



GLOBAL TRENDS ANALYSIS

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Freeing Fiscal Space: A human rights imperative in response to COVID-19

01 2021

INTRODUCTION

Of the many dimensions of inequality that the COVID-19 pandemic has magnified, inequality between countries is one of the most glaring, yet one of the least effectively addressed. While the pandemic's immediate health impacts have been felt in countries across all income levels, its economic consequences have been particularly devastating in countries of the Global South. Fuelling these inequalities is the disparity of resources that countries count on to respond to the crisis. International cooperation has never been more essential to address this disparity and enable all countries to draw on the resources they need to tackle the pandemic and its economic fallout. Besides the provision of emergency financial support, wealthier countries and international financial institutions (IFIs) need to cooperate by lifting the barriers their debt and tax policies and practices impose on the fiscal space of low- and middle-income countries. As this article explores, such cooperation is not only a global public health imperative. It is also a binding human rights obligation. Framing it as such could play an important role in generating the accountability and political will that has so far been sorely lacking.

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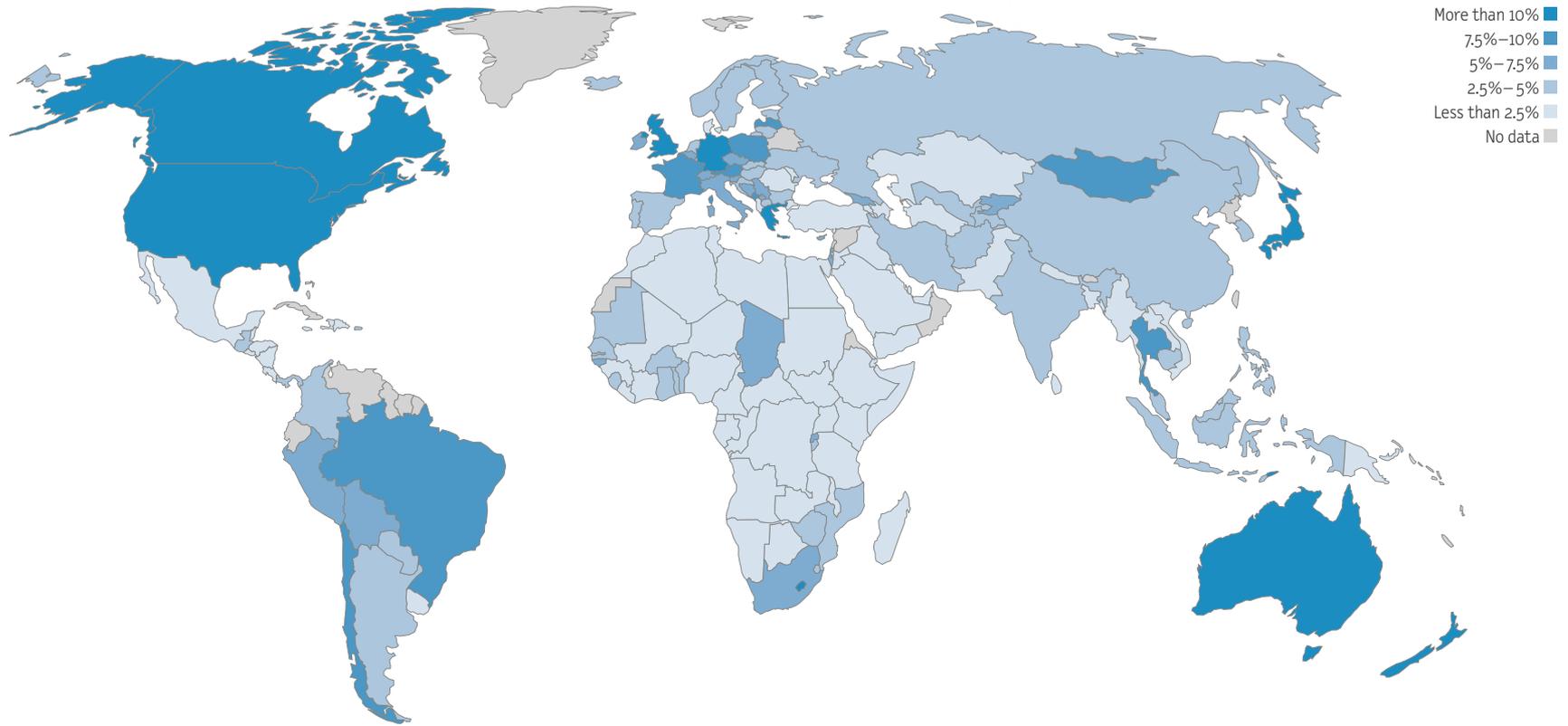
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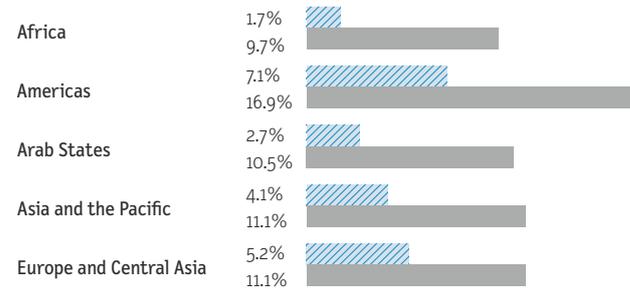
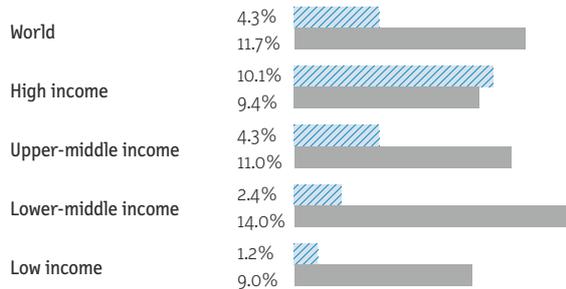
FIGURE 1

WHAT COUNTRIES SPEND TO OVERCOME THE EFFECTS OF THE COVID-19 PANDEMIC

Additional spending and forgone revenue in response to the COVID-19 pandemic (% of 2020 GDP)



Fiscal stimulus value vs working hours lost in the first three quarters of 2020



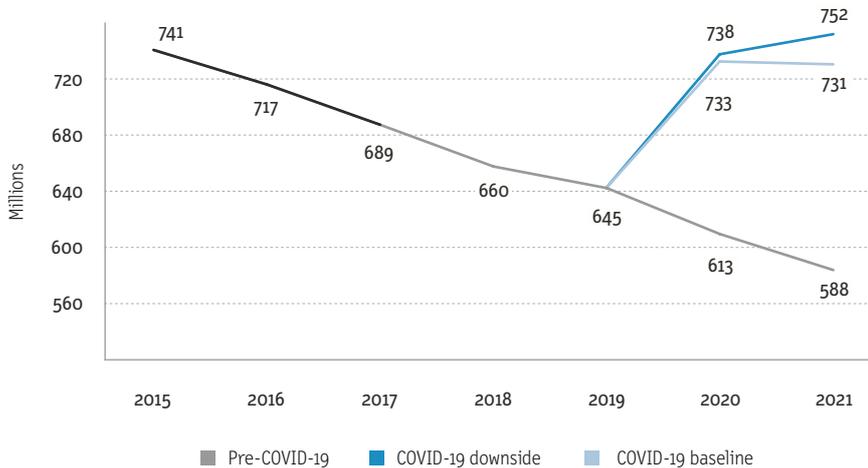
▨ Equivalent fiscal stimulus value
 ■ Hours lost (% of total, average over first three quarters of 2020)

Note: The basis for calculating equivalent fiscal stimulus is average output per full-time equivalent employment at 48 hours per week. ILO estimates based on ILOSTAT, IMF and Oxford Coronavirus Government Response Tracker database.

1. GLOBAL DISPARITIES IN THE SOCIO-ECONOMIC CONSEQUENCES OF COVID-19

The economic crisis prompted by the pandemic has severely affected countries at all income levels, yet it is people in low and middle-income countries who have particularly borne the brunt. COVID-related job losses, for example, have hit middle-income countries hardest [see Figure 1] (ILO 2020, p. 5). Of the additional more than 160 million people potentially pushed into extreme poverty [see Figure 2], four in every five are in South Asia or Sub-Saharan Africa (World Bank 2020). The doubling in levels of acute hunger worldwide has been largely concentrated in two dozen countries in Africa, Latin America and the Near East (FAO/WFP 2020). Even starker is the global disparity in access to vaccines, as countries in Europe and North America hoarded limited stocks to ensure their populations are vaccinated in 2021, while those of the

FIGURE 2
Sharp increase in global number of poor expected
At US\$ 1.90-a-day poverty line, 2015–2021



Note: This figure presents the nowcast of poverty up to 2021 using the pre-COVID-19 and the COVID-19 baseline and downside scenarios using the Global Economic Prospects January 2021 forecast. Up to 2017, these are historical data, from 2018 onwards they are estimates.

Source: https://blogs.worldbank.org/opendata/updated-estimates-impact-covid-19-global-poverty-looking-back-2020-and-outlook-2021?cid=pov_tt_poverty_en_ext

Global South face waits up to several years, widening health and economic inequalities between the rich world and the rest (Goodman 2020).

High-income countries have been able to mount massive fiscal relief measures – in some cases representing more than 20% of their GDP (Statista 2021) – to bolster national health systems, expand social protection, protect jobs and businesses, and fund vaccine rollouts [see Figure 1]. Low- and middle-income countries, however, have faced enormous constraints on their “fiscal space” – the flexibility governments have to decide how they’ll raise and spend money, without jeopardising their position in the global economy. Their coffers have been further depleted by unprecedented capital flight, plunging commodity prices, decreased revenues from taxes, tourism and remittances, and onerous debt payments. The resources low-income countries have deployed to confront the pandemic have amounted in total to less than 2% of GDP (Mühleisen et al. 2020).

A key vehicle for international cooperation to address this disparity has been the provision of emergency financial support, whether through bilateral assistance from richer countries, or emergency grants and loans from multilateral institutions such as the International Monetary Fund (IMF). Yet an equally critical aspect of international cooperation is to work towards the removal of barriers that restrict the fiscal space of poorer countries. Chief among these are the asymmetrical rules and dynamics in the realm of international debt and taxation. As debt and tax justice advocates have long argued, these dynamics have for decades been skewed against poorer countries, effectively constituting a massive and chronic redistribution of wealth upwards to the Global North. Rhetorical commitments to international cooperation on debt and taxation have yet to be acted on with the urgency and scale required.

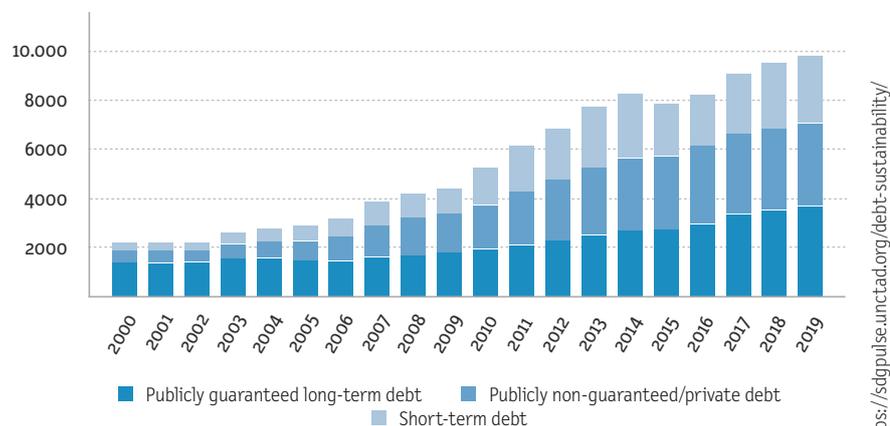
2. COVID-19 AND THE PRE-EXISTING DEBT/TAX CRISES: DETONATING THE FISCAL SPACE TIME-BOMB

Countries of the Global South were already facing mounting debt burdens before the pandemic. By early 2020, their combined external debt had risen to US\$ 10trn [see Figure 3] (UNGA 2020, p. 3), their total debt (including domestic and private) representing almost double their combined

GDP, the highest level on record (UNCTAD 2020, p. 3). Forced to rely on highly under-regulated international financial markets skewed in favour of private lenders, and to borrow on riskier and more costly terms, an increasing number of countries were already spending more than 20% of government revenues on debt servicing (UNCTAD 2020, p. 5), with 64 lower-income governments spending more on debt than they were on health care (Jubilee Debt Campaign 2020). The financial turmoil caused by COVID-19 has exacerbated this crisis, requiring countries in the Global South to borrow further, with most emergency assistance from IFIs being in the form of loans rather than grants. Sharp currency devaluations, record capital outflows, rising fiscal deficits and increasing borrowing costs are now confronting some with a stark choice between honouring debt service payments and ensuring the public spending needed to save lives. Towards the end of 2020, more than half of low-income countries were assessed to be in or at high risk of debt distress (Pazarbasioglu 2020).

While tackling transnational debt burdens is critical for freeing up fiscal space in such countries, the key vehicle for mobilising resources domestically is through progressive taxation. Yet few countries in the Global South have

FIGURE 3
Massive increase in debt since the turn of the millennium
External debt stocks, developing and transition economies, 2000–2019, billions of current US\$



Note: UNCTAD calculations based on data from World Bank and Economist Intelligence Unit. Figures for 2019 are UNCTAD estimates.

Source: <https://sdgpulse.unctad.org/debt-sustainability/>

introduced tax measures that would help generate resources sustainably and equitably. Tax revenue in low and middle-income countries is significantly lower as a proportion of GDP than in high-income countries (on average 12% in low and middle-income countries vs. 34% in OECD countries) (OECD 2020, p. 1; World Bank 2021). Yet the policy space to increase it has been constrained by long-standing international dynamics and rules of the game which are skewed against them. As the Tax Justice Network reports, countries are losing some US\$ 427bn in tax each year to international corporate tax abuse and private tax evasion (Tax Justice Network et al. 2020, p. 4). Multinational corporations avoid paying billions in tax by shifting profits out of the countries where they were generated and into tax havens, while wealthy private individuals are storing over US\$ 10trn in financial assets offshore. Responsibility for these tax losses lies almost entirely with higher-income countries, which are also massively affected by them. Yet their impact is far greater on the public coffers of lower income countries. In Africa, tax losses amount to more than half of the continent’s public health budgets. Worldwide, they cost the equivalent of one nurse’s salary every second (Tax Justice Network et al. 2020).

The need to stem the haemorrhage caused by onerous debt and abusive tax practices has now become all the more acute in the face of the global pandemic. A number of commitments to this end have been made by international economic governance institutions such as the IMF and World Bank, as well as in multilateral development forums. In April 2020 the G20 announced the Debt Service Suspension Initiative (DSSI), a moratorium on official bilateral debt owed by the world’s 76 poorest economies until December. However, its scale and scope fall woefully short, excluding many middle-income countries currently at the epicentre of the pandemic, as well as the largest group of creditors – private lenders. The amount obtained in temporary debt relief amounted to less than 2% of total international debt payments due from all Global South countries in 2020 (Fresnillo 2020, p. 4). Many have been repaying multiple times that amount in debt to bilateral, multilateral and private creditors over the year, representing some US\$ 100m flowing each day to lenders in the Global North (Fresnillo 2020, p. 4). There is a risk that the money freed up by the DSSI may be used to repay debts to private and multilateral lenders rather than to resource recovery from the crisis (Muchhala 2020, p. 3f.). Though extended into 2021, the DSSI merely defers repayment of the US\$ 5.3bn owed in 2020 to 2022–2024, when these countries are due to

repay a further US\$ 115bn in debt. This raises the prospect of borrowing further funds to repay the accumulating debt as well as any new loans contracted to tackle the ongoing pandemic. Commitments by the G20 in November 2020 to establish a more robust common framework for debt restructuring continued to raise concerns that private creditors would be “let off the hook”, while borrowing countries would be compelled to agree to further austerity cuts as a condition of restructuring (The Bretton Woods Observer 2020).

With regard to tax cooperation, the pandemic has given renewed urgency to international commitments made under the 2030 Agenda for Sustainable Development and the related Financing for Development process to curb tax evasion and avoidance by advancing critical new tax transparency rules at the international level. Reforms are also under consideration as part of the OECD’s Base Erosion and Profit Shifting (BEPS) process to prevent profit shifting through “unitary taxation”, whereby the profit a multinational corporation declares as a group (including all its subsidiaries) is apportioned to each country where it operates, based on the real economic activity taking place in that country. However, progress has been blocked by high income countries such as the US and France, which are also blocking calls from Global South countries for new global tax rules to be agreed before a UN tax body where they would have an equal seat at the table, rather than before the “rich countries’ club” of the OECD (Tax Justice Network et al. 2020, p. 9).

While the IMF, World Bank, rich country governments and multinational corporations have paid lip service to addressing the debt crisis and reforming global tax rules as a global public health and sustainable development imperative, few are walking the talk. Instead, commitments have been diluted, delayed or disregarded, hostage to political dynamics in which the interests of corporations in a few wealthy countries prevail over those of the majority of the world’s people. As the following sections explore, framing international debt and tax cooperation as a human rights obligation, and using rights-centred arguments and strategies in support of transformative reform commitments, could help civil society advocates, well-intentioned governments and progressive policy influencers shift that dynamic.

3. RESTRICTED FISCAL SPACE: A HUMAN RIGHTS ISSUE

Just as democratic space is a necessary precondition for the exercise of rights of civic and political participation, so fiscal space is essential for states to create the material conditions in which people can live with dignity, in full enjoyment of their economic and social rights. The restriction that current debt and tax policies impose on fiscal space in poorer countries is a systemic threat to human rights, all the more so in the COVID-19 context. The massive but preventable loss of resources it entails has led to a massive but preventable loss of human lives and livelihoods. This deprives millions of their right to access essential health services, to safe and decent conditions of work, to social protection measures to ensure an adequate standard of living, to secure affordable housing and protection from eviction, to the means to continue their education, and ultimately to their right to life. Like the virus itself, the burden of socioeconomic rights deprivation has not fallen equally, but is disproportionately affecting those living in poverty, racialised groups, women, persons with disability, migrants and others facing long-standing societal discrimination.

Human rights standards entail specific obligations that governments must comply with when taking decisions that affect the resourcing of rights. According to the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by 171 UN member states, states must devote their “maximum available resources” (Art 2(1)) to progressively achieve the full realisation of socioeconomic rights for all (CESR 2020). As the UN Committee which monitors compliance with the Covenant has made clear, such resources include “those available from the international community through international assistance and cooperation” (ECOSOC 1991, p. 86, para. 13). Such cooperation is “an obligation of all States” and “is particularly incumbent on states which are in a position to assist others in that regard” (ECOSOC 1991, p. 87, para. 14). Furthermore, as the Committee’s General Comments and other authoritative legal interpretation such as the Maastricht Principles (see Figure 4) have affirmed, the Covenant establishes extraterritorial obligations (ETOs) on states to ensure that their own policies do not harm people’s rights in other countries nor undermine these countries’ capacity to fulfil rights by drawing on their maximum available resources (CESCR 2017, paras. 25-37). Resources must also be generated, distributed and spent in ways that reduce

FIGURE 4

HUMAN RIGHTS INSTRUMENTS OF RELEVANCE TO INTERNATIONAL DEBT AND TAX COOPERATION

2011

Guiding Principles on Business and Human Rights

- Endorsed by the UN Human Rights Council in 2011
- On the responsibilities of states and companies to prevent, address and remedy human rights abuses committed in business operations:
 - though debt and tax are not referenced explicitly, the Principles’ “respect, protect, remedy” framework is of critical relevance in holding corporate actors accountable for abusive tax and lending practices, as underscored by the UN Committee on Economic, Social and Cultural Rights (CESCR 2017, para. 37).

Source: OHCHR 2011

2011

Maastricht Principles on the Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights

- Adopted in 2011 by leading experts in international law
- To clarify the scope of obligations to respect, protect and fulfil rights beyond borders:
 - providing grounds for establishing that a government which, for example, operates as a tax haven or exerts decisive influence on an IMF debt agreement that imposes harmful conditionalities, is in breach of its ETOs if rights deprivations are a foreseeable result;
 - states must conduct prior assessment of the potential extraterritorial impacts of debt or tax agreements and policy reforms, and take concrete steps to create an enabling environment for international cooperation.

Source: ETO Consortium 2013

2012

Guiding Principles on Foreign Debt and Human Rights

- Drafted by the UN Independent Expert on Foreign Debt and Human Rights
- Endorsed by the UN Human Rights Council in 2012
- On safeguarding human rights in agreements on debt repayment, relief and restructuring by states and IFIs:
 - states, whether acting individually or collectively through international organisations, should ensure their human rights duties take primacy in all decisions on lending and borrowing;
 - creditors and debtors share responsibility for preventing and resolving unsustainable debt situations;
 - any debt strategy must be designed to ensure that debtor states can fulfil their human rights obligations;
 - call for the establishment of an international debt workout mechanism to restructure unsustainable debts and resolve debt disputes in a fair, transparent manner, in line with human rights standards.

Source: HCR 2011

2019

Guiding Principles on Human Rights Impact Assessment of Economic Reform Policies

- Drafted by the UN Independent Expert on Foreign Debt and Human Rights
- Endorsed by the UN Human Rights Council in 2019
- On the need for systematic, rigorous and participatory impact assessments to inform economic policy reforms and agreements, including those on debt and tax, so as to avoid constraints on fiscal space that undermine states’ human rights obligations:
 - states shall adopt stronger measures to prevent international tax avoidance and evasion,
 - states shall ensure that all relevant creditors and debtors engage in debt restructuring negotiations.

Source: HRC 2019

2021

Principles and Guidelines of Human Rights in Fiscal Policy

- Emerging instrument developed by civil society groups in Latin America
- For potential future adoption by the Inter-American human rights system
- Guidance on states’ duties to ensure international cooperation:
 - by not facilitating tax evasion or promoting aggressive tax competition,
 - by assessing the extraterritorial effects of any tax laws, policies and practices that may undermine socioeconomic rights in other countries.

Source: Initiative for Human Rights in Fiscal Policy 2021

inequalities and eliminate discrimination in the enjoyment of these rights (CESR/IWRAW-AP 2020). Processes for resource-related decision-making, whether at the local, national or multilateral level, should be transparent, participatory and accountable (HRC 2011, arts. 28-32; ETO Consortium 2013).

These principles are pillars of a normative framework for resourcing rights. They are set down in binding international treaties on socioeconomic rights such as the ICESCR which the vast majority of states have ratified. These rights have been internalised domestically in most countries' constitutions, and further codified in "soft law" interpretive instruments. Several such instruments provide particular guidance on how human rights should guide international cooperation on debt and tax matters [see Figure 4].

4. ADVANCING HUMAN RIGHTS-ALIGNED DEBT AND TAX REFORMS IN RESPONSE TO COVID-19

How can these human rights norms be operationalised and deployed in support of debt and tax reforms that would free fiscal space in middle- and low-income countries? Several key proposals by civil society advocates in the Global South and their international allies are outlined below, together with their human rights justification [see Figure 5]. Framing these proposals as a human rights imperative can be particularly useful in addressing the challenging international dynamics around these issues. It lends significant authority to calls for international debt and tax cooperation by casting them a matter of legal obligation binding on all states and inter-governmental institutions, not merely as a matter of discretion, development aspiration or nebulously defined "solidarity" (Georgieva 2021). Human rights thereby lend weight to calls for debt and tax justice by providing a normative framework of substantive and procedural principles that help flesh out what such justice looks like (De Schutter et al. 2020).

4.1 RIGHTS-ALIGNED DEBT REFORMS

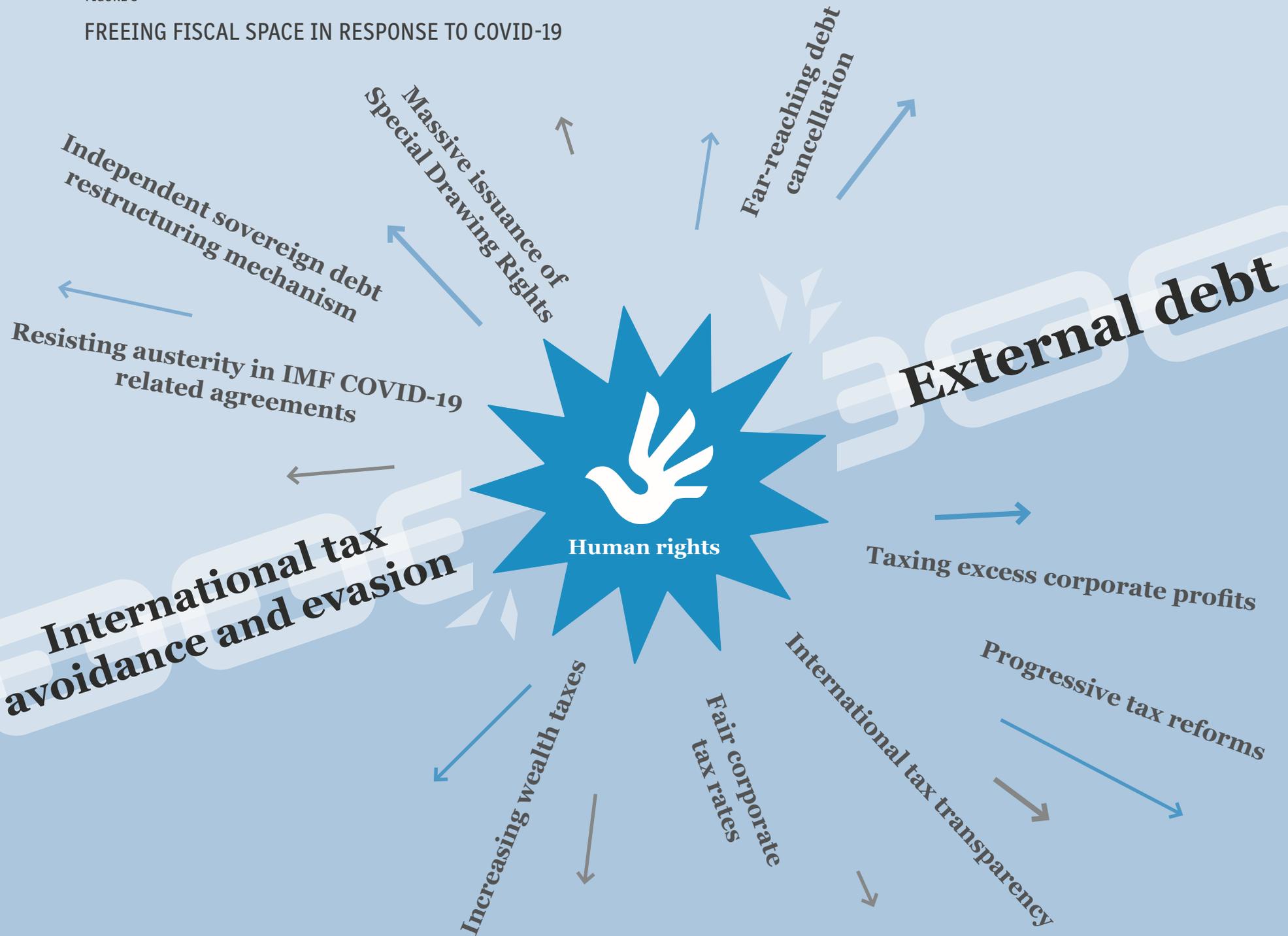
- Far-reaching debt cancellation: Human rights standards on debt and extraterritorial obligations provide strong legal justification for the call by debt justice advocates for permanent debt payment cancellation for all countries in need, at least for the next four years, as well as the participa-

tion in the DSSI of all creditors, including private lenders (Global Week of Action for Debt Cancellation 2020). It is estimated this would free up more than US\$ 25bn for lower income countries. Human rights standards establishing the extraterritorial obligations (ETOs) of states acting as members of inter-governmental bodies and their duty to regulate the conduct of private actors, can also help counter resistance by the World Bank. The latter has argued that debt cancellation would downgrade its rating by credit agencies, a fear that has also been a major factor dissuading countries from requesting private sector debt relief.

- A massive new issuance of Special Drawing Rights (SDRs) by the IMF: The costs of expanding debt cancellation could be covered by the reallocation of US\$ 3trn in SDRs, as called for by hundreds of civil society organisations (Latindadd 2021). SDRs are an international reserve asset created by the IMF to supplement member countries' official reserves. Unlike the credit financing tools made available by the IMF, SDRs provide low-cost liquidity without creating additional debt. This measure, coupled with a mechanism for redistributing unused SDRs from high-income countries, would be consistent with the collective duty of states to provide international cooperation so that all countries can count on the "maximum available resources" to guarantee essential levels of socioeconomic rights protection to their people (ETO Consortium 2013, Art. 31).
- Creating an independent sovereign debt restructuring mechanism: The UN Guiding Principles on Foreign Debt and Human Rights lend support to the long-standing call by Global South countries and civil society groups for the creation of a permanent multilateral mechanism under UN auspices for the systematic, comprehensive and enforceable restructuring of sovereign debt. This is a response to the markedly neocolonial dynamics around debt and the absence of international forums where debt agreements and disputes between states can be negotiated and resolved in an equitable manner. As argued in a recent joint civil society appeal for debt cancellation: "Peoples of countries in the Global South have paid for the debts incurred in their name so many times over...[given] the much greater social, historical and ecological debt owed to them through centuries of colonial and post-colonial plunder and extraction of their natural resources and exploitation of their labor" (Global Week of Action for Debt Cancellation 2020). Power imbalances are not only between states, but between borrowing countries and private creditors – many of whom can

FIGURE 5

FREEING FISCAL SPACE IN RESPONSE TO COVID-19



deploy legislation and litigation in their powerful home countries such as the US and UK to sue governments for suspending debt payments, closing off the possibility of a fair and effective process for negotiating debt relief and cancellation.

4.2 RIGHTS-ALIGNED GLOBAL TAX REFORMS

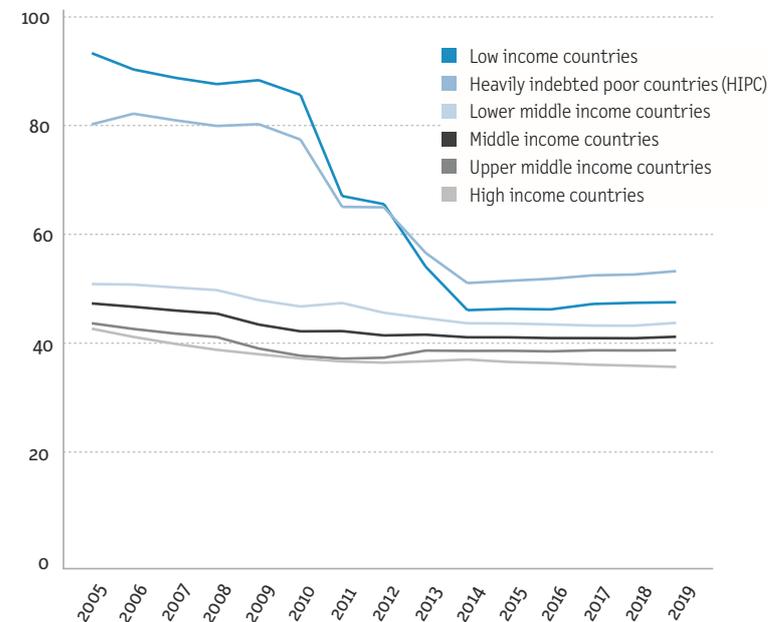
- Global implementation of the “ABC” of international tax transparency measures: Tax justice advocates have long been calling for three critical measures: (1) *Automatic exchange of information* between countries on the financial accounts of each other’s residents, (2) *beneficial ownership registers* (public records of all direct or indirect owners of companies, trusts and foundations), and (3) *country-by-country reporting* by multinational companies to provide publicly accessible accounts for each country where they operate. Such proposals received prominent endorsement in February 2021 by the UN High-Level Panel on Financial Accountability, Transparency and Integrity (FACTI Panel) – set up to review challenges to the implementation of the 2030 Agenda –, which called for the creation of a new UN tax convention to enshrine these tax transparency principles and measures (FACTI Panel 2021). Such calls are directly bolstered by the key human rights principles of transparency, participation and accountability, and international fiscal cooperation to mobilise the “maximum available resources” (ETO Consortium 2013, arts. 30, 31; Initiative for Human Rights in Fiscal Policy 2021, principle 7).

- Ensuring companies pay their fair share of tax where owed: Corporate tax rates have steadily declined over the last 40 years in countries across the globe as a result of political pressure from corporate actors and a global “race to the bottom” encouraged by the policies of countries such as the US [see Figure 6]. Some tax justice advocates are calling for the establishment of a minimum effective corporate tax rate of 25% worldwide (ICRICT 2020, p. 3), while many are focused on the reduction of generous corporate tax exemptions (Global Alliance for Tax Justice 2020). The pandemic has galvanised calls for a shift to “unitary taxation” so companies pay tax where they operate rather than shifting profits (FACTI Panel 2021; ICRICT 2020; Tax Justice Network 2021). As large corporations in many countries continue to lobby for tax concessions in the wake of the pandemic, as well as inclusion in government bailouts, a related call is to

exclude companies registered in tax havens from government economic relief packages. The responsibilities of corporations to pay their tax dues where owed (and of states to ensure they do so) are firmly anchored in the ICESCR and in the Guiding Principles on Business and Human Rights, as highlighted by the UN CESCR (CESCR 2017, art. 37; OHCHR 2011).

- Taxing excess corporate profits: The pandemic has spurred calls to tax the huge excess profits reaped by the global tech giants and other corporations who have expanded their market power during the crisis and profited enormously from it. Oxfam reports that 32 of the world’s most profitable companies were expected to make over 100 billion more in 2020 than in previous years (Gneiting et al. 2020, p. 6). A tax on excess profits could not only raise valuable funds but curb corporate concentration and the inequality it fuels. Governments would calculate the extra profits earned due to the pandemic by comparing recent profits with averages from previous years, then taxing “excess” profit at a high rate (e.g. 75%). Multinational corporations could be taxed on extra profits earned

FIGURE 6
Significant decrease in corporate tax rate especially in poorer countries
Total tax and contribution rate (% of profit) 2005–2019



Source: Own compilation based on <https://data.worldbank.org/indicator/TC.TAX.TOTL.CPZS?view=chart>

globally, with revenue divided up depending on where real economic activity took place (CESR/Tax Justice Network et al. 2020). Its value in raising potential resources for rights realisation, in reducing inequality and bolstering corporate accountability make this a proposal with very strong human rights rationale.

- Introducing or increasing wealth taxes: As wealth concentration has increased during the pandemic – the combined wealth of 650 billionaires in the US has grown by US\$ 1trn (Collins 2020) – calls for new wealth taxes have taken on renewed urgency. The Ultra-Millionaire Tax proposed to the US Congress in February 2021, which would levy a 2-3% tax on the richest 0.05% of US households, could raise US\$ 3trn over ten years according to its proponents (Jayapal 2021). In South Africa, a wealth tax on the richest 1% could raise the equivalent of a third of the 2020 relief package (CESR/Tax Justice Network et al. 2020). Wealth taxes are a very rights-aligned way to fund social spending and have a high potential to tackle gender and racial inequalities, typically much wider for wealth than they are for wages.
- A progressive overhaul of domestic tax systems: The introduction or increase in taxes on assets such as wealth, property, inheritance and income from investments are part of more comprehensive efforts in some countries to make the tax system more progressive, with the aim of ensuring that the costs of recovery are borne fairly and proportionately by those with the greatest capacity to pay. Progressive tax reforms also entail increasing rates of direct taxes on high incomes and ending over-reliance on indirect taxes such as value-added (VAT) and sales taxes, which tend to take a bigger bite out of the income of those living in poverty. A progressive tax system is a prerequisite for compliance with human rights standards, which guide governments to raise money in a way that reduces inequalities and is socially just, based on ability to pay (Initiative for Human Rights in Fiscal Policy 2021, principles 3, 5, 6).
- Resisting austerity-related conditions in COVID-19 related agreements of the IMF: Despite increasing rhetoric by the IMF that progressive tax and budget policies are crucial in response to the pandemic, evidence at the country level suggests that the IMF is prescribing harsh “fiscal consolidation” or austerity measures (such as public spending cuts and hikes in VAT) as part of its loan and grant agreements with Global South

countries still in the grip of the pandemic-related resource crisis. For example, the IMF’s recent Article IV recommendations to Nigeria call on the country to increase VAT by more than 5% but is silent on more progressive forms of taxation such as wealth and property taxes (IMF 2021, p. 13). Given the well-documented human rights impacts of austerity and its disproportionate impacts on disadvantaged groups, resisting austerity is a clear human rights imperative, as underscored by numerous international human rights bodies (HRC 2019; CESCR 2016).

5. HUMAN RIGHTS IN THE STRUGGLE TO LIBERATE FISCAL SPACE

Human rights standards and strategies are already being deployed across the globe to support such proposals and to ensure countries can count on the fiscal space they need to resource an adequate and equitable response to the pandemic. For example, the Principles and Guidelines on Human Rights in Fiscal Policy were cited in support of a civil society campaign in Argentina for a solidarity wealth tax to generate resources in response to the pandemic, which was passed into law by the government in December 2020 (Initiative for Human Rights in Fiscal Policy, n.d.). The tax will apply to those whose wealth exceeds US\$ 2.5m and is expected to generate an additional US\$ 3bn to be dedicated to health, education and social protection (BBC News Mundo 2020). Human rights rationales have increasingly infused advocacy efforts by tax and debt justice campaigners across Latin America (Latindadd/Impuestos a la Riqueza Ya 2020), while the centrality of tax and debt reforms to the protection of human rights in the wake of the pandemic is receiving greater attention by regional human rights organisations such as the Inter-American Commission on Human Rights (Comisión Interamericana de Derechos Humanos 2020). At the global level, input from international economic and social rights advocacy groups has been instrumental in including an increasingly strong and more explicit human rights grounding in the recommendations of influential bodies such as the UN FACTI Panel and the Independent Commission on the Reform of International Corporate Taxation (ICRICT). For example, following civil society inputs and consultations, the FACTI Panel’s report included the notable acknowledgement that tax abuse and illicit financial flows not only undermine sustainable development, but “contribute to countries not being able to fulfil their human rights obligations” (FACTI Panel 2021, p. VII).

Human rights mechanisms and approaches are also being used to hold states and IFIs accountable for unjust tax and debt policies and practices, including in the pandemic context. For example, in Ecuador, a country that was spending twice as much on debt repayments than on its health budget before the pandemic, the human rights group Centro de Derechos Económicos y Sociales (CDES) filed an appeal before the Constitutional Court, along with other civil society partners, against the terms of a debt restructuring agreement between the government and the IMF in September 2020. The agreement was premised on harsh austerity cuts amounting to 6% of GDP, or eight times the resources the country was able to mobilise to protect the lives of its citizens in 2020. The appeal invokes the socioeconomic rights guarantees in Ecuador's constitution to argue against the austerity cuts. It calls for debt suspension in order to protect the fiscal space to resource the urgent health and social protection needs arising from the pandemic (Iturralde 2020). Human rights and tax justice campaigners have also successfully used human rights mechanisms to hold wealthy “tax haven” countries such as Switzerland and the UK accountable for breaching their extraterritorial human rights obligations, resulting in calls on these countries from UN treaty bodies to reform their financial secrecy legislation (CESR n.d.).

As these examples illustrate, human rights have much to contribute to the ongoing struggle for more just and equitable international arrangements in matters of debt and tax. They reinforce the moral, political and legal authority of progressive reform proposals. Human rights mechanisms offer a pathway for holding governments and IFIs accountable for deprivations resulting from unjust debt and tax policies. They may lead to remedies and recommendations that can then be used in advocacy for reform. In the growing debate about the systemic inequities the pandemic has laid bare, human rights are also being invoked to tell an alternative story about what our economy is for, the values that should underpin it, and how economic “progress” and “recovery” should be assessed (Christian Aid/CESR 2020).

Framing tax and debt as a matter of human rights also implies that decision-making spaces on these issues must be opened up to democratic deliberation and participation, at both the national and global levels. Human rights ground a powerful claim by poorer countries on wealthier states and international institutions to respect, protect and help safeguard their fiscal space. Until the latter are held more accountable for their human rights obligations in this regard, prospects for lower-income countries will remain dire.

As their debt burdens and fiscal shortfalls grow, so will the burden of disease and poverty their populations are asked to shoulder. Creating a more equitable enabling environment in which all countries enjoy the fiscal space they need to respond to the crisis is not only an urgent public health and sustainable development imperative, but a human rights one.

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Renata Ávila Pinto
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GLOBAL TRENDS. ANALYSIS 02|2019

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Adriana Erthal Abdenur
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