DISMANTLING THE DOGMAS

of Austerity and Fiscal Injustice in Latin America

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CENTER FOR ECONOMIC AND SOCIAL RIGHTS
SOCIAL JUSTICE THROUGH HUMAN RIGHTS

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This image of a national strike in Colombia is used courtesy of @DiegoEnLaLucha/Twitter.

Introduction

Fiscal reform is essential for resolving Latin America's major challenges. The region will not be able to overcome its human rights deficits and embark on a sustainable development path unless more public resources are generated and allocated to the following priorities:

- Addressing climate change and mitigating its potentially disastrous consequences.
- Eradicating poverty and implementing a safety net of universal social protection.
- Offering basic social services as rights and not just as privileges for those who can afford to pay for them.
- Complying with the remaining Sustainable Development Goals of the 2030 Agenda.

Clawing back the resources lost to corruption, tax evasion and avoidance, and illicit financial flows would significantly contribute to closing the gap in financing required to address these challenges. In addition, the region's States would need to implement major structural tax reforms aimed at broadening the redistributive scope of their tax systems.[1] The private sector cannot and should not replace the State in realizing its duty to mobilize resources and guarantee rights.

In recent years, organizations such as the Economic Commission for Latin America and the Caribbean (ECLAC), the Inter-American Development Bank (IADB) and even several voices within the International Monetary Fund (IMF) and the World Bank (WB) have concurred with civil society organizations and other actors on the need to advance towards more progressive fiscal policies – in which those who have more resources pay more – so that middle- and low-income groups are not unfairly burdened. Despite the consensus on the need to increase tax pressure by means of progressive direct taxation, eliminating tax incentives which have proven to be ineffective, and strengthening the capacity of tax administrations to pursue tax evasion and combat tax avoidance, political resistance persists, which has hampered the ambitious reforms needed to solve these problems.

To a large extent, this resistance is rooted in a number of *myths* or *dogmas* consistently used to argue against structural fiscal reform, which are facilitated by the continuing asymmetry of power held by the wealthy and corporations over social movements and the public interest in general. This asymmetry is also reinforced when economic inequality results in social and political inequalities.

Myths are imaginary stories which alter the true nature of a situation, imbuing it with a value that it lacks in reality. Although literary myths have an intrinsic value, the metaphor of myths is also apt when considering the harmful effects that some false beliefs have on public debate, particularly when they become accepted *dogmas*. Resistance by interest groups to tax reforms affecting them operates not only through lobbying and capturing the State, but also through groundless beliefs which spread widely and help block tax reforms urgently needed in countries throughout the region. These *dogmas* are facilitated by a lack of information and the opacity inherent in fiscal debate. Therefore, an evidence-based debate is essential, not only to advance long-term redistributive policies, but also to demand specific measures that could be implemented immediately.

The purpose of this report is to confront some of the *dogmas* most frequently used to oppose progressive structural fiscal reforms in Latin America. The identification of these *dogmas* was carried out through interviews with those directly involved in the region's fiscal debate in recent years, and also through press analysis and other secondary research on these reforms. In identifying these *dogmas*, it is important to differentiate between reasonable objections and the rhetorical devices that distort the arguments against reforms. Dismantling these *dogmas* involves diligently and consistently contrasting theoretical platitudes and maxims with the most robust empirical evidence available. In this respect, the report puts forward a number of arguments which should be useful for those who defend structural tax reform aimed at reducing inequality, guaranteeing rights and promoting sustainable development.

Dogma 1

"Fiscal policy is fundamentally a technical matter, which has little to do with rights"

A deeply entrenched notion among those who make decisions relating to the mobilization and allocation of resources is that fiscal policies should be decided upon exclusively in specialized institutions or in traditional political spaces. The underlying bias that sustains this dogma is that there is no need to hear other voices beyond those of the technical personnel of planning departments and finance ministries in order to make the right decisions in terms of public finances. Some even think that democratic scrutiny of these agencies, or the excessive influence of citizens' demands, could lead to irresponsible decisions or a counterproductive "fiscal populism."

This position ignores the fact that the way States mobilize and administer public resources is increasingly regulated by procedural and substantive norms of justice, with human rights standards playing a key role. The crucial role of fiscal policy – defined as the set of instruments governing relations between the State and its citizens in matters relating to public resources – is to guarantee rights and fulfill other essential objectives of the State, and this fact has led democratic societies to define the normative frameworks that regulate such policy.

Therefore, fiscal policy must ultimately be considered a human right issue. As such, it cannot be isolated from the State's regulatory obligations, nor be considered a purely technical device that is shaped only by specialized bodies with absolute discretion.

Did you know...?

International human rights obligations limit, demand and direct state actions in order to guarantee the population's rights. These actions also apply to economic reform processes, including fiscal reform.[2]

Several international organizations, and some national constitutions, have acknowledged that human rights standards are fully applicable in relation to fiscal policy.[3] *The Committee on Economic, Social and Cultural Rights*[4] *and the Committee on the Rights of the Child,*[5] *for example, have built up solid doctrine in this area, and several special procedures of the United Nations have focused on tax policies and public spending.*[6] *The Inter-American Commission on Human Rights (IACHR) has also insisted on several occasions that "human rights principles provide a basic framework for the core functions of fiscal policy and taxation" and that they are "fundamental principles fully applicable in fiscal policies." In this sense, "they must be implemented in the entire policy cycle, from tax codes and budget preparation to expenditure allocation, execution and supervision."*[7]

Maintaining the position that human rights have no relevance to fiscal policy, and vice versa, would mean blithely assuming that these policies have nothing to do with issues such as how many children – and of what ethnic group, race, gender and social class – gain access to quality formal education; how many older adults have a minimum pension on which they can live with dignity; how many women can access decent jobs, or what social groups have access to adequate health services. Fiscal policy determines the scope of rights, because what is at stake is not only *how* public resources are allocated but also the *amount* of resources assigned to finance which policies. For this reason, fiscal policy must be subject to the widest democratic debate possible, with the participation of diverse social actors. If human rights standards shape fiscal justice, fiscal democracy – understood as the broadest and most genuine participation by different social sectors in collective decision making on public resources – is what makes the policies adopted feasible and legitimate.

DEEPENING FISCAL DEMOCRACY IN LATIN AMERICA

If fiscal pacts are supposed to reflect plural interests in relation to how societies decide on mobilizing, managing and distributing their public resources, then women's organizations, Indigenous peoples and Afro-descendant communities, and trade unions, among other actors, should have the option of actively participating in decision-making processes on issues such as debt, taxes and budgets.

Several initiatives have arisen which broaden the view on what fiscal policy with a gender, ethnic or racial approach might look like. Ranging from the *Lima Declaration*[8] and the *Bogotá Declaration*[9], to the collaborative work between CESR, Akubadaura (an Indigenous rights organization in Colombia) and other Indigenous and Afro-descendant groups, and the initiatives of the fiscal justice networks in the region to indigenize the fiscal agenda,[10] these combined efforts are paving the way to strengthening fiscal democracy by integrating peoples who are traditionally excluded from fiscal debate.

Dogma 2

“There simply isn’t enough money for all these rights”

One of the dogmas most widely heard, in different variations, is that any fiscal policy which would guarantee rights would also be fiscally unsustainable and unfeasible. “It’s naive to think that fiscal policy can realize rights,” or “There will never be enough resources to make the State model set out on paper a reality,” are just some of the expressions of this dogma.

It is true that public resources are limited and this can lead to challenging dilemmas in allocating budgets to cover different social needs. But these variations of the dogma are used to discredit any fiscal demand perceived as excessive or unrealistic and serve to preserve the status quo of fiscal restrictions, even when the State still has leeway in mobilizing resources.

Latin American States *can* and *must* mobilize more resources to guarantee rights. International norms that the region’s States have ratified establish the duty to mobilize the maximum of available resources equitably and sustainably, and allocate and spend such resources to guarantee rights efficiently and without discrimination (see Did you know…? on the right).

States have several alternatives to mobilize more resources and distribute them more justly, in ways that enable them to fulfill their human

Did you know...?

Article 2.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR, ratified by practically all the Latin American states) states that: “Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights […] by all appropriate means.

Similarly, the American Convention on Human Rights, in Article 26, establishes that “The States Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires.”

It is noteworthy that these provisions not only establish guidelines on how States should direct or spend public revenue, but also oblige them to “mobilize” their available resources, or in other words, to extend the fiscal space in order to advance expeditiously towards the full enjoyment of rights, with no discrimination or unjustified delays.

rights obligations. These obligations should not be seen as abstract and unrealizable mandates on how to spend resources while ignoring fiscal restrictions, but instead as policy guidelines for resolving dilemmas of distributive justice arising when States mobilize and allocate public assets.

GENERATING FISCAL SPACE IN WAYS COMPATIBLE WITH RIGHTS

Aware of the need to spell out the ways the human rights framework can provide concrete policy guidelines on how to address fiscal issues faced by States, a group of organizations in Latin America are driving a participatory process to produce a set of *Human Rights Principles and Guidelines in Fiscal Policy*.[11]

This process will draw on contributions from other actors to elaborate fiscal policies more closely aligned with human rights. For example, a joint report by the ILO, UNICEF and UN Women documents a range of options implemented by countries to finance social protection, even in times of economic restrictions when some voices had declared there were not sufficient resources available (Ortiz, Cummins, & Karuanethy, 2017). Some countries have generated more revenue through **progressive taxes** (i.e., increasing personal income tax and property tax) to finance social investment and even programs promoting human rights (De Schutter, 2017). **Tackling tax abuse and strengthening the capacity to raise taxes** is another promising alternative to fiscal austerity. In Kenya, for example, a modest investment in the tax administration led to an increase of USD 33 million in tax revenue in 2012, which represented a return on investment of USD 1,650 per dollar spent (OECD, 2014: 174). Over 60 countries have successfully **renegotiated debts**, and over 20 have cancelled their debt, considering it to be illegitimate, such as Ecuador, Iceland and Iraq, using the savings from debt servicing for social programs. A significant number of developing countries have used deficit spending and more flexible macroeconomic frameworks during the global recession to attend to pressing demands at a time of slow growth and to support socioeconomic recovery. Costa Rica and Thailand reassigned military spending to universal healthcare; Indonesia, Ghana and many other developing countries are redirecting their fuel subsidies to finance social protection programs; Bolivia, Mongolia and Zambia are financing universal retirement pensions, subsidies for dependent children and other social programs on the basis of increasing taxes on mining and gas; Algeria, Mauritius, and Panama, among others, have supplemented their social security revenues with high **taxes on tobacco**; Brazil, in the past, used a **tax on financial transactions** to expand social protection coverage; Chile and Norway, among others, are using fiscal reserves to support social development; some low-income countries are receiving **North-South and South-South cooperation resources**, such as El Salvador and Guinea-Bissau, while others are taking strong measures against **fiscal abuse** of different kinds, from personal income tax evasion and avoidance to corporate tax evasion and avoidance. All of these examples point to the menu of options that governments of all kinds have, rather than closing the door on increasing financing to guarantee rights. An updated version of the report by Ortiz and Cummins sets out a guide to build consensus on how to use these options to expand fiscal space through social dialogue.[12]

Source: Adapted from CESR's Assessing Austerity (2018, p. 21).

Dogma 3

“Economic growth is enough, and that should be our priority”

Another dogma which is often resorted to as a pretext for not undertaking structural tax reforms insists that ensuring economic growth is the absolute priority of States, and that the rest will follow automatically from growth, including poverty reduction and improvements in the fiscal circumstances.

However, as several economists and human rights experts have pointed out, poverty cannot be addressed and eradicated without a broad framework of redistribution policies that include fiscal management.[13]

Bearing in mind the development levels of the countries in the Americas, poverty is not an unfortunate or inevitable circumstance but rather an intolerable injustice. The fact that in all countries the income per capita amply exceeds the poverty line suggests that a key ingredient in eradicating poverty is an appropriate dose of redistributive policies, which would counteract the huge inequality in the distribution of wealth, income, opportunities and power, while at the same time laying the foundation for a more equitable development model. Poverty, therefore, is perpetuated by the absence of deliberate political decisions to combat it. According to the World Bank, if inequality is not reduced considerably, especially in countries where disparity and poverty reach high levels, the world will not reach its goal of ending extreme poverty by 2030.[14]

Although economic growth may indeed play a key role in poverty reduction, the evidence in Latin America suggests that by itself it is insufficient for achieving poverty eradication and generating sustainable structural changes that might contribute to equality.[15] Why is this? Because economic growth is not benefitting the whole population, nor is it generating sufficient revenue for States or other basic conditions through which progress can result in a better quality of life for the majority and not just for the few. As ECLAC asserts: “The culture of privilege and the current style of development accentuate the differences between economic centers and peripheral areas, while at the same time generating an unsustainable degree of polarization of income and wealth, which increases the power of the more privileged groups to establish and maintain the rules of the game that favors them.”[16]

In addition, without modifying the current development model, the commitment to economic growth as the main vehicle for eradicating poverty will clash with planetary environmental boundaries. If all countries aim to eradicate poverty by following the current course of growth without making deep structural changes, the threshold triggering an irreversible process towards climate catastrophe will be crossed.[17] Although the region is not the main global producer of greenhouse gasses, it does possess a significant portion of the environmental reserves on which humanity depends to mitigate their effects. Protection of these reserves and the roadmap towards a sustainable development model require transformations which will not happen under the current growth model.

Empirically, poverty reduction can be explained by two different effects: an increase in the population's income (*income effect*) or by a pro-poor distribution of income (*distribution effect*). According to the World Bank, "reducing each country's Gini index by 1% per year has a larger impact on global poverty than increasing each country's annual growth rate 1 percentage point (pp) above IMF forecasts."[18] In Latin America, for example, one third of poverty reduction since 2010 has been attributed to the *distribution effect*.[19] In fact, in some countries of the region, improvements in the income per capita were not reflected in substantial reductions in poverty—owing to worse distribution, as was the case in Paraguay.[20] Given the economic downturn in Latin American countries, the *income effect* of poverty reduction will be weakened. As a result, if sustained poverty reduction is to be continued, it will be necessary to implement a more ambitious set of redistributive policies. Furthermore, the fall in general poverty rates hides another phenomenon, which is that men have benefited more than women,[21] as well as social groups in better situations than racial or ethnic minorities, or the traditionally discriminated-against territories.[22]

Did you know...?

In its Poverty and Human Rights Report, the Inter-American Commission on Human Rights (IACHR) pointed out that "Poverty and extreme poverty cannot be addressed and eradicated without a broad framework of redistribution policies that reduce the region's extreme socioeconomic inequality." In this sense, it states that "it is not possible to analyze States' efforts to eradicate poverty without examining their fiscal policy."[23]

Because of its role in mobilizing resources to finance public policies and redistribute revenue and wealth, fiscal policy can make an indispensable contribution to combatting poverty and the different forms of inequality in ways that economic growth alone cannot achieve. Fiscal policy, in addition, can enable a change towards more environmentally sustainable economic growth, by incentivizing investment in renewable energies and the reduction of greenhouse gas emissions (through taxes on fossil fuels and subsidies to alternative energy sources and other activities that mitigate the effects of climate change).[24] It also facilitates a move towards more inclusive growth, which could reduce inequality and enable States to genuinely fulfill their commitments to the 2030 Agenda striving to "leave no one behind."

HOW CAN THE CONTRIBUTION OF FISCAL POLICY TO THE REDUCTION OF POVERTY AND INEQUALITY BE ENHANCED?

Despite the broad consensus that fiscal policy should improve the situation of the poorest people, in several Latin American countries a significant segment of the population in the low-income deciles are net payers, rather than beneficiaries of the fiscal system as a whole. This means that they contribute more than they receive. In Brazil and Mexico, one out of three people living in poverty find themselves in a worse situation after paying taxes and receiving subsidies and cash transfers, and in Bolivia and Guatemala, this is true for two out of three people.[25] In addition to inequality's negative impact on economic growth[26], there is evidence associating it with the reduced capacity of economies to adjust to external shocks[27], lowered quality and confidence in institutions[28], poor performance in several social indicators[29], reduced social mobility[30] and greater political polarization[31], among other phenomena. This has led multilateral organizations and other actors to acknowledge that high inequality has enormous economic and social costs[32], and that fiscal policy is one of the key instruments in addressing it.

States and civil society have access to practical instruments to periodically assess the redistributive scope of their country's fiscal policy and its contribution to poverty reduction, in order to undertake reforms that strengthen both aspects. The Diagnostic Questionnaire of the *Commitment to Equity (CEQ)* project, for example, is a comprehensive methodology aimed at answering the following questions accurately: a) How much redistribution and poverty reduction is being achieved in each country through social spending, subsidies and taxes?, b) How progressive are tax collection and public spending?, c) And within the limits of fiscal prudence, what could be done to increase redistribution and reduce poverty in each country through changes in taxation and spending?[33]

This image of a protest in Chile is used courtesy of @tj_toro9/Instagram.

Dogma 4

“The size of the State and the expense of maintaining it are out of control”

It is often said that States assume excessive and over-reaching powers, and that fiscal problems derive from the high spending required to sustain their bureaucracy. But, is it necessarily bad that a State has high levels of public spending? High public spending is not in itself bad or inefficient. In fact, the scope of rights depends to a large extent on the amount of resources that States can generate to finance the level of spending that enables them to fulfill their functions.[34]

Public spending is a fundamental component in guaranteeing rights and narrowing disparities, and closing these gaps is important for achieving long-term economic growth.[35] For example, high public spending may indicate that a State allocates a large portion of its public investment to social protection systems, which has been identified by researchers as a factor contributing to inclusive growth and increased productivity and employability, as human capital is improved. They also “boost the domestic economy and demand, and facilitate the structural transformation of the economy.”[36]

In fact, countries with higher income levels tend to generate a greater proportion of national revenue and depend more on personal income tax (which has a greater redistributive effect) than do poorer countries. Historically, it is very difficult, if not impossible, to find examples of successful development strategies in which governments have not increased their tax base and, as a result, their States’ capacity to better fulfill their functions.[37] The Inter-American Development Bank has demonstrated that government participation in the economy in high-income countries – measured by public expenditure as a percentage of GDP – is almost twice as large as in middle- and low-income countries, including in Latin America and the Caribbean (40% vs 20% of GDP, respectively).[38] By way of example, total public spending in countries such as France, Finland and Denmark is over 55% of GDP[39], while in Argentina and Brazil (the countries with the most public spending in the region), it is around 35% of GDP.[40]

Unlike countries with more revenue, in which social spending may exceed 20% of GDP, the average spending rate in Latin America is around 12%. This means that greater efforts are required to increase and improve the provision of quality public goods and services. As ECLAC points out, “[e]xpenditure quality issues notwithstanding, in most of the region’s countries, **insufficient spending**

constitutes the main limitation on providing public goods. In reality, the problem is twofold: little is spent, and what is spent is often spent unwisely."[43] The rate and quality of expenditure are two different aspects. The amount spent does not necessarily imply inefficiency. On the other hand, high public spending does not necessarily threaten fiscal sustainability. In fact, some of the countries with the greatest public spending in the world, such as the [...] Scandinavian economies, also have high standards for fiscal sustainability.[44]

When applied to the regional context, this is linked to the fact that **fiscal imbalances are not necessarily due to high public spending but rather to other factors, including weak performance in tax collection**. In some contexts, the myth of high public spending as the cause of the crisis has been put forward even when there was no evidence of increased spending.[45] The possible causes of a deteriorating fiscal situation may include slow economic growth, loss of revenue (owing to factors not related to growth), and increased debt servicing, among others. Automatically attributing a worsening fiscal situation to increased spending may lead to mistaken policy responses which, in addition to not solving the root causes, create further problems. Several potential revenue sources exist which could serve to finance policies to overcome the main deficits in social and economic rights, without affecting fiscal sustainability.

Did you know...?

Multilateral institutions are shifting towards acknowledging the importance of redistributive tax policy in development strategies, as evidenced by the following pronouncements:

"From our work at the IMF, we know that the fiscal system can help to reduce inequality through careful design of tax and spending policies. Think about making taxation more progressive, improving access to health and education, and putting in place effective and targeted social programs. Yet these policies are hard to design and—because they create winners and losers—they create resistance and require courage. Nevertheless, we need to get to grips with it, and make sure that "inclusion" is given as much weight as "growth" in the design of policies. Yes, we need inclusive growth."[41]

Christine Lagarde, ex-Managing Director of the International Monetary Fund

"Governments need to balance goals such as increased revenue mobilization, growth, and reduced compliance costs with ensuring that the tax system is fair and equitable. Fairness considerations include the relative taxation of the poor and the rich; corporate and individual taxpayers; cities and rural areas; labor and investment income; and the older and the younger generations."[42]

World Bank, Domestic Resource Mobilization Program

RESOURCE MOBILIZATION REMAINS A MAJOR CHALLENGE

Latin America has a long way to go in harnessing the potential of its taxation policy to mobilize government resources and this limits the possibility of increasing social spending. While tax revenues in the region's countries in 2017 represented 22.8% of GDP, the average OECD rate was 34.2% of GDP.[46] It is no surprise therefore that social spending in Latin America is around 12% of GDP when it is over 20% for the OECD.[47]

In which areas could governments begin to close this gap?

- In 2017 OECD countries collected an average of 8.2% of GDP through personal income tax (the most redistributive type of tax), while Latin American countries barely raised 1.6% of GDP.[48] This gap equals twice the region's health expenditure. In 2015, ECLAC estimated the income gap between the richest 10% and the poorest 10% in Latin America could be reduced from 28 to 6 times if the effective tax rates were increased to 20% for the richest 10%, and to 10% for the lower deciles, and the subsequent resources were invested in the low-income population.[49]
- The amounts lost to tax evasion and avoidance in Latin American countries reached 6.3% of GDP in 2017, equivalent to USD 335 billion. Income tax evasion losses amounted to 4% of GDP, while governments raised less than half of what they should with the current tax rates.[50] Total losses of this type work out the same as multiplying by nine the average regional spending on housing, community development, water supply and public lighting.[51]
- Combating illicit financial flows caused by manipulating international trade prices could generate resources amounting to 0.05% of the regional GDP as of 2016[52], equivalent to what the region assigns to public investment in non-contributive pension systems, which only cover 29.4% of the population.
- It is estimated that of the world's wealth held in tax havens, some USD 700 billion, belongs to Latin Americans, representing 22% of the region's financial wealth, and the bulk of this amount, around 80%, has not been declared to the relevant tax authorities.[53]

This image of a national strike in Colombia is used courtesy of @mjsarmientoa/Twitter.

Dogma 5

“The deficit is the real problem, and fiscal prudence demands we eliminate it”

First, it is worth pointing out that, even though the sustainability of government spending is a justified concern, the alarm created by fiscal deficits and the obsession with balanced budgets is not warranted. In fact, this fixation may be counterproductive for economic development and collective wellbeing. States need to have the flexibility to run deficits, for example, to reactivate the economy or to stimulate it with strategic investment when financial conditions allow. Straitjacketing governments to prevent them from running deficits when they need to solve greater problems is akin to tying a guard’s hands and then putting those they are supposed to protect at risk, for fear the guard might overstep their duties.

One of the arguments used by deficit “hawks” is that governments, just like households, cannot spend more than they receive. Although this may appear reasonable, the idea that public budgets work in the same way as household budgets is a fallacy.[54] Unlike sovereign States, households cannot levy taxes on other households, nor issue currency or treasury bonds to create money. Households cannot run deficits for years on end and continue to have access to financing mechanisms. Nor can they negotiate the interest rate they pay on debts acquired. Unlike States, households have no obligation to guarantee the provision of goods and services in accordance with the rights citizens enjoy, or to foster economic development or stabilize the economy when cycles are disrupted. Even if fiscal sustainability were a necessary condition to fulfill these functions in the long term, focusing excessively on the deficit could prevent the state from fully carrying out these functions.

Another argument used to defend this dogma is that high fiscal deficits – regardless of their origin – create the perception among investors and creditors that States will be unable to pay their debt. The best way to restore confidence, according to this position, is to “calm the markets” by reducing public spending.[55] This position, however, lacks satisfactory answers to explain why, in many contexts, despite all the sacrifice and the costs to the population caused by deficit reduction, confidence in the economy is not restored and financing conditions do not improve.[56] In fact, recent evidence has sown doubts about the effectiveness of prioritizing the interests of creditors over the needs of consumers and the

Did you know...?

There is no consensus in economic theory as to the relative importance of debt reduction as a policy objective.[60] While more orthodox positions insist that controlling the deficit is necessary to avoid increasing debt that could lead to a sovereign debt crisis (through interest rate hikes) or by affecting investor confidence and economic growth,[61] other schools of thought assert that the case for keeping the primary deficit strictly limited to avoid increases in debt interest rates is unjustified and may be counterproductive.[62] Among the latter are the post-Keynesian schools for whom fiscal policy plays a key role as a stabilizing instrument, particularly when there is little room for maneuvering in terms of monetary policy.[63]

Debt financing, correctly managed, is an important policy instrument. Like any other instrument, it can be misused and generate harmful consequences. These consequences could lead to unsustainable debt which would disproportionally affect future generations or lead to an inflation spike when the economy is operating at the limit of its capacity. However, experience has shown that, if governments run deficits to achieve higher levels of decent and well-paid employment, equitable economic growth and, therefore, increasing tax revenue in the long-term, and they do so under favorable macroeconomic and financing conditions,[64] then there is no reason to consider the deficit itself a problem.

local business base.[57] Argentina and Brazil have suffered the ineffectiveness of this prescription in recent years,[58] and their populations have yet to see the renewed investment and speedy economic recovery promised by their respective governments, with the support of the International Monetary Fund.[59]

What type of spending is cut when the need to reduce the deficit is invoked? Social or investment spending is usually the first to go, insofar as those who are potentially affected lack the power to influence the decision makers who might look out for their interests. Additionally, the defenders of this dogma frequently resist the elimination of tax privileges for large corporations, the review of pardons and tax amnesties, the rationalization of military spending, or the many millions of dollars paid in compensation by States to corporations when they are sued by arbitration tribunals. In fact, usually the political forces that most fervently insist on the need for deficit reduction while their adversaries are in power are the same ones who support increasing the deficit when their own allies return to power, employing measures that cut taxes for the wealthiest, as has happened in the United States.[65] In this sense, their real motives are not aligned with reducing the deficit but rather, preserving their own interests by avoiding more distributive approaches, and thus sacrificing social spending rather than conceding their privileges.

TACKLING THE DEBT ISSUE WITHOUT SACRIFICING SOCIAL SPENDING AND SUSTAINABLE DEVELOPMENT[66]

According to the United Nations conference report on Trade and Development, (UNCTAD) 2019, debt has become a significant driver of the global economy. However, it has not been channelled into productive investment, but largely into financial speculation. For developing countries, this means that their debt, rising to USD 67 billion (the highest in history), is no longer seen as a financial instrument for leveraging their future development but instead as a high-risk financial asset subject to the vagaries of international financial markets and the proliferation of creditors who pursue short-term profits.

This situation compromises the achievement of the SDGs. Based on a sample of 30 countries, the UN Conference on Trade and Development (UNCTAD) estimates that the developing world would have to achieve an average growth of 12% (a remote likelihood in the international economic context), or go into a tailspin with debt levels rising to 185% of their GDP, in order to mobilize the resources needed to comply with the first four SDGs. These scenarios are inconceivable, which makes it all the more urgent to promote concerted multilateral action based on the principle of shared but differentiated responsibilities,[67] which would make debt financing more sustainable.

According to UNCTAD, this agenda could include the following measures, amongst others:

- Incorporate financing requirements as part of compliance with the SDGs, and human rights obligations in an inter-temporal framework, to assess debt sustainability. To achieve this, States could refer to the framework of principles approved by the UN General Assembly Resolution 63/319 in 2015 for debt restructuring.[68]
- A global program of loans linked to the SDGs for developing countries designed to enable participating countries to request loans under favorable conditions, financed by the unfulfilled commitments of 0.07% of GDP by countries with larger incomes.
- A focused program of debt relief related to the SDGs to alleviate immediate liquidity restrictions and to help place the debt of developing countries on a long-term sustainable path without strict political conditions or limited eligibility criteria.
- A framework of rules to facilitate an ordered and equitable restructuring of sovereign debt that can no longer be serviced in accordance with the original contracts, and which would be subject to a set of agreed principles based on international law.

Dogma 6

“When times are challenging, fiscal austerity is the only way”

In times of fiscal constraint, governments face enormous pressure to accept the imposition of austerity and fiscal consolidation programs. Multilateral institutions and even governments themselves usually invoke, in theory, the need to restore fiscal balance and macroeconomic stability, assuming they have the means to do it. Austerity has become the new policy paradigm: in 2018 it was estimated that over two-thirds of countries implemented some form of fiscal adjustment.[69]

Public budgets must doubtlessly be managed prudently and with good judgement, and macroeconomic stability is a key ingredient for a well-functioning economy. But fiscal austerity packages usually include drastic measures, such as severe cutbacks in social spending, dismantling of social protection institutions and policies, and reforms aimed at making the labor market and social security systems more flexible, among other adjustments. So, far from being the right way to deal with fiscal difficulties, they can actually lead to violations of the State’s human rights obligations.[70] And they are not, by any means, the only alternative.

The theoretical and empirical foundation for austerity is weak,[75] and is based on the questionable idea that “expansionary fiscal contractions are possible”.[76] In other words, this counterintuitive idea holds that in order to revive the economy, instead of stimulating it, incentives should be withdrawn. If the economy doesn’t react, the argument is that more austerity is needed, which can actually deepen the crisis.

Austerity is usually based on a simplistic diagnosis of crises which asserts that fiscal problems are caused by excessive public spending. Although it cannot be denied that, in some contexts, excessive spending may be a part of the problem, the causes usually include a combination of factors, such as income erosion, deregulation and accountability failures in the financial sector (or costly rescues of actors in this sector), increased inequality, depressed salaries, reduced demand in medium- to low-income homes, and failures in integration with the global economy.[77] Instead of focusing on the design of policies which can tackle these factors, or restore the State’s capacity to respond to the crisis, austerity policies aim to reduce spending, and not just any type of spending. Rather than prioritizing the reduction of military spending or eliminating tax privileges, austerity policies instead have a significant negative impact on the rights of disadvantaged populations, since assessment that could help to minimize their most harmful effects are carried out in advance. In other words, the brunt of austerity is not borne by those who can afford to make bigger sacrifices, but by those who are poorest.

Austerity measures are being reconsidered even by the institutions who in the past have been their most fervent supporters. For example, experts at the Research Department of the International Monetary Fund have indicated that a consolidation of 1% of GDP adds 0.6% to the unemployment rate in the long-term and increases the Gini indicator of income inequality by 1.5% over five years.[78] They conclude that "the short-term effects of fiscal consolidation have not received sufficient attention," and neither has the fact that in countries with increased fiscal margins for maneuvering, debt ratios can be reduced organically through restoring economic growth, instead of implementing austerity measures. [79]

This image from the campaign against the austerity cap in Brazil is used courtesy of INESC.

Did you know...?

It must be noted that there are important human rights conventions that apply to the implementation of fiscal consolidation programs. First, it is essential to highlight that "all States Parties should avoid at all times taking decisions which might lead to the denial or infringement of ... [human] rights".[71] Although in the case of economic, social and cultural rights (ESCR), the obligation to realize these rights is expected to be progressive; the general human rights duties and obligations of States remain even when resources are limited. In fact, "even where the available resources are demonstrably inadequate, the obligation remains for a State party to strive to ensure the widest possible enjoyment of [ESCR] under the prevailing circumstances".[72] Therefore, States Parties have the obligation to assess the impacts of fiscal consolidation measures on human rights and to take all possible measures to ensure that negative impacts are reduced to the bare minimum.[73]

Second, "[w]here austerity measures result in retrogressive steps affecting the realization or implementation of human rights, the burden of proof shifts to the implementing State to provide justification for such retrogressive measures. In ensuring compliance with their human rights obligations when adopting austerity measures, States should demonstrate: (1) the existence of a compelling State interest; (2) the necessity, reasonableness, temporariness and proportionality of the austerity measures; (3) the exhaustion of alternative and less restrictive measures; (4) the non-discriminatory nature of the proposed measures; (5) protection of a minimum core content of the rights; and (6) genuine participation of affected groups and individuals in decision-making processes."[74] The adoption of regressive measures which are discriminatory or incompatible with basic obligations is considered a human rights violation, even when resources are limited.

THE DUTY TO CARRY OUT ASSESSMENTS OF THE HUMAN RIGHTS IMPACTS OF FISCAL AUSTERITY MEASURES

States and other creditors, including international financial institutions, should demonstrate that their proposed economic reform measures will realize, and not undermine, States' human rights obligations.[80] This has been set out in the Guiding Principles on human rights impact assessment of economic reforms, recognized in a Human Rights Council resolution. The principles assert that States "should carry out human rights impact assessments of economic reform policies considered and taken in response to acute economic and financial crises that are likely to cause adverse human rights impacts."[81] These assessments should be carried out "ex ante, to assess the foreseeable impacts of proposed policy changes, and ex post, that is, looking back to assess the actual impacts of policy change and implementation, in order to address such impacts".[82]

The UN Treaty Committee recommends that the State party conducts a "full evaluation, with the full participation of the social stakeholders, of the effects of its fiscal policy on human rights, including an analysis of the distributional consequences and tax burdens on different sectors, and on marginalized and disadvantaged groups".[83]

The Assessing Austerity[84] methodology designed by the Center for Economic and Social Rights aims to fill the gap on how to carry out assessments in relation to fiscal austerity policies. The manual provides a set of assessment techniques for seeking answers to the following questions:

1. *Do fiscal consolidation measures have a legitimate aim of realizing people's human rights?*
2. *Are the steps taken the most suitable and effective means towards that end?*
3. *Are the measures pursued the least restrictive to human rights, or are other fiscal alternatives available?*
4. *Considering context – and weighing the human rights costs and benefits – is the government complying with its human rights duties when adopting fiscal consolidation measures?*

Dogma 7

“The short-term sacrifice of austerity will bring long-term gains”

Faced with austerity’s negative impacts on human rights and the populations’ well-being, its champions try to justify the sacrifices that some populations have to bear, arguing that these measures will bring long-term collective benefits. The problem is that in many cases these supposed benefits never materialize, despite the fact that the sacrifices demanded are often disproportionately and unfairly distributed, following criteria that have nothing to do with democratic debate or the degree of responsibility of the actors.

This idea of short-term sacrifice in order to achieve long-term gains brings to mind the distinction made by Amartya Sen between the two different ways of approaching development.[85] According to the first, development is “a fierce process, with much blood, sweat and tears, a world where wisdom demands toughness and a calculated neglect of ‘soft-headed’ concerns such as social safety nets, social service [...] and the luxury of democracy”. According to this conception, human rights and the luxury of democracy can be defended later, “when the development process has borne sufficient fruits.” This stern attitude contrasts with the second point of view, in which development is essentially an enjoyable process and, accordingly, should be viewed as an expansion of human freedoms. From this viewpoint, expansion of social rights is not to be seen as a threat but rather a means of enhancing economic prosperity.

The defenders of austerity aim to convince the rest of society that, in times of hardship, investment in early childhood programs, care services, social protection systems, and infrastructure are luxuries that cannot be afforded or which have to be sacrificed even when society has already made gains in these areas. And what is more, they attest that not following their harsh advice will only prolong the agony of the crisis. To reactivate the economy, “necessary sacrifices” must be accepted stoically. Empirical evidence has come to the aid of common sense in rejecting this dogma: the optimal fiscal policy in periods of crisis, except in exceptional situations of extreme fiscal vulnerability, is an expansive fiscal policy.[86] And such policy must be carefully designed so that, given the fiscal restrictions, public spending has the greatest multiplying effect and can produce the appropriate stimulus to reactivate the economy. As part of its efforts, the State’s responses must consider the impact of the investment in guaranteeing rights and ensure that the fiscal stimulus responds to the crisis as an opportunity to advance in closing rights enjoyment gaps due to gender, location, ethnic-racial status, or other factors.

Did you know...?

There is a relatively broad consensus that public spending stimulates economic activity, and the effects of stimulus are greatest during economic slumps.[87] Discrepancies arise on the magnitude of the effects and the form and circumstances in which States should apply the spending.[88]

Despite the discrepancies, the idea of a stimulus coordinated through public investment in strategic areas (financed by progressive taxes and other sources) is gaining ground, and it could be the response that would reactivate an economy, facilitate the transit towards an environmentally sustainable development model, reduce inequalities and address climate crisis. This has been reflected in proposals such as the **Global Green New Deal** *which includes investments to facilitate the transition towards clean energies, calculated to generate a multiplier effect on production of between 1.3 and 1.8 times more than the investment made.[89]*

Another strategic area for public investment, owing to its multiplying effect and its impact on the reduction of many types of inequalities, is investment in early childhood and gender-sensitive public care services. A study produced by the International Trade Union Confederation (ITUC) in 2016 in seven high-income countries revealed that public investment of 2% of GDP could create 21 million jobs.[90] In Latin American countries, with the exception of Argentina, public investment in care services has never exceeded 0.4% of GDP.[91] Given the low rate of women's participation in the labour market, the feminization of poverty and the intergenerational transmission of income disparity, investing in the care economy is a promising policy intervention that could result in achieving several objectives.

Reducing social spending should not be seen as a condition that sustains economic reactivation, but as a situation to be avoided at all costs so as not to hinder or delay it. Social spending merits the maximum protection in times of crisis, not only because of the State's obligations but also for strategic reasons. Low investment in social rights perpetuates cycles of poverty and their intergenerational transmission, and the lasting consequences of the child poverty cycle, as well as other detrimental effects, are often linked to serious social conflicts and institutional instability.[92] Spending on rights should not be seen as an expense, but instead as an investment which can both lay the foundations of future prosperity and prevent new crises.

This image of a protester in Bogotá is used courtesy of Christian Sanchez (@ishamp/Instagram).

A NEW GENERATION OF FISCAL RULES TO PROTECT SOCIAL SPENDING

In order to enhance countercyclical policies and entrench their effects, ECLAC has argued for the urgent need to improve macroeconomic institutions and mechanisms that can be used to respond to adverse situations. This should be taken into account in the institutional design of second-generation fiscal rules, facilitating the protection of social spending in moments of economic slowdown and minimizing volatility in the provision of essential infrastructure and public services. ECLAC has voiced concerns because fiscal adjustment in the region is implemented through public investment, and the multiplier effects are significant.[93] In addition, one of the lessons learned in responding to economic crises is that social protection systems can operate as a means of stabilizing the economy and preventing further impacts if they are implemented in the early stages, which means having available resources.[94]

From a human-rights perspective, the fulfillment of essential minimum obligations and the restriction of unjustified delays necessitates incorporating safety clauses and other mechanisms in fiscal plans to protect strategic social spending during economic crises. Such clauses should be included in the design of second-generation fiscal rules and one promising option could be to establish escape clauses for crisis periods when social spending might be compromised. This would involve reconsidering measures such as establishing growth limits (ceilings) on spending during periods of slowdown which, instead of restoring confidence in the economy, may tilt it further into crisis. Alternatively, rules aimed at regulating future spending ("fiscal forward guidance"[95]) would be a promising option, once the economy has moved onto a path of sustainable recovery.

Dogma 8

"The tax system has to be competitive so we must lower taxes on corporations and the rich"

One of the most often-repeated dogmas in the region is that corporations and the owners of capital pay very high taxes, creating a disincentive to investment because it reduces their profits considerably and makes the country less attractive to private finance.

This dogma is disputable for conceptual and empirical reasons. Conceptually, the notion of competitiveness underpinning this myth – understood as a reduction in corporations' operational costs due to lower taxes – suffers from a very narrow interpretation and is counterproductive to the interests of countries and businesses in the region. Existing evidence suggests that, in many developing countries, fiscal incentives and other forms of tax breaks do not offset the adverse investment climate due to macroeconomic instability, lack of infrastructure, and lack of developed markets with minimum levels of governance.[96] On the contrary, the reduced revenues resulting from this narrow view of competitiveness could affect corporations negatively, as States would be deprived of the valuable resources needed to invest in infrastructure, quality education systems, and services that would improve the investment climate. This is particularly true in Latin America, where corporate tax contributes considerably to total revenues.[97]

Moreover, it is worth pointing out, that the amount invested does not ensure the quality of investment, which is why the OECD has begun to develop indicators to measure the caliber of direct foreign investment received by countries, with the aim of promoting investment in sustainable development, within the financing framework of the SDGs. In relation to this, experts in this area have advised that, for example, a truly positive type of investment for the development of countries is generally the investment in new installations (*greenfield investment*). Competitiveness based on reducing taxes tends to attract a greater proportion of investors who create few links with the local economy—for example, the type of investment that only locates the company's financial department in a tax-free country. This type of capital does not involve the installations where the companies operate, which in fact generate added value for the host country (in terms of economic activity, number of jobs, and technology transfer).[98]

On the other hand, measures to attract investment through tax incentives have especially benefitted the extractive industries,[99] which should not be authorized without duly carrying out genuine processes of free and informed consultation with the Indigenous peoples and communities living in the territories where extraction takes place, as well as with their prior consent. The interest in attracting these investments should be strategically evaluated taking into account the views of Indigenous peoples, Afro-descendant and *campesino* (small-scale farming) communities on tax policy and national development, as they have had to bear the brunt of the environmental impacts in their territories and the devastating consequences on their rights caused by extractive projects.[100]

Furthermore, in the case of extractive industries, or others who are interested in the country's raw materials, the incentive for investors is not the tax rates but the location of the resources. In other words, reasonable changes to corporate tax will not dissuade an oil company from exploiting an oil field which can only be found in that country.

Regarding the empirical evidence, it is not correct that corporate taxes in Latin America are particularly high.[106] The effective tax rates on corporate revenue are higher than those on capital in almost all

Did you know...?

The **race to lower corporate taxes** *and the* **use of tax havens** *and other loopholes in the international tax system, which corporations exploit to reduce their tax contributions, generate enormous costs for developing countries and have been acknowledged as urgent problems by multilateral institutions and human rights organizations.*

The **International Monetary Fund***, for example, has estimated that* **profit shifting to low or no tax jurisdictions** *through* **transfer pricing** *deprives States of substantial resources. Revenue loss for developing countries from profit shifting is estimated at 1.3 percent of GDP (around USD 200 billion a year), a larger loss in comparison to OECD countries.[101] Christine Lagarde, ex-Managing Director of the IMF, declared in March 2019 that "the public perception that large multinational companies pay little tax has led to political demands for urgent action" and that "the current international tax architecture is fundamentally out of date. By rethinking the existing system [...] all countries can benefit, including low-income nations".[102]*

In a document for public consultation concerning how to address the challenges of taxation in the digital era, the **OECD** *highlighted the need for concerted global action to stop the harmful r***ace to the bottom on corporate taxes***. The OECD noted that if this trend is not reversed, there were risks of having to shift the tax burden to finance public goods onto personal income and consumer taxes, thus undermining the fiscal sovereignty of nations and their representative bodies to choose the desired level of redistribution of their tax policy.[103]*

Faced with these problems, the human rights framework imposes specific obligations on States.[104] *The Committee on Economic, Social and Cultural Rights, a United Nations body which oversees the application of the International Covenant on Economic, Social and Cultural Rights by its 169 States Parties declares:*

"States should combat transfer pricing practices and deepen international tax cooperation, and explore the possibility to tax multinational groups of companies as single firms, with developed countries imposing a minimum corporate income tax rate during a period of transition. Lowering the rates of corporate tax solely with a view to attracting investors encourages a race to the bottom that ultimately undermines the ability of all States to mobilize resources domestically to realize Covenant rights. As such, this practice is inconsistent with the duties of the States parties to the Covenant."[105]

countries: in Brazil, Colombia, Guatemala and Venezuela, such income is taxed at twice the rate of capital.[107] In fact, in the past three decades, there has been a continuous shift of the corporate tax burden towards consumers and workers. While the average corporate tax rate in the region fell from 43.9% in 1985 to 26.8% in 2015, the average value added tax (VAT) rate rose from 10.6% to 15.2%.[108] Since 2006, the proportion of corporate taxes has fallen from 17.6% to 15.5% of total revenue in 2017. This does not mean that the tax burden should not be distributed more fairly among companies, but neither does it justify further general reduction of corporate tax rates (instead of more targeted measures to support small and medium-sized businesses).

It is clear that this myth has been used effectively, and will continue to be used to quicken the race to the bottom on corporate tax and to promote all sorts of tax privileges for large companies. If we want to defend the State's interests and those of its citizens, it is essential to dismantle this dogma.

THE DEBATE ON TAX BENEFITS (AND EXPENDITURES)

Tax expenditures are "revenues that governments do not collect because of specific exemptions and exceptions to the tax code, with the aim of benefiting certain groups of taxpayers or certain sectors, or promoting specific activities and behaviors."[109] ECLAC estimates that these tax exemptions (which specifically favor the corporate sector in countries such as Chile, Costa Rica and Uruguay) result in an average revenue loss of 3.7% of GDP in Latin America. In some countries, such as the Dominican Republic and Uruguay, tax expenditures exceed 6% of GDP. And in Colombia it rises to 7.55% of GDP.[110] Although some of these benefits may be well intended, as in the case of the VAT exemption on basic essential goods or female hygiene products, or its return to the lower-income population, the vast majority are not duly justified nor are they subject to systematic and independent assessment as to their effectiveness.[111]

The LATERAL Project is a collaboration among several Latin American organizations seeking to promote policy reforms through comparative research and joint lobbying on the impact of tax expenditure on inequality in the region's countries. In order to improve transparency and accountability in this field, the project has proposed the need to: 1) promote better integration between tax expenditure reporting and the annual budget process, 2) include a detailed list of all tax expenditures in tax expenditure reports, and 3) streamline the process of approving and reviewing tax expenditures, including impact assessments, to make it more transparent and subject to independent scrutiny.[112]

Regarding the last point, Dejusticia supports adopting a number of criteria developed by Colombian constitutional jurisprudence, in which all benefits should be subject to assessment under the following criteria[113]:

1. Assess whether the tax benefit is an effective means of achieving legitimate objectives (rationality test);
2. Verify if the benefit is strictly necessary to achieve its proposed aims or if, on the contrary, there are more suitable and less costly alternatives (necessity test);
3. Assess if the benefits are greater than the costs incurred based on independent evaluation (strict proportionality test)

Dogma 9

“Equality cannot be achieved through the tax system”

Another often-repeated dogma says that in order to achieve greater equality, taxes are not the right tool because their main function is to raise revenue without creating distortions in the economy. As a result, it is alleged that inequality reduction must be achieved through adjusting public spending and not through the tax system.

Nevertheless, as the Inter-American Investment Bank declared in their eloquent book on the subject, it is obvious that taxes are **more than revenue**. In addition to providing resources to sustain the modern State’s functions, taxes are a powerful instrument in advancing towards more egalitarian societies and stimulating development. Latin America is still far from fully tapping the potential of taxes for any of these objectives.[114]

Although it is true that the contribution of public spending to the reduction of inequality is greater than that of the tax system in practically all countries,[117] societies that achieve considerable redistribution through spending also do so through taxes.[118] The sufficiency and progressiveness of tax systems are key determinants of inequality levels (and both are relevant, insofar as having one without the other would imply reducing the redistributive potential of taxation.)[119] The progressiveness of spending, in fact, can be restricted by a regressive tax system and, moreover, the underuse of progressive direct taxation reduces the revenue potential to finance progressive social spending. Studies trying to explore a causal

Did you know...?

In their diagnosis of Latin American tax systems, the IADB found that, although notable progress has been made, it is still true that **collection is very low, taxes are barely progressive, tax evasion is rampant, and tax administrations are very weak**. *Three other problematic characteristics also warrant attention: the* **high level of volatility of fiscal revenue,** *the* **low tax effort of subnational governments,** *and the* **largely overlooked use of taxes to correct externalities**, *such as environmental issues and climate change*[115] *In addition to highlighting these problems, the human rights approach has focused on other sources of inequality, and the fact that tax biases have accumulative and intersectional impacts on marginalized populations: women, Indigenous peoples and Afro-descendant communities, and those with disabilities. The* **excessive dependence on the extractive sector** *has also been noted, as well as the limited scope of the procedural principles of* **transparency, participation and accountability** *as applied to fiscal matters.*[116]

connection have found that the reduction in effective tax rates on the wealthiest explains to a large extent the greater concentration of wealth in that segment of the population.[120]

In Latin America, most fiscal revenue comes from indirect taxes (for example, taxes on consumption, among them the value added tax [VAT]) and less from direct taxes. By contrast, this relation is inverted in the OECD: direct taxation makes a greater contribution than indirect taxes.[121] This partly explains why the redistributive capacity of tax systems is limited and it also accounts for the bias against specific population groups within the tax system as a whole. In all Latin American countries, women are over-represented in the low-income deciles, to which must be added a persistent income gap and the low status of women's unpaid work, which forms part of the care economy.[122] Narrowing the gender pay gap depends not only on adequate public spending to close these disparities, and the provision of gender-sensitive public services, but also on having a tax system which distributes the tax burden equitably. Moreover, the gender bias of tax structures is reinforced by increasing the dependence on regressive indirect taxation which disproportionately affects these deciles, and by not taking into account the way in which other taxes affect men and women differently.[123]

In fact, denying the role of tax systems in reducing inequality has supported the dogma that the best way of increasing revenue is to increase VAT, mainly for reasons of administrative ease and political feasibility. Although indirect taxes in some of the region's countries may have an equalizing effect,[124] and the regressive aspect of taxes such as VAT could begin to be corrected by a system facilitating refunds to people with lower incomes,[125] **the great redistributive potential lies in direct taxes, including property and income tax**. In relation to the latter, 71.8% of OECD tax revenue came from personal income taxes in 2014, while in Latin America the situation is practically the opposite: only 36% is collected from individuals and 64% from companies. The region's States must overcome their traditional aversion to paying personal income tax and capitalize on its revenue collection and redistribution potential.[126] The recent cases in Chile and Uruguay have demonstrated that when there is political will to follow through and the reforms are well designed, the results are significant.[127]

Several multilateral organizations have pointed out that the region's countries that are unwilling to increase revenue levels and the redistributive capacity of their tax systems will not be able to mobilize sufficient resources to fulfill their commitments, and these include their economic, social and cultural obligations, as well as the Sustainable Development Goals.[128] A new wave of fiscal reforms for equality, human rights and towards a more sustainable economy can wait no longer.

THE NEED FOR A NEW WAVE OF FISCAL REFORMS

There is a practical consensus among the organizations that influence the formulation of economic policy regionally that a new wave of fiscal reforms is urgently needed:

“No major reform is more important for the sustainable and inclusive growth of Latin America and the Caribbean than the one pending in the region’s fiscal and tax systems. We have known this for a long time [...],” states the IADB.[129]

“The new global macroeconomic context [...] appears conducive to tackling a number of tax reforms, within a framework of fiscal coherence and sustainability, with the aim of ensuring the mobilization of more resources for financing social spending, consolidating macroeconomic stability, and improving substantially the effects of the tax systems on income distribution,”[130] ECLAC has declared.

This new generation of tax reforms should aim first and foremost to:

- Adjust the level of tax revenue in order to ensure macro-stabilization and enable the financing of the 2030 Agenda and the programs needed to overcome deficits in economic, social, cultural and environmental rights.
- Improve the progressiveness of fiscal systems, by raising taxes on wealth and personal income, broadening the tax base, eliminating unjustified exemptions and protecting the income of the poorest.
- Address the principles of horizontal and vertical equity in taxation as a priority and overcome the territorial and gender biases in fiscal policy.
- Guarantee the financing of sub-national governments and, by extension, the principles of co-responsibility through property taxation.
- Reduce the dependency on and volatility of income from natural resource extraction and create suitable incentives to advance towards a path of sustainable development.
- Strengthen tax administrations, particularly regarding their capacities to tackle tax evasion and avoidance and to support international tax cooperation.
- Adapt fiscal systems with a view to the future, fully harnessing the potential of taxes to create incentives to use resources more sustainably and protect rights such as health, housing and the environment.

Dogma 10

"Combating corruption is enough and structural tax reforms are not necessary"

The fight against corruption is closely linked to state obligations to guarantee rights. Combating corrupt networks is, without a doubt, a fundamental aspect of guaranteeing a licit and efficient use of public resources and, ultimately, of satisfying rights. However, it is often assumed that combating corruption would make tax reforms unnecessary. Unlike the previous dogmas, this one functions differently, identifying losses due to corruption as the only cause of the lack of sufficient public resources, and ignoring other equally relevant motives, to the point of immobilizing key areas of potential change.

This becomes glaringly obvious when observing that the public resources which are lost (according to approximate estimates) to corruption in public administration, come nowhere near the huge gap in tax collection between OECD countries and countries in the region. Bearing in mind that an approximate estimation of the waste in public tenders in Latin American and Caribbean countries equals an average of 1.4% of GDP[131], and that even when this loss is corrected, tax collection in LAC countries would still fall short by over 10 percent in relation to the OECD average – 22.8% versus 34.8% of GPD.

The narrative of the fight against corruption by public officials is valid and necessary to defend democracy in the region. But it should be used with caution as it can become a double-edged sword and deflect attention from other relevant issues, such as the loss of fiscal income caused by tax evasion and avoidance through tax havens, and illicit financial flows through trade, outside the public domain. Although these illicit activities may involve some corruption in public administrations, they mainly originate in the private sector. Corruption must be understood in all its manifestations, including the way in which decision making is captured to implement tax and fiscal policies that benefit groups with vested interests.[132] Thwarting the capture of fiscal policy must be an essential element in anti-corruption agendas.

To gain a perspective on the dimension of the impacts that these forms of corruption can have, in the specific case of illicit financial flows through trade, UNCTAD has reported that some developing countries lose up to 67% of the value of raw materials they export because of fraudulent invoicing by international trade.

According to ECLAC, in Latin America in 2016 the tax losses resulting from illicit financial flows caused by price manipulation in the international trade in goods soared to USD 85 billion, equivalent to 1.5% of the regional GDP.

In relation to fiscal evasion and avoidance, recent studies have estimated that **profit transfers to tax havens exceed USD 600 billion**,[133] and it was noted that the evasion rates rose in the wealthiest sectors of the countries studied. So, for example, **the total fiscal evasion of company tax by multinationals operating globally is estimated at USD 500 billion each year,**[134] which equals 20 times the United Nations humanitarian aid budget.

In Latin America, it is estimated that tax evasion rises to 6.3% of the regional GDP, of which 4% corresponds to income tax. In Peru, for example, the losses to tax evasion and contraband are around 7.5% of GDP, which amply exceeds the budget allocated to public education. In Ecuador, it is estimated that income tax evasion rose to 65.3% and 58.1% for corporations and individuals, respectively, in 2005. In Colombia, corporate income tax evasion rose to 39% in 2007-2012, which equalled 2.3% of the annual GDP.[135]

Ultimately, a sustainable fiscal policy requires positive actions by the State, including the fight against corruption in its broadest sense. At the same time, the implementation of holistic economic programs with sustainable fiscal policies must include: strategic public investment plans to promote industry and reduce inequality disparities; progressive tax systems respecting the principles of horizontal and vertical equity; and regional and international agreements on the fight against evasion, avoidance and fiscal incentives which fail to provide genuine economic benefits to the country and instead erode the tax base.

This image of protesters in Chile is used courtesy of Carlos Figueroa.

THE ROLE OF CIVIL SOCIETY

Actors emerging from civil society (social movements, including women, Indigenous and Afro-descendant peoples; non-governmental organizations; trade unions; academic institutes and think tanks) have joined the fiscal debate, voicing the need to increase tax collection progressively and equitably, in order to achieve a distribution of public resources that is fairer, more transparent and participative, and embedded in the framework of a sustainable development model that would replace the current extractivist standard. In this sense, their aspirations invigorate and complement the reform agenda proposed by specialized institutions for the region (see previous section).

These organizations have diverse strategies and approaches for achieving their goals: some have focused their efforts on assessing the impact of fiscal policy on economic inequality; others on social inequality and the situation of specific groups: women, Indigenous peoples and Afro-descendant communities, and trade unions; while others have concentrated on political inequality, that is, access to information, decision-making, and rule-making in fiscal matters. Additionally, and mainly at the national level, some human rights tribunals and institutions have presented the possibility of scrutinizing fiscal policy based on constitutional principles and human rights obligations, thus counteracting reforms that infringe upon these principles.

Cooperation between civil society actors concerning fiscal matters is increasing and is crossing lines between disciplines and movements. The Tax Justice Network for Latin America and the Caribbean, for example, brings together over 21 regional organizations who work jointly to boost their impact in searching for a new fiscal model for the region. At the same time, this network collaborates with six human-rights organizations that have been refocusing regional fiscal policies from a human-rights perspective since 2015, under the umbrella of the Initiative for Human Rights Principles and Guidelines in Fiscal Policy.

The maturation of these efforts is sizing up to be a transformative force in achieving structural tax reforms in the region.

Source: Adapted from CESR's Fiscal Policy for Human Rights and Equality in the Andean Region (2017).

Conclusion

From debate to action: structural tax reforms can wait no longer

Latin America is a region with one of the highest levels of structural inequality, and this situation has worsened throughout periods of economic growth. Even though most Latin American countries have assumed the obligation to mobilize the maximum of available resources in order to guarantee the rights of their inhabitants equally (Article 2.2, ICESCR; Article 26 of the American Convention), in reality this commitment is not reflected in concrete results. To a large extent, these circumstance are due to the low redistributive effect of the fiscal policies implemented in the region.

In recent years, a broad spectrum of diverse actors, ranging from multilateral organizations, such as ECLAC, the IADB and even the IMF and the World Bank, to civil society organizations and movements, have all emphasized the importance of advancing towards more progressive fiscal policies, in particular redistributive tax policies. Why then have the region's governments been unable to manifest this agenda? If there is indeed a consensus on the need to implement structural tax reforms, what are the obstacles that prevent it from happening?

This document has assessed some of the dogmas often used as arguments opposing structural tax reforms, with the aim of dismantling them in various national contexts. Each of these dogmas has been refuted by theoretical arguments and empirical evidence, and they can be synthesized in the following 10 conclusions.

To accomplish the task of neutralizing these dogmas, it is necessary to forge alliances among social movements, fiscal experts, and opinion-makers, with the aim of combatting the processes that lead to State capture by interest groups. These efforts will provide more space, transparency and participation for a debate which has profound consequences for the region's future.

There are no valid excuses for not implementing the structural reforms needed by the region. The time has come to move forward.

A summary to dispel dogmas: 10 conclusions in favor of fiscal justice

DOGMA	CONCLUSIONS TO DISPEL DOGMAS
Fiscal policy is fundamentally a technical matter, which has little to do with rights	Fiscal policy must be founded on human rights obligations and based on fiscal democracy in the broadest sense.
There simply isn't enough money for all these rights	Latin American states can and must mobilize more resources to guarantee rights, particularly through more progressive taxation.
Economic growth is enough, and that should be our priority	Growth patterns must be reassessed to make them more sustainable and to combine them with redistributive tax policies.
The size of the State and the expense of maintaining it are out of control	A strong and well-financed state, and robust public social spending, are essential conditions for guaranteeing rights. The institutional strength of the State, in addition, has proven to be effective in ensuring fiscal sustainability.
The deficit is the real problem, and fiscal prudence demands we eliminate it	Deficit financing, when implemented responsibly, is a legitimate policy instrument in guaranteeing rights and achieving other priority objectives.
When times are challenging, fiscal austerity is the only way	There are alternatives to austerity that are more compatible with rights.
The short-term sacrifice of austerity will bring long-term gains	Investment in rights is an effective instrument in crisis response. Austerity has proven economically counterproductive and its impacts on rights have been devastating.
The tax system has to be competitive, so we must lower taxes on corporations and the rich	It is time to halt the race to the bottom in terms of corporate tax, as it fails to contribute to competitiveness but instead shifts the tax burden onto the rest of the population.
Equality cannot be achieved through the tax system	Both taxation and spending are key tools for reducing inequality and guaranteeing rights.
Combating corruption is enough and structural tax reforms are not necessary	The fight against corruption is fundamental but it must be complemented by redistributive fiscal reforms.

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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 economic and social policy at the international, national and local levels so as to ensure these comply with international human rights standards.

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