific recommendations, or to know in which aspects they need to request more information.

Civil society organizations may attend the audiences when countries are questioned and can publicize them. They can also be a space for giving visibility to a particular

Challenges



The Treaty bodies don't tend to have a high media profile.

The Committees can have problems accessing information and they lack mechanisms to carry out investigations or visits to countries, although they can use reports written by Independent Experts and shadow reports produced by CSOs.

On the whole, their recommendations have a low level of compliance and the United Nations lacks specific mechanisms to impose sanctions for non-implementation. In this respect, it is fundamental to exploit the symbolic power of the recommendations using creative ways to exert pressure on States.

The incentives to comply with the Committees' informative process depends largely on the characteristics of each country's political system. Their capacity to provide appropriate responses to the Committee's requirements vary greatly

* To consult the developments in doctrine relating to fiscal issues which these organizations have generated, see the Resourcing Rights database developed by CESR and Dejusticia.



issue at the domestic level (through social networks, for example).

The recommendations are made by United Nations human rights bodies and non-compliance involves a reputational cost. In some national contexts, it is considered obligatory to comply with the recommendations and their implementation can be reinforced through judicial mechanisms.

When certain recommendations are systematically repeated, they create a body of doctrine of the Treaty Bodies, and they are considered to be authoritative interpretations of the conventions and standards that States must take into account. Based on this doctrine, Guiding Principles or compendiums have been drafted, bringing together these standards, such as the Report on Austerity Measures and Economic and Social Rights by the Office of the High Commissioner for Human Rights** (OHCHR) and the Guiding Principles for Human Rights Impact Assessments for Economic Reform Policies developed by the Independent Expert on Debt and Human Rights, and recognized by the Human Rights Council (see Section 2.2.b).

according to the country's resources and institutions (for example, if it has a ministry specialized in that area or not, if reliable statistical systems exist or specialized offices exist

that can assist the officials involved in the process before the Committee, etc). Yet again, a State's lack of capacity to prepare for a meeting with the Committee is a double-edged sword: it may offer visibility to issues and information presented by civil society, but at the same time: a) it may prevent the Committees from making new and more elaborate recommendations, leaving them to reiterate the same recommendations, review after review; b) it may consume the organizations' time and resources with little benefit.



| ** OHCHR, 2013. Report on Austerity Measures and Economic and Social Rights



On the basis of recommendations and decisions by these Bodies, other initiatives may be adopted which enable their impact to be amplified. Among the possible initiatives are campaigns, monitoring activities, public debates and other mechanisms for exerting pressure which make strategic use of these decisions to bring about effective policy changes. In most cases, the resulting actions and initiatives may actually be more important than the recommendations themselves.





TIPS / ADVICE:

- Monitor the countries to be reviewed by the Committee each year when subject areas of interest are raised and use the occasion to produce shadow reports.
- Working collaboratively with other organizations can improve shadow reports. Writing reports jointly will ensure the document is more complete and coherent and it will have more impact when more organizations are involved.
- It's very important to present data concisely and clearly, as this facilitates the work of the Committees (who usually lack time to process so much information). CESR's factsheets, which condense a large volume of information in simple and convincing graphics, have proven an effective means of communicating and substantiating the main messages.*
- What information is especially valuable for the Committee? Gaps in the information provided by the State, or information that contrasts with the conclusions the government tries to suggest in its presentation. Fiscal policy data could prove that certain rights are not being adequately satisfied, or that certain programs and activities are actually regressive when one considers how they are being financed. This can provide a good opportunity to prove, in a concrete manner, the connection between fiscal issues and human rights. **Hence the importance of including specific examples / statistical data** that back up the declarations (so they are not simply abstract statements).
- How to select a case or a subject area that will attract the Committee's attention? It may be useful to consider certain aspects when selecting a case for the system of individual communications or a subject for the system of individual petitions such as a) the potentially favourable predisposition of a particular Committee to advance fiscal issues (for example, a positive sign could be that a Committee usually pays attention to budgetary obligations)**; b) the capacity to build partnerships and gain support on the basis of the issues raised, insofar as this will help to give greater visibility and document more evidence, making the case stronger.

* See: CESR, 2018 Factsheet No. 17: Spain: Visualizing Rights Series No. 17; CESR, INESC & Oxfam Brazil, 2017. Brazil's human rights advances imperiled by austerity measures.

** A favorably disposed Committee could set the precedent to present the same issue to other Committees. In this respect, remember that Committees usually consider what other groups of experts are doing, and may adopt similar positions on some issues.

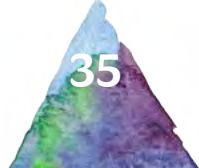
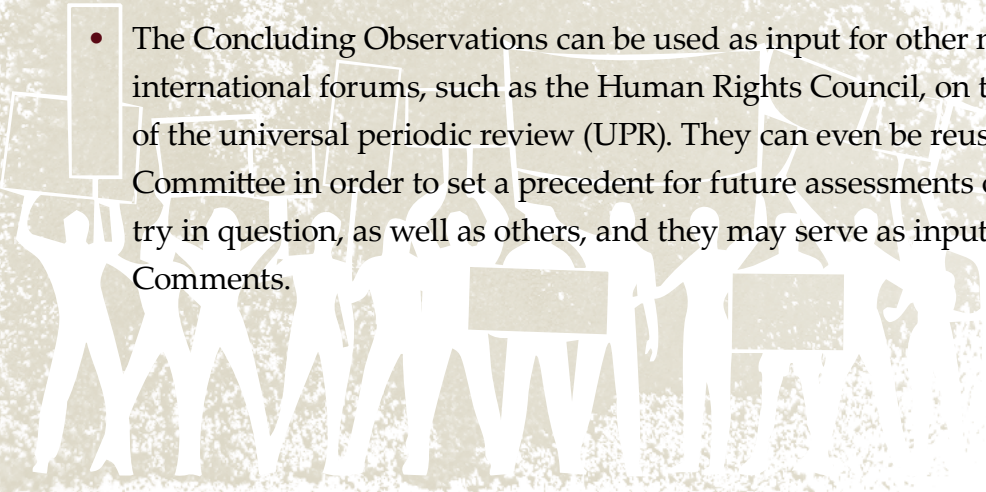
- How to submit arguments to the Committee? a) It's always a good idea to connect the fiscal issue with arguments already made by the Committee; b) Use doctrines developed by other Committees and by Independent Experts (and also by officially recognised bodies such as ECLAC and OECD); c) Always give examples of the more abstract and general ideas, so they are seen to have a concrete application. This will also make the communication more effective.
- It's fundamental to have a clear strategy of what can be done after the recommendations have been formulated. The recommendations or decisions of these bodies should not be the final goal but rather the beginning of a strategy for future advocacy to ensure the recommendations are implemented.



After the Concluding Observations for a country have been presented, what can be done?



- The accountability mechanism implemented by most Treaty Bodies consists of establishing priority recommendations and requesting the State to inform in a year's time on their implementation (the rest of the recommendations will be evaluated in the following periodic review). When the year expires, civil society organizations can contribute shadow reports that provide additional or alternative information to that reported by the State. On the basis of these analyses, the Committee prepares a follow-up report, in which it requests the State to adopt new measures or to provide more information. In this way, the follow-up system becomes a new opportunity for visibilization and participation, both internationally and domestically.
- The Concluding Observations can be disseminated domestically, among relevant institutional actors (governmental agencies, ombudsperson offices, trade unions, professional associations, etc.) as well as the mainstream media and social media. It is very useful to make summaries for communication purposes, which can be used as key messages for other domestic groups to claim rights. The Concluding Observations can help forge partnerships among different civil society actors, draw up action plans and lead to advocacy campaigns.
- The Concluding Observations can be used as input for other national and international forums, such as the Human Rights Council, on the occasion of the universal periodic review (UPR). They can even be reused by the Committee in order to set a precedent for future assessments of the country in question, as well as others, and they may serve as input for General Comments.



CASE STUDY: Switzerland and Spain

Switzerland

Pursuing the fiscal justice agenda requires a global perspective on how multinational corporations operate and where they store their wealth, with the aim of not paying taxes or paying less than they should. One of the key means for achieving more progressive tax systems is combatting tax havens that shelter wealth from taxation. An example is Switzerland, one of the jurisdictions that receives the most offshore investment and illicit capital owing to the country's regulations which favor confidentiality and financial secrecy (according to the ranking created by Tax Justice Network).

One way of making these countries accountable for the extraterritorial impacts of their tax regulation is to prove its negative effects on the rights of a specific population group (such as women) and present the evidence to one of the United Nations Committees when the country is being reviewed. In this way, CESR, along with other organizations such as Alliance Sud, Global Justice Clinic of NYU, Public Eye and Tax Justice Network, submitted to the CEDAW committee that it should assess the negative impact of Swiss financial regulations on their extraterritorial obligations to combat gender inequality, and promote sustainable development.¹

In line with evidence and suggestions presented by CESR and its partners, the Committee included in its Concluding Observations on Switzerland the recommendation that the State party *“Undertake independent, participatory and periodic impact assessments of the extraterritorial effects of its financial secrecy and corporate tax policies on women’s rights and substantive equality, ensuring that such assessments are conducted impartially, with public disclosure of the methodology and findings.”*² A similar initiative was submitted to the CESCR on the occasion of the United Kingdom’s review in 2016, leading the Committee to recommend that the State party *“adopt strict measures to combat fiscal abuse,”* in particular when committed by corporations and high-net-worth individuals.³

1 CESR, GJHRC, Tax Justice Network and Alliance Sud, 2016, Swiss Responsibility for the Extraterritorial Impacts of Tax Abuse on Women’s Rights

2 Concluding observations on the combined fourth and fifth periodic reports of Switzerland: 65th period of sessions of the CEDAW Committee, November 2016.

3 Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland.

Spain:

A similar strategy was engaged to combat austerity measures adopted in Spain as a result of the 2008 international financial crisis, which included the exclusion of undocumented migrants and other groups from the public health system. CESR was part of a coalition which, over a period of several years, made submissions in different international human rights spaces that used concrete evidence to prove the negative impacts of the austerity measures on the population's socioeconomic rights (affecting disadvantaged groups most acutely, such as immigrants and women). Among other actions, a partnership of civil society organizations prepared two shadow reports for the CESCR in 2012 and in 2018.⁴

The Committee urged the Spanish government to assess the impact of its fiscal austerity measures, encouraging citizen participation and the adoption of measures to tackle discriminatory effects on immigrants, women and children. The second report was supported by 34 civil society organizations (coordinated by CESR and Doctors of the World)⁵ and resulted in specific recommendations by the Committee, including criticism of the Spanish government for not having adopted previous recommendations. Finally, in October 2018, these recommendations were a key factor in the Spanish government's decision to repeal Royal Decree Law 16 of 2012, which had excluded several groups from the public health system, and universal access was re-established.⁶ In 2019, several organizations within the coalition responded to the follow-up report submitted by the government, pointing out that there were gaps in the new legislation to reverse the omissions which the original law had generated.⁷

4 CESR, 2018. Factsheet No. 17. Spain; CESR, 2015. Factsheet No. 14 Spain: Visualizing Rights Series.

5 CESR, Médicos del Mundo et al, 2018. Joint Submission to the Committee on Economic, Social and Cultural Rights on the occasion of the review of Spain's 6th Periodic Report at the 63rd Session, March 2018.

6 CESR, 2018. "When human rights triumph over austerity: Spain restores universal health care."

7 Médicos del Mundo and others, 2019. Civil society response to Spain's follow up report to the Comments by CESCR in relation to health.

United Nations Human Rights Council and Independent Experts

What is the Human Rights Council and what are its main functions?

The UN Human Rights Council is an inter-governmental body made up of diplomatic representatives of 47 UN States elected by the General Assembly, on the basis of equitable geographic distribution using the United Nations regional grouping system (Africa, Asia-Pacific, Latin America and the Caribbean, Eastern Europe and Western Europe and other States). Its members are renewed every three years and its primary role is to strengthen the promotion and protection of human rights around the globe, address situations of human rights violations, and make recommendations for countries so they comply with their obligations. The Council holds three regular sessions a year in Geneva and acts jointly with the Advisory Committee and Working Groups. Its most well-known review of States parties is the Universal Periodic Review (UPR).



Room XX. Palais des Nations in Geneva where the UPR sessions take place.

The Human Rights Council establishes the *Special Procedures*, which are UN Independent Experts mandated to report and advise on all human rights from a thematic or country-specific perspective (see Section 2.2.b).

What opportunities exist for CSOs to participate before the Council?

The Universal Periodic Review (UPR)

The UPR involves a review of the human rights records of all UN Member States by the Council. The UPR affords all member States the opportunity to review their peers and it is undertaken within the framework of the Universal Periodic Review Working Group, made up of all member States. The Working Group holds three sessions a year in Geneva, in which 14 member States are reviewed during each session.

The review takes place in 4-year cycles during which countries must submit a report, respond to questions made by other countries, and “note” or support the recommendations made. These recommendations are contained in an outcome report which includes the interventions made by all States participating in the “interactive dialogue.” This report is adopted during the Working Group sessions, after being examined by the State, and is the first occasion when the State under review can indicate if it supports or notes the recommendations, or if it will postpone its decision until the next Human Rights Council session.

The review is based on the report submitted by the State, which has been produced by the United Nations High Commissioner based on other documents written within the UN framework and a summary of *civil society contributions* (which must be sent virtually before the Working Group session begins, within the established time period).

The outcome report is reviewed and approved by the Human Rights Council in its next session after the Working Group session and is the only opportunity for civil society to address the Human Rights Council within the framework of the Universal Periodic Review. The intervention must be brief, so it is advisable to take advantage of this time to highlight aspects that were omitted from the report or to request that recommendations be included or defined.

Among the advantages of the UPR is that it has greater visibility than other mechanisms, such as the reviews undertaken by the Committees. It also enjoys a certain legitimacy among States, precisely because it is a review carried out by peer countries. The UPR offers the opportunity to review a State's compliance with its common law obligations even when it has not ratified certain key treaties, as was the case of the inclusion of economic, social and cultural rights (ESCR) themes in the UPR review of the United States. It can also be a good opportunity to organize parallel events or panels focussing on the organization's areas of interest.

However, the UPR has considerable challenges for advocacy purposes. The fact that the review is led by State representatives, without the intervention of independent experts, leads to presentations which tend to be conditioned by political dynamics. For this reason, there is a clear tendency to make very general recommendations, and to give lower priority to violations relating to economic, social and cultural rights. Therefore, the UPR is a relatively immature space in terms of pushing the fiscal justice agenda.⁶ This challenge could be addressed if advocacy focused on the States was more inclined to make recommendation related to these rights.⁷

One example of this was the joint intervention by CESR, the Centro de Estudios de Derecho, Justicia y Sociedad (Dejusticia) and the Foundation Friedrich-Ebert Stiftung in Colombia (Fescol) at the last review of Colombia by the Human Rights Council. These organizations requested that recommendations should be included to ensure that the Colombian government guaranteed the technical, financial and human resources needed to appropriately implement the Peace Accords signed in 2018.⁸ CESR and its partners also recommended that the country should undertake an impact analysis of its tax reform on human rights, in order to guarantee that the fiscal policies have redis-

6 CESR, 2016. The Universal Periodic Review: A Skewed Agenda? Trends analysis of the UPR's coverage of economic, social and cultural rights.

7 One tool which could help in this respect is the UPR-Info Database, which compiles the recommendations made by States. Also, the SDG Human Rights Data Explorer is a database developed by the Danish Institute for Human Rights which classifies the recommendations made by States during the UPR according to themes related to the Sustainable Development Goals. This database can identify the States that have made more recommendations related to fiscal aspects of the SDGs.

8 CESR, Dejusticia and FESCOL, 2018. Política fiscal, paz y derechos humanos: Colombia ante el Examen Periódico Universal (EPU).

tributive effects and contribute to reducing inequality. The first of these recommendations was incorporated by Uruguay and Australia;⁹ although the second had been made by the CESCR in 2017, it was not mentioned by any State.

Special procedures

Special procedures refer to the person (Special Rapporteur or Independent Expert) appointed by the Human Rights Council to investigate and inform on a specific situation related to human rights violations. The special procedures can be related to certain themes –and consequently have a global mandate– or they can focus on human rights violations committed in one country or region.

Although they are closely associated with the Human Rights Council, the independent experts are appointed on the basis of their career, expertise and capacity to analyze the human rights situation they are assigned. In order to ensure their independence, they serve in a personal capacity, so they are not considered part of the United Nations staff system and receive no financial compensation.

The independent experts enjoy prestige and a certain degree of legitimacy in their declarations, precisely because they are experts in the themes they work on and are independent of any specific government or institution. At the same time, an active independent expert who intends to promote participative processes in the preparation of their reports can represent a strategic ally in achieving valuable regulatory or methodological progress for the human rights agenda, as they are usually more accessible and they are not required to achieve consensus to approve their documents.

Unlike other UN bodies, the special procedures have greater visibility and media coverage; special rapporteurs and independent experts often travel on country missions and make declarations on certain issues, which helps to impact national policies more directly.

⁹ Human Rights Council (14 May 2018). Draft report of the Working Group on the Universal Periodic Review. Colombia. UN. Doc. A/HRC/WG.6/30/L.7.

Generally, the mechanisms used by independent experts to fulfill their duties include country visits, communications to States of complaints received, and the preparation of thematic reports and human rights guidelines, for which they may convene consultations with other experts and civil society.

Here is a list of the **thematic mandates** and here are the mandates by **country**. Although here we concentrate on the thematic special procedures, the independent experts with missions in specific countries could also be useful in advocating for fiscal policy.

Individual complaints

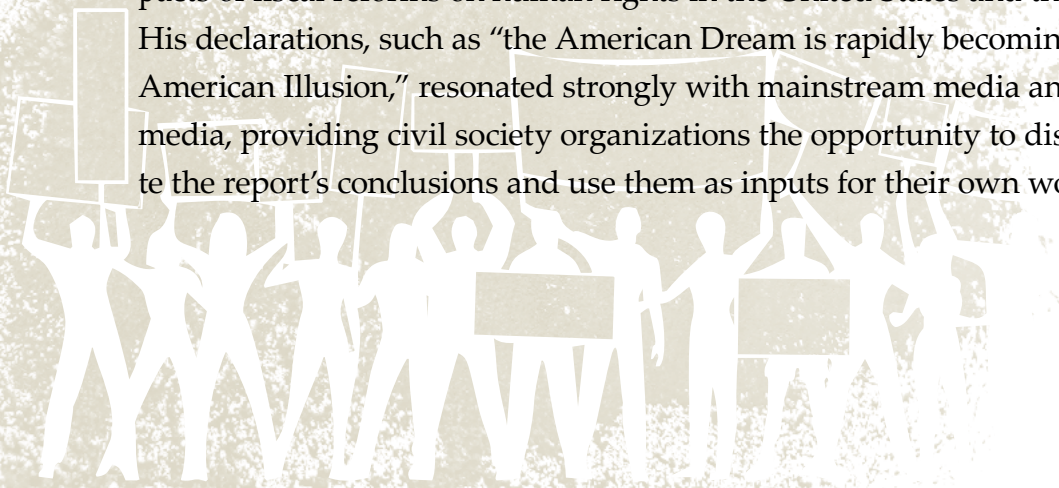
- Special procedures facilitate the submission of complaints to the independent experts or special rapporteurs on human rights violations involving an individual, group or community. The complaint will not initiate a quasi-judicial procedure, but it will enable a dialogue or diplomatic channel of communication (known as a Communication) through which the IE requests a response from the government. On the basis of the response received, the IE decides if it is necessary to continue investigating, or to draw up recommendations and/or comments to the State.



Country visits

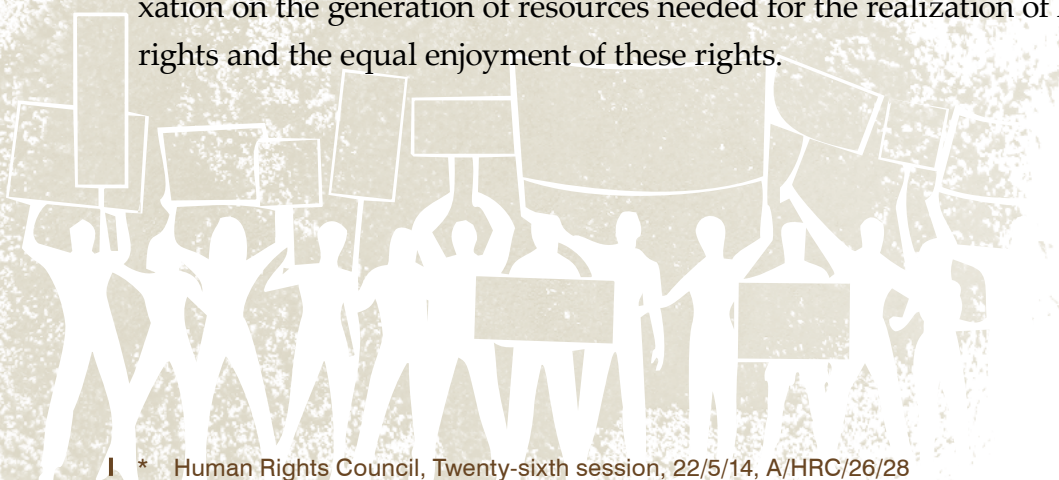


- One of the tools which afford greater visibility to the independent experts is the possibility of visiting countries. Visits are usually requested by the IE or by the country (but in either case the government's authorization is required) and their aim is to investigate possible human rights violations. The purpose of the visit is for the expert to interact not only with relevant government actors (such as national human rights offices and the judiciary) but also with victims, witnesses, civil society organizations, members of academia, etc.
- Country visits conclude with a report, in which the independent expert includes a summary of the activities undertaken, the main meetings, an analysis of the general situation, and a number of conclusions and recommendations directed towards the government and other relevant institutional actors. These visits can provide a good opportunity for CSOs to attract media attention to a particular problem, raise public awareness, and create spaces for dialogue with the government. Given their visibility and potential for widespread media coverage, the IEs are a valuable instrument in pushing the fiscal justice agenda within the special procedures framework. A recent example was the visit by Special Rapporteur Philip Alston to the United States, during which he warned of the negative impacts of fiscal reforms on human rights in the United States and the world. His declarations, such as "the American Dream is rapidly becoming an American Illusion," resonated strongly with mainstream media and social media, providing civil society organizations the opportunity to disseminate the report's conclusions and use them as inputs for their own work.



Thematic reports

- The preparation of thematic reports, which focus on specifically relevant aspects of their mandate, is another significant contribution made by the special rapporteurs (SR) and the independent experts (IE). They can be proposed by the IE or requested by the Human Rights Council or other relevant bodies.
- For these reports to satisfy the rigorous standards expected, IEs usually open consultation processes, including questionnaires and requests for information from civil society organizations, other specialized UN agencies, and subject matter experts. This process offers CSOs the possibility of exerting pressure to ensure that fiscal justice and human rights perspectives are brought to the consultation. Consultation processes can encourage the IE or SR to go more deeply into certain lines of research, on the basis of contributions made by CSOs. One example of this is the report on *Taxation and Human Rights* prepared by the Special Rapporteur on extreme poverty and human rights in 2014*, which represents one of the most complete expositions on the relation between fiscal policies and human rights undertaken by any UN body. It includes an analysis of the negative effects of tax evasion and avoidance and the persistent impacts of regressive taxation on the generation of resources needed for the realization of human rights and the equal enjoyment of these rights.



* Human Rights Council, Twenty-sixth session, 22/5/14, A/HRC/26/28

CASE STUDY

Two cases of special procedures relevant to the fiscal justice agenda

Independent Expert on Foreign Debt and Human Rights

In March 2017, the Human Rights Council requested the Independent Expert on external debt and human rights to develop Guiding Principles for assessing the human rights impact of economic reform policies. This led the IE to undertake a **mapping** of human rights impact assessment tools, a **thematic report** that was submitted to the Human Rights Council, and the Guiding Principles, which were submitted to the Council in February 2019 (of which the HRC took note in **Resolution 40/8** in March 2019). Throughout the different stages, CESR and other organizations participated actively, providing the IE with tools, inputs and evidence, suggesting modifications or additions to the draft Principles as they were circulated.*

Special Rapporteur on Extreme Poverty and Human Rights

To develop the 2014 report on Taxation and Human Rights, the Special Rapporteur at the time, Magdalena Sepúlveda Carmona, opened a consultation process with governments and urged civil society organizations to contribute evidence and information, including the submission of reports and responses to a **questionnaire** prepared for the consultation. The Rapporteur also facilitated **meetings** and both internal and national advocacy to encourage governments to contribute to the process. The report reflects the importance of civil society participation, as it includes contributions and evidence presented by several organizations, such as the Center for Women's Global Leadership, Oxfam International, Tax Justice Network, Christian Aid, and CESR, among others.

* Out of this participative process arose Assessing Austerity, a monitoring tool for analyzing the human rights impacts of fiscal consolidation policies. CESR, 2018. Assessing Austerity: Monitoring the Human Rights Impacts of Fiscal Consolidation.

Opportunities and Challenges



Both the thematic reports and the country visits by Independent Experts offer opportunities for mobilizing visibility campaigns domestically, making officials and other relevant local actors aware of the issues. The inputs produced for the visits can also be useful for future thematic reports or submissions to other international and regional forums, in addition to being used in national advocacy. An example of this was the submission presented by CESR* to the Special Rapporteur, Philip Alston, during his official visit to the United States, and this contribution was reflected in the Special Rapporteur's final report.

Another advantage is that Rapporteurs have the capacity to respond quickly when required, making declarations which gain widespread media coverage by

either rejecting or supporting a political measure or decision. The decision to freeze social spending in Brazil for 20 years –approved by a constitutional reform in December 2016– provides a clear example. The Special Rapporteur on Extreme Poverty and Human Rights at the time sent a message of rejection, warning that the measure clearly violated Brazil's obligations under the International Covenant on Economic, Social and Cultural Rights, describing the measures as “lacking in all nuance and compassion.” This message gave greater visibility to the campaign by CESR, Conectas and INESC against the fiscal austerity measures in Brazil. And subsequently, it paved the way for the partnership of organizations comprising CESR, INESC and Oxfam Brazil, together with the national Plataforma Dhesca, to condemn the measure's human rights impacts.**

* CESR, 2017. Fiscal Impoverishment in the United States. Submission to the UN Special Rapporteur on Poverty and Human Rights.

** CESR, INESC, Oxfam Brazil, 2017, Human Rights in Times of Austerity.



The most significant challenge of this mechanism is that the Expert's recommendations are not necessarily noted by the Human Rights Council, and even when they are, the lack of mechanisms to hold States accountable means that the Expert's declarations or suggestions need to be accompanied by other advocacy actions.





TIPS / ADVICE:

- The fact that the Special Rapporteurs and Independent Experts lack a salary and sufficient resources to carry out their work is a drawback; however, it can also provide an opportunity for civil society organizations to offer their expertise, experience and collaboration. Nevertheless, contributions must always respect the independence and transparency inherent in the expert's work, which in turn guarantees their acknowledged legitimacy within the international community.
- How to collaborate? It's advisable to keep up to date with calls for consultation in the preparation of a thematic report or a country visit, and to take advantage of these occasions to show the work carried out by civil society organizations in relation to the theme (evidence, conclusions, criticism of the functioning of institutions, case studies and examples). Generally, the consultations provide opportunities for in-depth dialogue during which organizations can shape their positions by working together.
- Take advantage of the public consultation space to get to know other organizations and forge partnerships. It can be very useful to attend the consultation with some positions already agreed upon with other organizations, in order to strengthen the arguments.
- Make use of the visibility of the special procedures (and the thematic reports, country reports, declarations) to mobilize campaigns in social media and raise awareness about your organization's work.



International Monetary Fund

What is the IMF's international role and why is it important for human rights?

The International Monetary Fund (IMF) is a financial agency and, while it was created within the framework of the Bretton Woods system by the United Nations, its purpose is not to promote international human rights. Although its activities have a decisive impact on human rights, it is not specialized in this area, and it has not recognized (with a few limited exceptions) that the observation and promotion of human rights forms part of its mandate.

The IMF's main role is to ensure monetary and financial stability internationally and to this end it monitors the macroeconomic conditions of all member States¹⁰ and provides technical and financial assistance. In most cases, the financial help granted by the IMF is conditioned by commitments, which the borrowing governments assume, to reduce public spending and adopt certain macroeconomic measures that may range from currency exchange policies to labor or social security reforms.¹¹ The wide range of measures which the IMF can impose on State members has direct impacts on the human rights of the population.

In addition to technical and financial assistance, the IMF exerts considerable influence on policies through two further channels: 1) its mandate to oversee the economic situation of each country annually in accordance with Article 4 of its Regulations, and 2) by means of its intellectual leadership owing to both the influence of its executives, and the proliferation of its empirical research in many areas.

10 Technical assistance is undertaken, among other means, through Article IV Consultation of the IMF Articles of Agreement, according to which the IMF can hold regular bilateral conversations with its members. Each year, a team of IMF staff visit member countries, gather economic and financial information, and with authorities analyze the evolution of the country and its economic policies. After returning to the IMF headquarters, the staff prepare a report which forms the basis for an analysis by the Executive Board, which approves the assessment made by the Technical Team.

11 The conditions imposed can be found in the Letter of Intention and the memorandums assumed by each country, and non-compliance may lead to the disbursements not being made or the cancellation of the loan.

PHOTO: STEPHEN JAFFE / IMF



Meeting at the International Monetary Fund (IMF).

Although the IMF mandate contains no specific references to human rights, this does not mean that the IMF has no responsibilities in relation to international human rights law. In fact, the responsibilities of International Financial Institutions (IFIs), including the IMF, have been analyzed in a report by the Independent Expert on Debt and Human Rights submitted to the United Nations General Assembly in 2019.¹² And the IMF's responsibilities in particular were analyzed in a report by the Special Rapporteur on Extreme Poverty and Human Rights in 2018.¹³

¹² Report of the Independent Expert on Debt and Human Rights. Responsibility for complicity of international financial institutions in human rights violations in the context of retrogressive economic reforms (16 July 2019). UN. Doc. A/74/178.

¹³ Report of the Special Rapporteur on extreme poverty and human rights (8 May 2018). UN. Doc. A/HRC/38/33.

Although in recent years the IMF has recognized the importance of combatting gaps in inequality, and in particular gender inequality, its operating practices reveal a reluctance to apply a human rights perspective in its assessments, recommendations and conditionalities. As several civil society organizations and United Nations experts have **warned**, combatting this disassociation between fiscal prescriptions and international human rights standards in relevant decision-making organizations, such as the IMF, is key to incorporating a fiscal justice agenda globally, regionally and domestically.

Traditionally the IMF has been associated with an orthodox view of macroeconomics, promoting a small, open State and prioritizing fiscal prudence over other considerations, including social spending and the reduction of inequality. This view has been questioned because it restricts fiscal space for economies in crisis and weakens aggregated demand globally.¹⁴ In the wake of intense pressure and internal reflection processes, the IMF has begun to reconsider its position and to recognize the need for a more flexible approach. Some of its research has admitted errors in defending contractionary fiscal policies during crisis periods and their regressive distributive effects.¹⁵

Likewise, others have recognized the negative impacts of State decisions intensifying the race to the bottom in terms of corporate taxation.¹⁶ And some themes such as inequality, gender equity and climate change are now considered relevant from a macro perspective and, therefore, relevant to the IMF's mandate.

It's vitally important to bring a human rights perspective to the IMF's work and to demand that its staff take into consideration the standards developed by internatio-

14 I. Ortiz and M. Cummins "Austerity: The New Normal A Renewed Washington Consensus 2010-24," Working paper, Initiative for Policy Dialogue, International Confederation of Trade Unions, Public Services International, European Network on Debt and Development, The Bretton Woods Project, 2019.

15 J. D. Ostry, P. Loungani and D. Furceri, "Neoliberalism: Oversold?" Finance and Development, June 2016; L. M. Ball (et al.), "The distributional effects of fiscal consolidation," International Monetary Fund, IMF Working Paper No. 13-151, 2013.

16 IMF, 2019. Corporate Taxation in the Global Economy. International Monetary Fund. Fiscal Affairs Dept.; International Monetary Fund. Legal Dept. Washington D.C. p, 10.

nal human rights organizations.¹⁷ This is because the orthodox view of the economy usually associated with the IMF –or the economic prescriptions often based on deeply entrenched economic myths or dogmas¹⁸– can disregard key factors in adequately guaranteeing the exercise of human rights and, in addition, States’ compliance with international rights obligations.

The IMF’s views and recommendations are hugely influential in the global economic debate and advocating before the IMF should not be underestimated in the effort to overcome the austerity dogma and advance towards more just fiscal policies. Advocacy should focus on efforts to move the IMF from its current positions, and to ensure coherence between the more progressive views proposed in some of its research and its work at the country level, as well as achieve certain operative safeguards in its daily work which would prevent negative human rights impacts in its activities.

How can CSOs advocate? Opportunities and challenges

It is important to bear in mind that, unlike the United Nations General Assembly, in which each country has a vote, the IMF decision-making process was deliberately created to reflect the member countries’ relative position in the world economy. Even though all member States form part of the Board of Directors, decisions are adopted on the basis of a system of quotas granted according to the country’s position in the global economy. Therefore, the OECD countries are the most powerful economically and the United States, in practice, has veto power over decisions requiring qualified majorities. The same happens in the Executive Board, where the wealthiest countries are over-represented in comparison with less developed economies.

Despite these imbalances in decision-making, the IMF maintains an official position which upholds a certain degree of transparency, openness and independence in the way decisions are made, by presenting itself as a technical inter-governmental agency. In this sense, the official discourse can be used by civil society organizations to advoca-

¹⁷ A recent example is the campaign led by the Center for Legal and Social Studies (CELS) and the Asociación Civil por la Igualdad y la Justicia (ACIJ) in Argentina, rejecting the fiscal austerity policies promoted by the IMF in 2018, that were implemented without carrying out an assessment of the social impacts of these policies in a context of huge social inequality and high poverty rates.

¹⁸ See CESR, 2019. Dismantling the Dogmas of Austerity and Fiscal Injustice in Latin America.

te before the IMF and its decision-making bodies and this advocacy could, at least, oblige the Fund to offer more robust justification when adopting certain measures. Going beyond some **discursive modifications** by the Fund, civil society advocacy on austerity and its gender impacts has led to concrete changes in the way the institution operates. The **Guidance Note for Surveillance under Article IV Consultation** (see below for an explanation) was modified in 2015 and included the analysis of gender equality as a driver of economic growth. Likewise, the Fund has begun to contribute analyses of the negative economic consequences of gender inequality and of the measures needed to tackle climate change – such as promoting public investment and granting specific recommendations to countries for the implementation of programs. It has also indicated that it is in the process of re-orienting its work in ways that comply with the 2030 Agenda.

Among some of the advocacy opportunities are the annual and spring meetings, the preparation of reports for Article IV, and public consultations.

Annual and Spring Meetings

IMF and World Bank officials usually meet twice a year: during the **Spring Meetings**, which explore global economic issues, poverty and economic development; and at the **Annual Meetings**, which examine the work of its respective institutions. During these meetings, the World Bank and IMF authorities, finance ministers, private sector executives, academics, civil society actors and the media come together with the aim of debating issues of global interest, such as global economic trends, poverty eradication, and economic development. Seminars are held, as well as informational sessions, press conferences and parallel events in which many civil society organizations take part.

Alongside the official agenda prepared by the IMF and the Bank, there is a **Civil Society Policy Forum** which holds thematic events together with many other organizations from all over the world. In this forum, CSOs can take part in meetings with IMF staff, and can even try to organize dialogues with the Executive Directors who represent a certain country or region to discuss more specific thematic issues.

In recent years, CESR has taken part in these meetings in order to bring visibility to the human rights and inequality impacts of austerity policies. In 2018, jointly with

the International Labour Organization (ILO) and the Bretton Woods Project, CESR organized a panel to discuss alternative measures to austerity and lessons learned, after almost a decade of austerity since the 2008 global crisis. In 2019, CESR and its partners continued to highlight the human rights impacts of austerity with concrete evidence at the national level, and demanded that less harmful alternatives should be considered, emphasizing *gender equality*¹⁹ and the *right to health*.²⁰ The aim was to demonstrate that, despite the negative social and economic consequence, the IMF continued promoting austerity policies contrary to human rights norms in different regions of the world, with counterproductive results and, in some cases, generating a profound *social conflict*.²¹

Likewise, CESR has participated in bilateral meetings with IMF officials, organized by partner organizations, to debate more specific issues: these include discussions on the specific consequences of austerity measures in Egypt, where CESR has been *working and proposing alternative measures* to austerity; the need to implement impact assessment policies; and the production of and access to information relating to financial loans granted by the IMF.

Article IV Visits

The IMF carries out annual and biannual assessments of the economic and financial situations of member countries. Such assessments include visits and the preparation of reports with recommendations for national authorities. Although these reports are usually made using official data provided by governments, visits can provide an opportunity to visibilize the positions of civil society and to offer additional relevant information, such as the impact that a particular austerity measure is having on a certain disadvantaged group. The reports can lead to dialogues between the IMF and national officials, spaces that can also be used for advocacy by civil society organizations.

19 Bretton Woods Project (28 October 2019). “Cutting to the core: Rethinking the IMF’s way of doing business to tackle gender inequalities.”

20 Bretton Woods Project (16 April 2019). “Austerity and the right to health – the IMF’s role in expanding fiscal space for public spending.”

21 CESR (16 de Octubre de 2019). “Lessons from Ecuador: Challenging Austerity and Human Rights Erosion at the IMF.”

Public consultations and other events

Public consultations are organized as a means of addressing major issues, such as the sustainability of public debt in less developed economies, and the loan instruments available for poorer countries. A recent significant example was the [call for contributions to undertake an analysis of international corporate taxation](#) (here are the [civil society responses](#) and the [report](#)).



TIPS / ADVICE:

- In advocacy processes, it is important to identify the different messages from within the organization itself. One tactic could be to contrast the arguments in some IMF research that are more critical of the effects of austerity with the technical and financial assistance and country level recommendations that tend to run counter to these positions.
- When defining an advocacy strategy, it is worth identifying the entry points to the discussion in current IMF processes, and what previous work has been done by civil society organizations. There is a lot of cumulative learning and the oversight work of independent civil society organizations such as the Bretton Woods Project are an excellent guide for learning from previous experience.*
- Coordinating with partner organizations experienced in the subject area is advisable when organizing parallel events. The more organizations involved, the more promotion the event will have and the issues being presented will have more visibility. It is also prudent to request IMF officials to attend thematic events, although the benefits of committing certain officials to a thematic event should be assessed (it is usually better to make few requests and to have a clear strategy).
- Take advantage of these meetings to create coalitions, share experiences, draw conclusions and rethink strategies jointly with partner organizations. It is also useful to hold bilateral meetings with high-level IMF officials and representatives of the countries involved in the theme under discussion.

* The Bretton Woods Project has developed helpful resources in its ongoing and cutting-edge work monitoring the IMF's role.

Organization for Economic Co-operation and Development (OECD)

What is the OECD's role and why is it important for human rights?

The Organization for Economic Co-operation and Development (OECD) is a multi-lateral body whose member States comprise the most powerful economies of the western world and some medium-income countries. The OECD analyzes and recommends economic and development policies in order to, according to its mission, “foster prosperity, equality, opportunity and well-being for all [...], finding solutions to a range of social, economic and environmental challenges.”

The OECD enjoys considerable prestige due to the joint work of the different States parties and the high standards of its outputs (including fiscal, labor, environmental, and social protection measures, among other areas). OECD work impacts the creation of best practices, international norms and standards, the domestic policies of States parties and those that aspire to join the Organization. The G7, G20 and APEC assign specific tasks to the OECD, and its work is taken into consideration and adopted as the



PHOTO: VICTOR TONELLI / OECD

OECD headquarters in Paris.

basis of their deliberations. Although there are 37 member countries, the organization has regional programs dedicated to studying Southeast Asia, Latin America and the Caribbean, and a special program for Peru.

The OECD member countries and the European Commission are represented by ambassadors and together they form the OECD Council, which meets regularly. The yearly Ministerial Council Meeting brings together heads of state and ministers with high-level economic and foreign affairs officials to discuss global development challenges, establish themes for future elaboration and resolve requests for access by non-member countries. There are also **over 300 Committees and working groups** dealing with different themes, analyzing data, promoting possible solutions, and offering recommendations.

The Centre for Tax Policy and Administration (CTPA) is the part of the OECD that is responsible for work relating to taxation and it also supports the Committee on Fiscal Affairs, which promotes international fiscal norms. The Centre also produces annual reports and publications and acts as a coordinating body among fiscal organizations from different countries working on issues that require international cooperation, such as the fight against tax evasion and the prevention of corruption. All of these issues impact directly or indirectly States' capacity to mobilize the maximum of resources available to guarantee rights and also their domestic taxation policies, including the distribution of costs and benefits among different actors.

Some of the CTPA's activities include:

- Serving as the secretariat for the OECD and G20 **Inclusive Framework on Base Erosion and Profit Shifting (BEPS)**, which was established in 2016 and aims to combat corporate tax avoidance carried out by transferring corporate profits from where the income is generated to low taxation jurisdictions. Over 115 countries have united to develop standards relating to BEPS and the monitoring of its implementation. This forum became the main multilateral space for decision making in relation to international fiscal issues, specifically when the G20, in 2017, requested that the CTPA initiate a debate on the assessment of the BEPS agenda and the changes required in international tax laws to tackle the challenges posed by the digital economy. In 2020, States continue to conduct negotiations in pursuit of consensus on two pillars of reform: how the right to impose taxes on the profits of multinational companies is distributed among States; and themes concerning

the definition of a minimum corporate tax rate and the creation of mechanisms to halt tax avoidance and the race to the bottom in corporate taxation.

- Promoting multilateralism through information exchange (such as the [Global Forum on Fiscal Transparency](#)) and interaction, dialogue and capacity-building through platforms such as the [Platform for Collaboration on Tax \(PCT\)](#); in addition, through the promotion of multilateral standards and legal instruments such as the [Model Tax Convention](#) to avoid double taxation, which was updated in 2017 in order to incorporate standards developed within the BEPS framework.
- Producing relevant information and research, such as that published in the [OECD Tax Database](#), generated jointly with countries and regional organizations.

The [LAC Fiscal Initiative](#) is another activity led by OECD, and co-sponsored by the Inter-American Center of Tax Administrations (CIAT), the Economic Commission for Latin America and the Caribbean (ECLAC) and the Inter-American Development Bank (IADB). Its purpose is to promote a space for dialogue on fiscal policies in the region, in order to foster economic growth and income redistribution. This dialogue among officials in the region and OECD experts is based on the development of an internationally comparable database, such as the index of [Revenue Statistics in Latin America](#), the convening of capacity-building workshops and the preparation of working papers, as well as assisting countries in the design and implementation of fiscal reform measures. The Forum, which has been meeting annually since 2010, has discussed tax incentives, the tax system as a means of reducing inequality, and economic growth and development, among other themes.

The [Task Force on Tax and Development](#) is another forum led by the OECD. Representatives of OECD member countries and non-member countries meet annually with representatives of the private sector and civil society. The goal is to improve the revenue-raising capacity of developing countries in order to strengthen governability (focusing especially on extractive industries) and support activities of the Fiscal Affairs and Development Aid Committees.

These mechanisms reveal that, although the OECD lacks the power to grant financial

assistance with conditionalities, it exerts considerable influence on fiscal policy through three channels: 1) definition of the multilateral agenda in areas of international taxation (such as the BEPS framework) and the establishing of policy standards, 2) leadership in terms of formulating best practice (through the different thematic Committees) and its recommendations to member States and those that aspire to membership, which can be highly influential, and 3) its technical and intellectual power, including its statistical and research capacities, to influence the global debate on fiscal themes.

Ultimately, although it differs significantly from a global fiscal governance body in which countries can participate under equal conditions—a key demand of civil society organizations—the OECD accomplishes many tasks which confer it with a central role in the global fiscal agenda, and not only among its member countries.

How can CSOs advocate? Opportunities and challenges

Although States are the principal actors in the negotiations on tax and fiscal themes within the OECD, other spaces have been opening, such as the consultations and discussion forums, in which civil society has played a more prominent role and been able to influence discussions decisively. Updates on OECD news, databases, publications, and working events related to tax issues can be found [here](#).

One example is the negotiation process to achieve consensus on how to reform the international corporate tax regime so it can adapt to the challenges of the digital economy. Although the main negotiations are held among the States behind closed doors, different civil society actors –from academics to fiscal justice and human rights organizations– have taken advantage of the spaces and forums intended for receiving external views.

A noteworthy case is the Independent Commission for the Reform of International Corporate Taxation (ICRICT). An independent civil society organization, it is made up of leading experts on tax matters from different disciplines, and was initiated by a broad coalition of civil society organizations working in these areas globally, among them CESR.²² Given its political leadership and technical credibility, ICRICT has managed to position key ideas in the tax debate, such as the need for multinationals to pay

I 22 Refer to ICRICT's website for information on its work, publications and other resources.

taxes as a unit, and not as separate subsidiaries in each jurisdiction. These ideas have been very influential in the global debate and have been adopted in the negotiations by the group of developing countries advocating in the G24, and quoted by the IMF. They have also been partially adopted by the OECD in the effort to find a consensual multilateral solution for reforming international tax rules in the context of the challenges presented by the digital economy.²³

Civil society advocacy before the OECD faces considerable obstacles, such as the fact that meetings mainly occur in the OECD's headquarters in Paris; the information CSOs have access to is limited; the documents and discussions are available in only one language; and the organization officials are mainly composed of member States, all of which makes it difficult both for non-member States and other interested parties to participate under equal conditions.

For all these reasons it is important for CSOs to coordinate their efforts collaboratively, allowing them to achieve more inclusive governance mechanisms and greater participation within the OECD by emerging economies and civil society itself, so that certain themes affecting the interests of middle- and low-income countries are given more prominence. Among these themes are the need to stop tax avoidance and the race to the bottom in corporate tax rates, the urgency of correcting asymmetries in global governance mechanisms, and the importance of bringing a global economic justice lens to the tax discussion that would favour convergence among countries.

Regarding the last point, human rights norms and, in particular States' extraterritorial obligations, form a solid basis for tackling these discussions and demanding concrete measures from States.²⁴ In this sense, the OECD could be a space for CSOs to bring a human rights perspective, which is why it is necessary to take advantage of different spaces to insist on the duty of States to build a just global order²⁵ and to engage in the organization's negotiations honouring their obligations according to international law.

²³ See OECD, 2019. Secretariat Proposal for a "Unified Approach" under Pillar One.

²⁴ CESR & Third World Network. Universal rights, differentiated responsibilities: safeguarding human rights beyond borders to achieve the Sustainable Development Goals, 2015.

²⁵ Article 38 of the Universal Declaration of Human Rights states: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized".

Bringing a rights perspective to corporate tax reform

In March 2019, a group of seven fiscal justice and human rights organizations in Latin America created the Initiative for Human Rights Principles and Guidelines in Fiscal Policy, jointly demanding changes in the tax rules for multinational companies and seeking to halt tax avoidance and the race to the bottom in corporate tax rates. Responding to an OECD consultation on the challenges to corporate taxation in the digital economy, these organizations launched a call to States to adopt corporate tax reforms that conformed with their human rights obligations.* They pointed out that international human rights law requires the creation of a global environment that enables the mobilization of the maximum of available resources through corporate taxation, and the prevention of unilateral decisions by countries that would generate inappropriate pressures to reduce multinational companies' tax rates. To this effect, and in the context of the OECD Inclusive Framework, they requested that States consider the ICRICT proposal that multinationals should be taxed as a unit and not as separate entities, using a simple formula that would ensure that profits and any associated taxes could be assigned according to objective factors such as sales, salaries, and the corporations' assets in each country.

* CESR, ACIJ, Dejusticia, CELS, Fundar, INESC, Red de Justicia Fiscal de América Latina y el Caribe, 2019. Commentaries to the OECD call for public input on the tax challenges of digitalisation, and possible solutions.





TIPS / ADVICE:

- In order to tackle the challenges faced by civil society organizations in advocacy before the OECD, it is essential to work collaboratively and systematically. Collaboration has proven to work both in gathering information on negotiation processes in which participation and access to information is reserved for States, for jointly analyzing complex and lengthy technical information, and in demanding the opening of spaces for civil society participation.
- The division of labor among organizations, acknowledging the different expertise of each one, and avoiding duplication of work, are key ingredients for successful advocacy in spaces such as the OECD, which require an appropriate balance between rigorous technical work, discernment in understanding the dynamics of multilateral negotiations, and effective communication in coordinating multiple actors working in diverse scenarios (globally, regionally and nationally).
- Regarding advocacy opportunities, the consultations organized by the CTPA and the LAC Fiscal Initiative forums can be used to visibilize unified civil society positions (such as, demonstrating the negative human rights impacts of fiscal austerity measures and the need to reconsider tax incentives based on available evidence). Another strategic approach is to try and align CSO views with the standards produced by the OECD when these are a key factor in defining public policies (for example, by showing that the adoption of fiscal policy with a human rights perspective strengthens the objective of economic growth together with redistribution of wealth as proposed by the OECD).
- Advocacy can also take place in the Working Groups of the different Committees, such as the Task Force on Tax and Development. It is worth noting that not all the Committees have the same level of openness and procedures for facilitating civil society participation. It is useful to contact other organizations that already have experience in representing civil society in a particular Group, in order to work collaboratively (for example, OXFAM is involved in the Task Force on Tax and Development).
- Occasionally it may prove strategic to take advantage of the OECD's technical credibility and include statistical information and technical analysis generated by the advocating organization, in order to dismantle the myth that some technical actors may refuse to consider data provided by outside organizations.

Monitoring and Follow-Up Mechanisms for the 2030 Agenda

The Sustainable Development Goals (SDGs) reflect 17 development commitments adopted in 2015 at the United Nations General Assembly. They are conceived by and for all the world’s countries, regardless of income level, and their central aim is to create an action plan to guarantee the dignity of all human beings, promote inclusive economic growth and environmental sustainability, eradicate poverty in all its forms and reduce the inequality gaps among and within countries, all within 15 years. In this respect, the 2030 Agenda *“is guided by the purposes and principles of the Charter of the United Nations, including full respect for international law. It is grounded in the Universal Declaration of Human Rights, international human rights treaties, the Millennium Declaration and the 2005 World Summit Outcome.”*²⁶



Session of the High Level Political Forum in New York City.

²⁶United Nations General Assembly. Resolution approved by the General Assembly 1 September 2015. UN. Doc. A/RES/69/315 (15 September 2015), par. 10.

In contrast with the Millennium Development Goals, the reduction of inequality is a central focus of the new agenda, and there are goals and targets directly related to sustainable and inclusive economic growth and to fiscal policy. Target 10.4 of Goal 10 (Reduce inequalities) urges countries to “Adopt policies, especially fiscal, wage and social protection policies, and progressively achieve greater equality.” Resource mobilization and social protection policies are included in Goal 1 (End poverty), Target 1.A and in Goal 3 (Good health and well-being), Target 3.C. At the same time, resource mobilization is key to Goal 17, which promotes global, regional, national, and local partnerships, and essential to the private sector, governments and civil society for the implementation of all the SDGs. The targets of strengthening domestic resource mobilization and improving capacity for tax and other revenue collection (Target 17.1), which ensure that high-income countries fully implement their development assistance commitments to lower-income countries (Target 17.2) and reduce illicit financial flows (Target 16.4), should guide the fiscal policies of all governments with the aim of financing development.

There are organizations reviewing the SDGs globally, regionally and nationally. Although these monitoring processes have the support of specialized UN agencies and promote the participation of civil society, they are in fact not obligatory and are led by countries. This means that national voluntary monitoring of the SDGs is essential for the regional and global reviews.

A High-Level Political Forum (HLPF) is held under the auspices of the General Assembly and ECOSOC and it provides a central platform for follow-up and review of the goals and targets globally.²⁷ Each year, country delegations meet at thematic panels to present on progress made²⁸ and on their **Voluntary National Reviews (VNRs)**. The scope and format of the VNRs are decided by each country and this means that, apart from the support and assistance the UN offers in the shape of **guides** and preparatory **workshops**, the indicators and statistical data presented depend on each government.

27 In 2019, the annual event was held in two sessions: one in July under the auspices of ECOSOC and another in September under the auspices of the General Assembly; one final document was published when the second session concluded.

28 Each year, the Forum reviews certain goals in depth. In 2019, the theme was “empowering people and ensuring inclusiveness and equality,” reviewing Goals 4, 8, 10, 13, 16 and 17.

The UN Regional Economic Commissions are responsible for SDG follow-ups at the regional level and there is more information on them below. Their objective is to coordinate monitoring of the SDGs according to the needs of different groups of countries and to offer support for the reviews, both domestically and globally. One example is the *Forum of the Countries of Latin America and Caribbean on Sustainable Development* held annually by ECLAC since 2017. It produces annual and quadrennial reports for submission to the High-Level Political Forum. Monitoring the SDGs within ECLAC allows Latin American and Caribbean countries to highlight their most acute problems, such as “inequalities, high global debt, reduction in levels of international cooperation [and] the need to take concrete measures in order to mobilize sufficient resources in order to fully implement the 2030 Development Agenda and the SDGs”.²⁹ It also provides assistance with statistics to measure the goals and targets, as there are widespread challenges in gathering statistics in the region. During the first Forum, *formal mechanisms for civil society participation* were established through the Liaison Committee, which is made up of representatives of the *regional, interest and thematic groups*. These representatives present civil society positions before ECLAC and the governments of the regions (see the *Declaration presented in 2019*). ECLAC has made significant efforts to link the 2030 Agenda with related processes and agendas, such as the *Montevideo strategy* on women’s rights and gender equality.

Currently, monitoring of the 2030 Agenda depends to a large extent on the good will of each State to carry out follow-ups both nationally and sub-nationally. Even though these assessments are voluntary, distinct monitoring initiatives (such as those of National Human Rights Institutions) could offer opportunities for civil society participation, both in creating indicators and in providing valuable information. CSOs could pressure national governments to implement recommendations that come out of the annual regional and global Forums, as well as provide a more accurate picture of current domestic challenges, which could subsequently be discussed at international gatherings.

²⁹ Report of the third meeting of the Forum of the Countries of Latin American and the Caribbean on Sustainable Development

Is the 2030 Agenda a real opportunity for advocacy?

The 2030 Agenda is a global initiative which emphasizes aspects relevant to the fiscal justice agenda, such as the importance of reducing inequality and forging partnerships to finance development. Thanks in part to the efforts of civil society organizations, the 2030 Agenda is firmly and explicitly anchored in States' human rights commitments. Therefore, the Agenda not only promotes but demands that sustainable development policies –whether fiscal, economic, social or environmental– should be approached from a human rights perspective.

However, there are significant hurdles to the effective implementation of the Agenda and the participation of civil society. During the High-Level Political Forum (HLPF), State delegations have 15 minutes to present their reviews orally and civil society only has about 2 minutes to question the States. This prevents any substantive dialogue, either because many important questions remain unanswered or key issues which have been extensively debated domestically are omitted. Even when civil society organizations produce reports in addition to the States' voluntary reviews, they are not admitted to the formal review process and are only discussed in parallel events. All this has led to demands for reforms.

Regional and national forums are key spaces, and in some cases offer opportunities for participation and advocacy. The Regional Forum for Latin America and the Caribbean has the advantage of possessing a formal mechanism that allows civil society positions to be heard and helps to highlight aspects which might not be discussed in detail in global forums, such as the objectives of eradicating poverty, reducing inequality and building partnerships to cooperate in financing development.

Advocacy at the national and subnational levels is essential, but the disadvantages of the global system are replicated: the whole process depends on the political will of governments, including the participation mechanisms, the creation of indicators, and the scope of each target and development goal.

Despite the fact that human rights form the cornerstone of the 2030 Agenda, some States and United Nations agencies are reluctant to link human rights obligations and monitoring mechanisms with the implementation of the Agenda. A holistic approach, which would include ESCR and its implications for international cooperation (even in fiscal matters) is key for changing these dynamics.

Financing for Development Agenda

The Financing for Development Agenda, closely linked to the 2030 Agenda but with its own history, milestones and advocacy mechanisms, is another advocacy space to be considered for the mobilization of resources for rights.

The history of this agenda can be traced through the following milestones:

- The United Nations Conference on the Least Developed Countries, held in Paris (1981, 1990), Brussels (2001) and Istanbul (2011).
- The First Financing for Development Summit was held in Monterrey (Mexico) in 2002 and it led to the **Monterrey Consensus**, the first global agreement on the differentiated responsibilities between developed (high-income) and developing (lower-income) countries in this area.
- The Second Financing for Development Summit was held in 2009 and led to the **Doha Declaration**.
- The Third Financing for Development Summit was held in 2015 and its outcome was the **Addis Ababa Action Agenda** (AAAA) which established the means for implementing the 2030 Agenda and created follow-up mechanisms related to financing.

Currently, the main areas of the Financing for Development agenda are:

1. Mobilization of domestic resources
2. Private, national and international financial and commercial activity
3. International development cooperation
4. International trade as a driver for development
5. Debt and debt sustainability
6. Tackling systemic issues, such as international financial governance
7. Science, technology, innovation and capacity creation.

In 2003, the **Financing Sustainable Development Office (FSDO)** was established as part of the United Nations Department of Economic and Social Affairs (UNDESA). Its main function is to support the follow-up of the agreements reached at the Financing for Development Summits. The FSDO also acts as the Secretary for the United Nations Committee of Experts on International Cooperation in Tax Matters, which holds sessions in Geneva and New York to support countries in mobilizing resources through their tax systems.

The Addis Ababa Action Agenda initiated other complementary mechanisms. First, it created the **Annual Forum on Financing for Development (FfD Forum)** as a mechanism for following up on the means for implementing the 2030 Agenda. The agreements reached in the Forum serve as inputs for the discussions of the High-Level Political Forum on Sustainable Development. Second, AAAA called on the UN Secretary General to create a space among United Nations agencies (**Inter-Agency Task Force on Financing for Development**) with the mandate of producing an annual report on the progress of the Addis Ababa Agenda and of advising on the inter-governmental follow-up process. This annual report has become the main input at the annual Forum and is an in-depth analysis of the trends in mobilizing development resources globally.

Civil society participation in the FfD agenda is coordinated by the **Civil Society Financing for Development Group (CS FFD group)**. In general, the multiplicity of civil society stakeholders, and the limited spaces for participation within the official agenda of the annual Forum and related events, has raised the need to advocate in a unified and coordinated manner. In addition to participating in the official agenda, civil society organizations can request to hold parallel events with the support of a member State or a United Nations agency – although it's best to do so collectively in collaboration with the CS FFD group.

Bringing a human rights perspective to monitoring the 2030 Agenda and the debate on financing development

The space for civil society advocacy in these agendas is limited given the inter-governmental nature of the negotiation processes and the reduced opportunities for significant civil society participation. Therefore, collaborative initiatives have proven to be the most effective advocacy approaches. These include the innovative campaign tactics used by the CS FFD group.

In addition, since 2016, a group of global civil society organizations and networks including CESR have published the independent *Spotlight Report* assessing achievement of the 2030 Agenda. This report has focused on analyzing structural obstacles to the implementation of the 2030 Agenda and has facilitated the type of dialogue that was virtually absent in official forums.

CESR has also worked with Third World Network to link the concept of “common but differentiated responsibilities” with extraterritorial obligations in the area of economic, social and cultural rights, thus bringing a fresh perspective to a polarized debate and equipping lower-income countries with more arguments to push for meaningful action from the Global North on climate, development, and financing for development.





TIPS / ADVICE:

- The Major Groups and Other Stakeholders is the main mechanism for civil society engagement with the review of the 2030 Agenda at the global level (primarily through the HLPF). The Civil Society FfD Group is the most important resource for joint advocacy on FfD. The NGO Committee on Financing for Development has also produced a useful advocacy guide which can be consulted [here](#).
- The importance of States for convening parallel events, and their knowledge of negotiation dynamics, make it useful to contact diplomatic missions to act as partners in this process.
- Starting advocacy preparations well in advance is important so that negotiations about the documents to be adopted are given as much time as possible.
- Conciseness and conviction are fundamental. In order to influence key actors, materials must be short and to the point.
- To work around the limited participation spaces for civil society, and the marginalization of human rights in these agendas, it is necessary to combine efforts with other actors (civil society, UN agencies and partner States), to create platforms and spaces for dialogue and review (even when in some cases they have to run parallel with the official agenda).
- Interpreting States' commitments within the framework of the 2030 Agenda through the lens of their human rights obligations – including their extraterritorial obligations – provides a means of broadening the Agenda's scope and of including more robust review mechanisms, as is the case with the Treaty Bodies.



Regional Advocacy

Throughout the region, human rights, fiscal justice and development organizations, women's movements, and Indigenous and Afro-descendant communities **share the idea** that unjust fiscal policies reproduce huge social, economic, racial and gender inequalities. Regional fiscal justice advocacy is important not only to visibilize grievances and pressure governments with regional authorities, but also to consolidate a collaborative regional positioning among social movements, civil society organizations and institutions of the Inter-American system, thus strengthening participation in global spaces with a coherent and unified discourse.

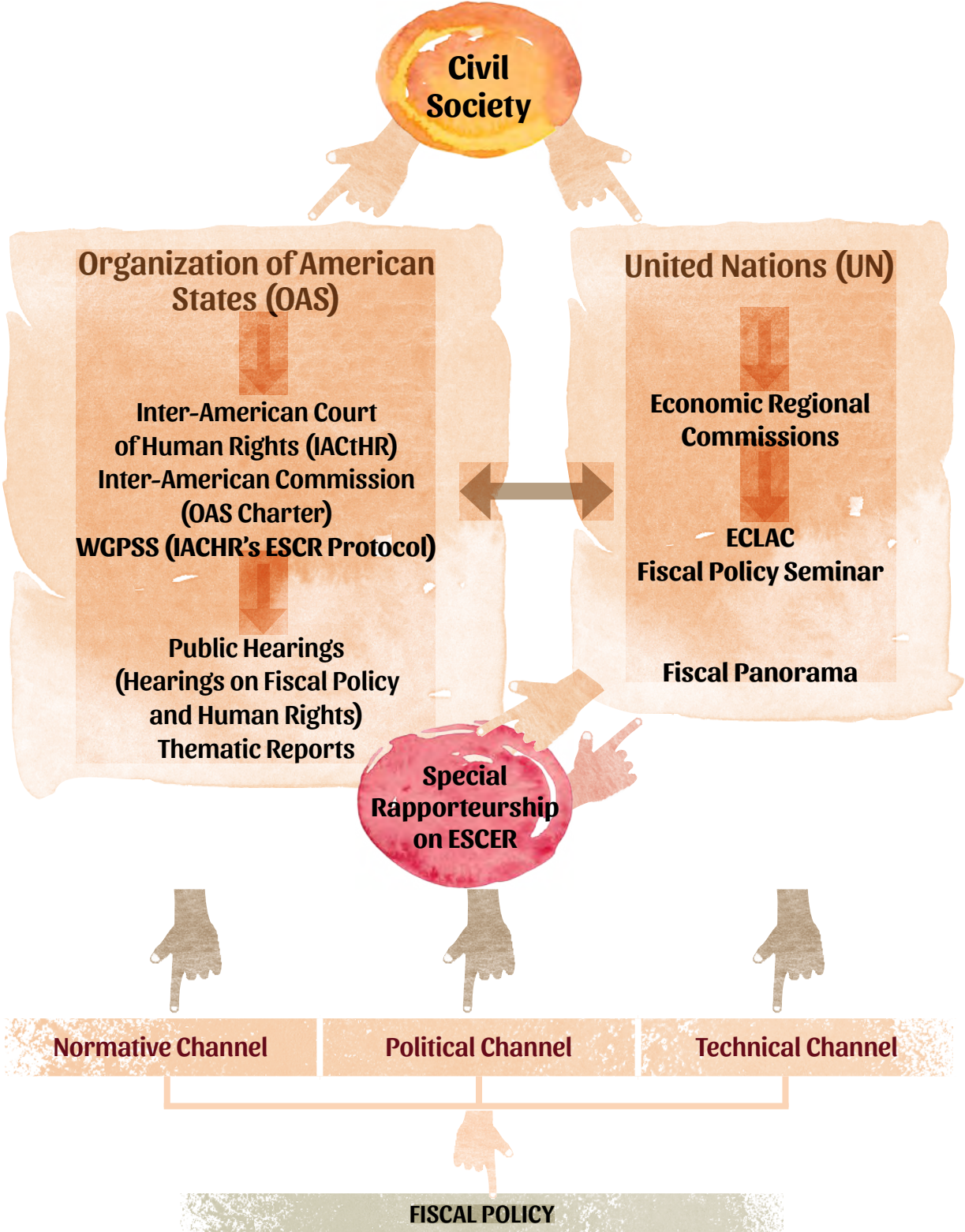
In this respect, there are several key bodies which could promote tax reform policies with a rights perspective, equal economic growth, and financing for development. Here we will focus on two: the Inter-American Commission on Human Rights (IACHR) – specialized in human rights –and the Economic Commission for Latin America and the Caribbean (ECLAC)– specialized in economic policy and sustainable development. The challenge is to bring a human rights perspective to ECLAC and a fiscal justice view to IACHR, creating a process of feedback and collaboration between these two organizations and governments, CSOs, and social movements.

Inter-American Commission on Human Rights (IACHR) and Inter-American Court of Human Rights (IACtHR)

What is their origin and core functions?

Both the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (IACtHR) arose within the framework of the OAS (Organization of American States) human rights protection system. They are based on the American Declaration of the Rights and Duties of Man, the OAS Charter, the American Convention on Human Rights (ACHR), and a series of special conventions, including the Additional Protocol to the ACHR dealing with economic, social and cultural rights.

Graphic 5. Regional mechanisms in the field of fiscal policy and human rights in the Americas and advocacy channels



The OAS is a regional governmental forum that arose in the same historical context as the UN and 35 American States are signatories to its Foundational Charter. In the OAS Charter, the Inter-American Commission on Human Rights was created as a body promoting and defending human rights in the region and with advisory powers. Since then, the Commission – headquartered in Washington DC and made up of seven members appointed by the OAS General Assembly – undertakes several tasks including: receiving individual petitions; making recommendations and requesting reports from governments on specific measures or phenomena relating to human rights; producing special reports relating to the human rights situation in a particular country; writing thematic reports; making country visits and issuing precautionary measures. When the ACHR came into effect, the Commission assumed additional powers, such as presenting cases before the Inter-American Court and requesting advisory opinions.

Similarly, the Inter-American Court of Human Rights –based in San José, Costa Rica – comprises seven members who are elected by the OAS General Assembly. However the Court is a jurisdictional body fulfilling two core mandates: providing advisory opinions on the interpretation of Convention provisions (which can be requested by the Commission or by any OAS State party) and the resolution of cases presented by the Commission or a State party against another State party accused of violating the Convention (only States parties who have accepted the Court’s jurisdiction). Of the 35 countries that make up the OAS, 25 ratified the American Convention and only 20 of that number (all belonging to the Latin American region) recognize the jurisdiction of the Inter-American Court of Human Rights.

Although it is expected that in coming years, the IACtHR will further develop its ESCR jurisprudence, this section focuses only on the work done by the Commission. All cases presented by civil society must necessarily go through the Commission, as there is no direct access to the Court. Also, the Commission has promotion and monitoring mechanisms (as opposed to processes for the resolution of individual cases) which are particularly important for the fiscal agenda.

How does the Commission operate?

Some of its promotion and monitoring mechanisms. Opportunities for CSO participation

One of the Commission's most important mechanisms for the promotion and protection of human rights is its ability to hold public hearings; these can deal with specific cases of human rights violations in a particular country or they can be thematic, with the aim of discussing aspects relevant to the human rights agenda in an entire region.

The hearings are a great opportunity for the fiscal and human rights agenda, as they have the potential to visibilize the debate, promote discussions within the human rights community in the whole region, inform the commissioners of aspects that have not been addressed or that have been avoided and alert public officials to the effects of fiscal policies on rights. The hearings often function as a direct source of information



IACHR meeting with State representatives.

that the Commission uses to produce thematic reports, which in turn are important inputs for civil society organizations.

Generally, the hearings are held during three or four sessions each year, in different countries and locations, and can be convened by the Commission or requested by other parties. The Commission can invite anyone whom it might consider to be interested, including State and civil society representatives.

Given its role as a body that monitors and protects human rights, the Commission has a certain level of accessibility and openness to civil society. Its activities include holding seminars, capacity-building for public officials, working groups and country visits – all occasions which can be used to introduce fiscal justice issues. The Commission's work on promoting human rights largely arises from the different **thematic units** and their respective **special rapporteurs** (who can be members of the Commission or independent experts). This makes it important for civil society organizations to bring their concerns and evidence to the experts working in each area, such as the Special Rapporteurships on the Rights of the Child, the Rights of Women, and the Rights of Indigenous Peoples (see the complete list [here](#)).

The Rapporteurship on Economic, Social, Cultural and Environmental Rights (SR on ESCER) is especially relevant for the fiscal justice agenda. It was set up with the aim of bringing attention to the problems of poverty, inequality and wealth redistribution in Latin America, among other related concerns. Not only does it carry out monitoring, but it also compiles information provided by civil society and social and academic movements, with the aim of establishing priorities for the Commission's ESCER agenda and to produce thematic reports, such as the report on [Poverty and Human Rights](#) in 2017. It also works jointly with the Working Group on the San Salvador Protocol (see below) and within its strategic plan it includes the creation of channels for collaborating with other agencies in the region, such as ECLAC and the IADB, and globally, with agencies such as the UN CESCR.

Another relevant body for the fiscal justice agenda within the Inter-American System of human rights is the **Working Group of the Protocol of San Salvador (WGPSS)**, which comprises of governmental and independent experts and the Special Rapporteurship on ESCER. The Protocol of San Salvador (PSS) was ratified by [16 countries](#),

and is an Additional Protocol to the American Convention on Human Rights (ACHR). It was created in order to develop the provisions on socioeconomic rights established in Article 26 of the ACHR. As a result of the PSS, States Parties are obliged to present periodic reports on the measures adopted to advance ESCER in their countries and the outcome. These reports must be made on the basis of indicators produced by the Working Group of the Protocol, who also assess them. These informative meetings offer advocacy opportunities for CSOs, in that the Working Group usually invites civil society to present shadow reports which contribute to the observations and recommendations it finally presents to the States. The experts also hold workshops in the member countries, including sectors of government and civil society.

UN Regional Economic Commissions: Economic Commission for Latin America and the Caribbean (ECLAC)

The United Nations regional economic commissions aim to support sustainable development in each region and to strengthen economic relations among the region's countries. The Commissions are inter-governmental platforms and their mandate is to adapt international frameworks to each region's specific circumstances, assist countries technically, increase the research and knowledge of each region's issues, and design common strategies aimed at confronting collective problems, as well as sharing lessons learned and implementing development cooperation mechanisms.

A concrete example of the latter is the Commissions' collaboration on and monitoring of the sustainable development agenda. This led to the creation of regional forums to strengthen countries' capacities to follow up and monitor the goals and targets, and also to consolidate regional positions during the High-Level Political Forum and identify regional challenges which will help to improve the designing and subsequent measuring of the development objectives.

For the most part, the regional Commissions operate through forums, inter-governmental meetings, and thematic seminars, through which they aim to bring together those responsible for designing policies to exchange ideas and knowledge, and also to promote sharing with other specialized United Nations bodies so as to assist countries technically.

CASE STUDY

Principles and Guidelines on Fiscal Policy and Human Rights

Since the Special Rapporteurship on ESCER was established in 2017, the IACHR has begun to focus more on fiscal policy and human rights, above all from the **perspective** that fiscal measures should be monitored within the framework of using the maximum available resources to combat poverty.

This progress has resulted from the efforts of civil society organizations to incorporate a fiscal justice agenda in the region. In recent years, at least three thematic hearings on fiscal policy and human rights have been held, two regionally, in **2015** and **2018**, requested by a coalition of partners including CESR, and one specifically devoted to Puerto Rico in 2016. Furthermore, in 2016, an international dialogue on **Fiscal Policy and Human Rights in Times of Austerity** brought together UN and IACHR experts, as well as officials of intergovernmental organizations and regional civil society representatives. During these meetings, CSOs presented case studies and evidence demonstrating the negative human rights effects of regressive and discriminatory fiscal measures implemented by governments in the regions.

These activities have been useful not only in generating warnings in specific cases, but also in laying the foundations for incorporating fiscal policy in thematic reports such as **Poverty and Human Rights (2016)**, **Public Policy with a Human Rights Approach (2018)** and **Business and Human Rights (2020)**. In these reports, IACHR has recognized that “it is not possible to analyze States’ efforts to eradicate poverty without examining their fiscal policy” and that human rights principles are “fully applicable [... and] particularly



relevant for fiscal policy” and therefore “must be implemented in the entire policy cycle from budget preparation and tax codes or expenditure allocation through to evaluation and monitoring of outcomes.”* In this respect, the Commission “considers it essential to promote a deep-seated and urgent dialogue through the office of its Special Rapporteur for Economic, Social, Cultural, and Environmental Rights (REDESCA) with the world of economics and finance, at both the domestic and the international level.”**

Throughout these meetings and dialogues, the Initiative for Human Rights Principles and Guidelines in Fiscal Policy began to take shape and is currently in the process of creating a specific framework for designing and implementing fiscal policies with a human rights approach.**

These developments prove that the IACHR is open to approaching structural themes that go beyond its traditional area of expertise in its human rights work.

* IACHR, 2017. Report on Poverty and Human Rights in the Americas, OEA/Ser.L/V/II.164. Doc. 147, 7 September 2017, pars. 494, 501-502.

** IACHR, Public policies with a human rights approach, OEA/Ser.L/V/II. Doc.191/18, 15 September 2018, par. 132.

*** See CESR, 2019. Initiative for Human Rights Principles and Guidelines in Fiscal Policy.



Opportunities and challenges of the Inter-American Commission and Inter-American Court



Opportunities

The Inter-American Commission offers some opportunities for advancing towards new

standards in fiscal justice within the regional human rights system. It can hold thematic hearings that bring together a diverse set of actors and produce reports with inputs from experts, people who are affected, CSOs, etc. In addition, in its thematic reports, the Commission has been receptive to developments in fiscal matters proposed by ECLAC and other relevant organizations.

Challenges



The Court's legal authority is limited, in that it only intervenes to resolve individual cases or to respond to inquiries related to the interpretation of a particular human rights instrument of the regional system. The main advantage of advocating before the IACtHR is that its rulings are binding on States and its advisory opinions are authoritative sources of legal interpretation, which sometimes can exercise greater influence than the Commission's thematic reports or recommendations. The former are often very influential and widely adopted both by regional organizations and key domestic actors, such as national judges. At the same time, in certain conditions, individual cases may grant greater visibility to the issues and gain more effective impact on political decision makers. The greatest challenge is that ESCER jurisprudence is still limited, partly because of restrictions imposed by the PSS. However, in recent years, some gains have been made in making the IACtHR more receptive to cases relating to ESCER.*

! * Cerqueira, Daniel, 2019. "La justiciabilidad de los DESCA bajo la Convención Americana."

Opportunities and challenges of the Working Group of the Protocol of San Salvador



Possibly the greatest benefit of the Working Group's monitoring system is that it provides a specific mechanism enabling independent human rights experts

to analyze compliance with ESCR obligations, using indicators prepared for each type of right. In this respect, the indicators allow for examining financial decisions and budgetary commitments assumed by countries for each set of rights under examination. This includes elements relevant to the fiscal justice agenda, such as analyzing the extent of fiscal incentives for the private health sector and pharmaceutical industry, the type and extent of financing sources for education, and the scope of subsidies and tax incentives for businesses that apply environmentally friendly practices.

The downside of the WGPSS is the low level of compliance by States in providing the requested information and the lack of suitable sanction mechanisms,



which is partially the result of the system's rather low profile. Of the 16 countries that have ratified this mechanism, only nine complied fully with their reports, and another three submitted partial reports. However, this also means that there is room for organizations to collaborate: in relation to States, by insisting that they ratify the Protocol, produce the requested reports and comply with the recommendations offered by the experts. And in relation to the Working Group, on the one hand to assist it by offering additional information so that countries can be monitored more effectively, and on the other, to start the process of revisiting the indicators so that they assess the human rights impacts of fiscal policy more effectively.



TIPS / ADVICE:

- Approaching Special Rapporteurs can be useful in order to gain a more up-to-date understanding of the Commissions' thematic priorities, and those of the OAS as a whole. Sometimes the Special Rapporteurs are interested in working on specific issues, and it may be helpful for them to know which organizations can provide relevant evidence and cases. If women's rights are going to be the main focus for the coming years, the issue of gender and taxation could be a relevant theme for organizations to work on, in order to form partnerships, produce evidence jointly, and prepare documents that will serve as the basis for future presentations. It can also be a good entry point for contacting other specialized organizations within the OAS, such as the Inter-American Commission of Women (IACW).
- Forming coalitions with other organizations in order to request thematic hearings and to scale up and sustain advocacy efforts has proven to be an effective strategy in positioning the fiscal theme within the IACHR.
- Organizing parallel events during the hearings and trying to organize bilateral meetings with commissioners and special rapporteurs could help to ensure they include a fiscal justice perspective in their upcoming activities and reports (particularly taking into account the rotation periods and the need to renew the commitment of new members to the theme).
- Participating in public consultations prior to the publication of thematic reports, such as those on Poverty and Human Rights and Business and Human Rights.





ECLAC Meeting.

What is ECLAC and why is it important for the fiscal agenda?

ECLAC, headquartered in Santiago de Chile, is one of the five regional economic Commissions that were established within the UN framework and has been operating since the end of the 1940s. ECLAC's core mandate is to contribute to the economic and social development of Latin America and the Caribbean, and strengthen coordination between the region's countries and between the Latin-American bloc and the rest of the world.

To fulfill its objectives, ECLAC acts as a research center and monitors development policies in the region's countries by promoting inter-governmental meetings, technical cooperation capacity-building and creating spaces where governments can be held accountable.

Themes such as taxation, public resource distribution and public investment to improve the population's living conditions are ECLAC's main pillars of work, and it not only produces domestic and regional evidence, but also defines concrete recommendations.

What opportunities exist for CSOs to participate and advocate in this arena?

ECLAC is a reliable source of detailed information on the economic development of the region's countries, and is a key institution in visibilizing certain domestic public policies and promoting consolidation of the regional agenda. One of its most important events is the *Seminar on Fiscal Policy* which convenes IMF, IADB, OECD and ECLAC officials along with the region's finance ministers, to discuss economic and fiscal issues in the region. The event is open to civil society representative and academics, who can question the officials and experts after hearing their presentations.

In addition to exchanging information with and questioning public officials who decide on domestic economic and fiscal matters, the Seminar is also a monitoring space where ECLAC's staff presents an overview of the fiscal situation in the region with its annual report, the *Fiscal Panorama of Latin America and the Caribbean*. In 2019, Alicia Bárcena (Executive Director of ECLAC) highlighted the region's persistently high levels of tax evasion as an issue of great concern, which countries should be addressing.

Another ECLAC event is the *Forum of the countries of Latin America and the Caribbean on Sustainable Development* which aims to facilitate coordination among the region's governments, the private sector, civil society, and the UN for the implementation of the 2030 Agenda for Sustainable Development in Latin America and the Caribbean. Parallel meetings are organized to promote exchanges between members of civil society and officials of the participating governments and organizations.

As an official multilateral organization, ECLAC's declarations are an important tool for civil society, and its expertise is well-recognized and greatly valued. Therefore, finding areas of synergy and collaboration with ECLAC could be a useful way of establishing a regional fiscal justice agenda. A good example is the report *Time to Tax for Inclusive Growth*, or the more recent report *Tax Incentives for Businesses in Latin America and the Caribbean*, jointly prepared by OXFAM International and ECLAC. It emphasizes the weakness of tax systems in combatting inequality in the region, underutilization of the potential of progressive direct taxation and the proliferation of unjustified tax incentives for business.

In this way, ECLAC's reports provide reliable and technically rigorous tools that can be used in advocacy in other spaces, domestically, regionally and internationally.

Opportunities and challenges of advocating before ECLAC



The fact that ECLAC is not a human rights body is the main challenge for conducting advocacy efforts. Although it has included the human rights

framework as a reference, its work in this direction is in the early stages. However, among organizations with the capability of monitoring countries' economic development, ECLAC stands out for maintaining a discourse of social protection and promoting a more active role for the State as a driver of the economy. While organizations such as IMF and IADB usually demand austerity measures in public spending and fiscal cutbacks, ECLAC has consistently promoted the need for greater efforts in combatting tax evasion and generating fiscal space, as well as strengthening the progressiveness of tax systems and mobilizing resources to fulfill the 2030 Agenda.

An important advantage of ECLAC is that it exercises great influence over and maintains direct communication channels with the region's finance ministers. This is not



only because ECLAC is a technical body, politically neutral and expert in economic development, but also because there are specific spaces at which all the ministers convene before ECLAC's executive secretary to discuss the region's economic challenges.

Domestic Advocacy

The Toolkit aims to guide the advocacy of organizations wishing to expand their experience regionally and internationally. However, it is essential that these efforts should be accompanied by coordinated actions domestically, where many fiscal policies are defined and implemented.

Advocacy actions can range from visibilization campaigns, mobilizations and exerting pressure on different levels of government, to holding working groups with different actors and pursuing strategic litigation. Its success depends to a large extent on the political and social composition of each country: in some places it might be useful to encourage the media to cover the budget debate and tax reforms, while in others it would be more effective to initiate a collective case denouncing the lack of progressivity of the fiscal system and its effects on rights. Strategies will depend on whether spaces exist for collaborating with legislators, commissions and parliamentary advisors, and the level to which national human rights agencies commit to these issues. It will also vary according to the degree of access to the Executive and Ministry of Finance officials, as well as the case law doctrines of each country, and the cultural and institutional characteristics of the judiciary.

Over and above the domestic strategy of civil society organization, it is crucial that they pursue regional and international coordination, by forming partnerships and coalitions that can help to give feedback on the progress achieved at all levels. In fact, some global processes, such as the 2030 Sustainable Development Agenda, can also be used as opportunities for domestic advocacy, by training public officials in the development agenda to use a human rights approach, and forming working groups with government agencies so they can comply with their commitments to the Agenda more effectively.

Another useful opportunity is offering information to and collaborating with legislators and parliamentary advisors, who usually address fiscal policy issues without necessarily having the expertise or full understanding of the human rights consequences of certain fiscal decisions. An example of this was the **congressional hearing held in Brazil** when public spending was frozen, at which INESC, with OXFAM and CESR, presented evidence proving that the proposed reform would deepen the existing socioeconomic inequalities. Aware of how fiscal policies, and in particular austerity or

fiscal consolidation policies, can have devastating impacts on human rights, CESR has developed a methodology for assessing the human rights impacts of these policies.

Another promising avenue is to work with National Human Rights Institutions (NHRIs) to ensure the implementation of a more robust assessment of the generation and distribution of public resources as a strategic area for guaranteeing human rights. In this respect, the regional network of NHRIs has proven receptive to these issues as evidenced by the Mérida Declaration on the Role of National Human Rights Institutions in Implementing the 2030 Agenda for Sustainable Development. The Declaration emphasizes the commitment of these institutions to “Provide advice to national and local governments, rights-holders and other actors, to promote a human rights-based approach to implementation and measurement of the [2030] Agenda.”³⁰ National development plans and budgets are cited as some of the instruments to which the human rights approach can be applied.

Strengthening the capacities of National Human Rights Institutions (NHRIs) to approach fiscal issues

In May 2018, CESR, in association with the Danish Institute for Human Rights and the Global Alliance of National Human Rights Institutions, held a workshop in Tegucigalpa, Honduras, to strengthen the capacities of these institutions in tackling the systemic causes of human rights violations, with an emphasis on monitoring fiscal policy. The workshop brought together representatives of 16 Latin American NHRIs. Some of these, such as the National Commission for Human Rights (CNDH) in Mexico and the Public Defense Ministry of the Autonomous City of Buenos Aires have played a leading role in developing tools and resources for analyzing fiscal policies from a human rights perspective.

³⁰International Coordination Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights. The Mérida Declaration on the Role of National Human Rights Institutions in Implementing the 2030 Agenda for Sustainable Development, par. 17.2.

Conclusions



As was mentioned at the outset, fiscal policy and human rights are deeply interlinked. Even when CSOs succeed in achieving excellent standards relating to States' human rights obligations, these may not materialize if civil society cannot influence their financing, the reduction of socioeconomic inequality and the combatting of State capture by powerful interest groups. This toolkit aims to guide the global and regional advocacy of organizations committed to human rights and fiscal justice, by promoting cooperation and the building of national, regional and global partnerships.

In order to convince key organization such as the IMF, OECD and ECLAC to advance towards the implementation and monitoring of fiscal policies with a human rights approach, each organization can contribute by sharing experiences and evidence. It is important to take into account that strategies may vary according to the opportunities and challenges that each institution presents. Civil society organizations may find human rights bodies more accessible but it is important to have clear objectives as to what is needed, as CSOs can obtain inputs that will be useful for advocating before other actors: Is the aim to advance towards a more accurate human rights standard? To obtain a specific declaration condemning a particular event? To secure useful guidelines and indicators for monitoring a certain domestic public policy?

In the case of financial and development organizations, it is important to coordinate with relevant actors, such as other civil organizations, and also to incorporate the stan-

dards and perspectives of official organizations. Given their capacity to influence governments and political decision makers, the main goal is not to obtain commitments to modify their own practices. In this respect, some will be easier to influence and more receptive to the human rights framework than others.

Forging partnerships and finding the right path of action to secure a fiscal perspective in the human rights agenda and a human rights approach in fiscal policies requires constant experimentation and learning. Some actors will be more receptive than others but it is important to persevere with the task. The road is long but influencing those who make decisions about public resources is essential for achieving the full enjoyment of human rights.



ABOUT CESR

The Center for Economic and Social Rights (CESR) was established in 1993 with the mission to work for the recognition and enforcement of economic, social and cultural rights as a powerful tool for promoting social justice and human dignity. CESR exposes violations of economic, social and cultural rights through an interdisciplinary combination of legal and socioeconomic analysis. CESR advocates for changes to social and economic policy at the international, national and local levels so as to ensure these comply with international human rights standards.

BOARD

Lilian Gonçalves-Ho-Kang-You, Former State Councillor of the Council of State, Netherlands.

Roshmi Goswami, Feminist, Human Rights Activist and Researcher

John T Green (Treasurer and Secretary), Former Professor of Professional Practice/ Nonprofit Management, The New School


Miloon Kothari, Independent UN Former Expert on Human Rights and Social Policy

Karin Lissakers (Vice-Chair), Former President, Revenue Watch Institute

Joe Oloka-Onyango, Professor of Law, Human Rights & Peace Centre (HURIPPEC), School of Law, Makerere University

Rosa Pavanelli, General Secretary, Public Services International

Imad Sabi (Chair), Senior Program Officer, Education Support Program, Open Society Foundations (OSF)



86 Chambers Street, Suite 704,
New York, NY, 10007, USA
Tel: +1 718 237 9145
info@cesr.org
www.cesr.org
Twitter: @social_rights
Facebook: @CenterEconomicSocialRights
Instagram: @economic_social_rights

©2020 Center for Economic and Social Rights.
This work is licensed under a Creative
Commons Attribution-NonCommercial-
NoDerivs 3.0 Unported License.
CC BY-NC-ND

CENTER FOR ECONOMIC AND SOCIAL RIGHTS

86 Chambers Street, Suite 704,
New York, NY, 10007, USA

Tel: +1 718 237 9145

info@cesr.org

www.cesr.org

Twitter: @social_rights

Facebook: @CenterEconomicSocialRights

Instagram: @economic_social_rights



CENTER FOR ECONOMIC AND SOCIAL RIGHTS

SOCIAL JUSTICE THROUGH HUMAN RIGHTS