Advance Unedited Version

Distr.: General
27 February 2021

Original: English

Committee on Economic, Social and Cultural Rights

Statement on Tax Policy and the International Covenant on Economic, Social and Cultural Rights

Statement by the Committee on Economic, Social and Cultural Rights*

I. Introduction

1. Under the International Covenant on Economic, Social and Cultural Rights, States parties are required to take steps, individually and through international assistance and co-operation, to the maximum of their available resources, with a view to achieving progressively the full realization of economic, social and cultural rights (art. 2.1). Furthermore, the principle of non-discrimination and equality (art. 2.2) requires States parties not only to eliminate formal discrimination but also to ensure substantive equality by taking measures to address socio-economic and gender inequalities.[1] Ensuring the enjoyment of economic, social and cultural rights and promoting substantive equality requires sound fiscal policies, including both the mobilization of sufficient resources and adequate social spending. Taxation is a key instrument for mobilizing resources to implement economic, social and cultural rights and to address poverty and socio-economic inequalities. While States have the right to design, implement, and regulate their tax policies in accordance with their national priorities, this prerogative must be exercised in a manner consistent with their obligations under international human rights law, including the International Covenant on Economic, Social and Cultural Rights.

2. The Committee on Economic, Social and Cultural Rights welcomes the United Nations (UN) General Assembly Resolution 78/230, which initiated the negotiation of a United Nations Framework Convention on International Tax Cooperation, with a view to strengthening the inclusiveness and effectiveness of international tax cooperation.[2][3] As the Summit for the Future outcome documents stated, "the current international tax governance structures need improvements".[4] Promoting inclusive and effective international tax cooperation will help countries effectively mobilize their resources, including through strengthening ongoing efforts to prevent and combat illicit financial flows, corruption, money-laundering and tax evasion, eliminate safe havens and recover and return assets derived from illicit activities.[5] The Committee , in particular, welcomes that the "Terms of

* Adopted by the Committee at its seventy-seventh session (10 - 28 February 2025).

1 E/C.12/GC/20.

2 Promotion of inclusive and effective international tax cooperation at the United Nations, 22 December 2023.

3 The Committee also welcomes related regional efforts, such as the decision of the Assembly of the African Union to curb illicit financial flows and the creation of the Latin American and the Caribbean Platform for Tax Cooperation (PT-LAC) in 2023.

4 UN Pact for the Future, Global Digital Compact and Declaration on Future Generations, September 2024, Action 4(i).

5 Ibid., Action 4(h) and (i).

Reference" for developing the UN Framework Convention, adopted by the UN General Assembly,[6] highlights, as one of its guiding principles, that efforts in the pursuit of international tax cooperation, should be aligned "with States' obligations under international human rights law".[7] This development presents an important opportunity to create a global tax governance that enables States parties to adopt fair, inclusive and effective tax systems and to combat tax-related illicit financial flows, thereby facilitating the implementation of economic, social and cultural rights.

3. The Committee has consistently addressed tax-related issues in its Concluding Observations on States parties and in its General Comments,[8] recognizing their impact on the realization of economic, social and cultural rights. Drawing upon this work, the Committee reminds States parties and other stakeholders of the importance of adopting a human rights-based approach when designing their tax policies and international tax cooperation mechanisms. The present Statement seeks to provide guidance on States parties' obligations under the International Covenant on Economic, Social and Cultural Rights, with respect to these areas, emphasizing the need to ensure that tax policies promote equality and non-discrimination, and the mobilization of resources for the realization of economic, social and cultural rights. In doing so, it aims to assist States parties in better aligning their decision-making with these obligations, both in ongoing UN and regional processes and in their domestic tax policies.

II. Obligations arising from the Covenant in the area of tax policies

4. In reviewing the implementation of the Covenant by States parties, the Committee has identified situations where regressive ineffective tax policies hamper the capacity of States parties to fulfil economic, social and cultural rights, and have a disproportionate impact on low-income households, women and other disadvantaged groups. One such example is a tax policy that maintains low personal and corporate income taxes without adequately addressing high income inequalities. Additionally, consumption taxes, like value-added taxes (VAT), can have adverse impacts on disadvantaged groups such as low-income families and single parent households, who typically spend a higher percentage of their income on everyday goods and services. In this context, the Committee calls upon States parties to design and implement tax policies that are effective, adequate, progressive and socially just.[9]

5. As a prerequisite, the Committee emphasizes that, both domestically and in the context of international tax cooperation, States parties must observe the procedural guarantees derived from their human rights obligations in designing and implementing tax policies. Tax policy-making should be inclusive, transparent, participatory,[10] and evidence-based, fostering informed public debate. Furthermore, States parties should conduct comprehensive assessments of the impact of existing and proposed tax policies on the realization of economic, social and cultural rights.[11] Impact assessments should be conducted, in a transparent manner, with the meaningful and informed participation of social stakeholders. Such assessments should include an analysis of: (a) the ratio of taxation to gross domestic product (GDP); (b) the revenue derived from individual and corporate income taxes,

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6 A/79/435/Add.6

7 A/79/333, Annex I, para. 9(c).

8 E/C.12/GC/24, para.37.

9 E/C.12/CAN/CO/6, para.10; E/C.12/HND/CO/2, para.20; E/C.12/GBR/CO/6, para.17(b); E/C.12/DOM/CO/4, para.18; E/C.12/CRI/CO/5, para.15; E/C.12/TUN/CO/3, para.15; E/C.12/RUS/CO/6, para.17; E/C.12/COL/CO/6, para.20; E/C.12/ESP/CO/6, para.16(b); E/C.12/BOL/CO/3, para.17; E/C.12/NIC/CO/5, para.16(c); E/C.12/COD/CO/6, para.25; E/C.12/GTM/CO/4, para.17; E/C.12/BRA/CO/3, para.22(a); E/C.12/MRT/CO/2, para. 13; E/C.12/ROU/CO/6, para.11(b); E/C.12/IDN/CO/2, para.29(b); E/C.12/BDI/CO/1, para.14; E/C.12/DRC/CO/6, para.25.

10 E/C.12/BDI/CO/1, para.14; E/C.12/HND/CO/2, para.20; E/C.12/COD/CO/6, para.25; E/C.12/MRT/CO/2, para.13.

11 E/C.12/GBR/CO/6, para.17(a); E/C.12/COL/CO/6, para.20; E/C.12/BRA/CO/3, para.22(b); E/C.12/ESP/CO/6, para.16(a); E/C.12/IRL/CO/4, para.15(e); E/C.12/HND/CO/3, para.17(b); E/C.12/LIE/CO/2-3, para.10.

and from consumption taxes, including value added taxes (VAT); (c) the overall distributional impact and the tax burden on different income groups, women, and other disadvantaged groups;[12] and (d) the benefits and impact of various tax exemptions,[13] including those related to natural resources.

6. A well-designed tax system should serve to effectively raise revenue to secure economic, social and cultural rights, and reduce high levels of economic and social inequality.[14] The Committee also recalls that the implementation of any tax system must not have a detrimental impact on the enjoyment of the rights in Covenant, in particular, the right to an adequate standard of living, especially for disadvantaged and marginalized groups In this regard, States parties could consider taking measures such as: (a) ensuring that those with higher income and wealth, particularly those at the top of the income and wealth spectrum, are subject to a proportionate and appropriate tax burden;[15] (b) shifting focus to a more direct income taxation approach rather than relying on indirect taxes, such as value-added tax and goods and services tax, which tend to disproportionately affect individuals and families with lower incomes;[16] and (c) levying adequate taxation on the profits of large companies, particularly multinational companies domiciled or operating in that country as well as on high-net-worth individuals, including through the introduction of a globally coordinated minimum income tax for ultra-high-net-worth-individuals.[17] In addition, a holistic review of the tax system is essential to ensure that the combined effect of these measures advances economic, social, and cultural rights while reducing inequality. Collectively, these measures could help States parties to expand their tax base and strengthen the redistributive effect of their national tax systems.[18] The effectiveness of these measures can be further enhanced by appropriate budgetary and effective spending policies aimed at realizing economic, social and cultural rights.

7. States parties are also required to ensure that tax policies are designed and implemented, as far as possible, in a manner that promotes substantive equality and remove explicit and implicit gender biases.[19] In this regard, States parties should avoid adopting regressive taxation, such as value added taxes, that disproportionately impacts women with low or no income.[20] It is important that States parties review their tax and social policies, including examining how tax credits and allowances affect the distribution of unpaid work, as well as how higher tax rates on second earners on gender equality.[21] Furthermore, States are encouraged to adopt tax measures that create incentives for transforming the gender division of labor and promote women's participation in the labor market.[22] Additionally, States parties should secure fiscal space through equitable and progressive taxation to invest in public services essential for the implementation of economic, social and cultural rights,

[12] E/C.12/GBR/CO/6, para.17(a); E/C.12/COL/CO/6, para.20; E/C.12/ESP/CO/6, para.16(a); E/C.12/ZAF/CO/1, para.17(c); E/C.12/BIH/CO/3, para.13(c); E/C.12/BRA/CO/3, para.22(b); E/C.12/IDN/CO/2, para.19(c).

[13] E/C.12/ESP/CO/6, para.16(d); E/C.12/ARG/CO/4, para.23; E/C.12/MLI/CO/1, para.13.

[14] E/C.12/ESP/CO/6, para.16(b), E/C.12/PAN/CO/3, para.13(b), E/C.12/CRI/CO/5, para.15, E/C.12/COL/CO/6, para.20; E/C.12/ARM/CO/4, para.18(a); E/C.12/ECU/CO/4, para.22; E/C.12/GTM/CO/4, para.17; E/C.12/BOL/CO/3, para.17; E/C.12/ARG/CO/4, para.23; E/C.12/ITA/CO/6, para.20; E/C.12/BRA/CO/3, para.22(a); E/C.12/PAN/CO/3, para.13(b); E/C.12/IND/CO/2, para.19(b); E/C.12/KGZ/CO/4, para.17.

[15] E/C.12/ARG/CO/4, para.23.

[16] E/C.12/BOL/CO/3, para.17;.

[17] See G20 Rio de Janeiro Leaders' Declaration, 2024, para. 20.

[18] E/C.12/CRI/CO/5, para.15; E/C.12/ESP/CO/6, para.16(c); E/C.12/GBR/CO/6, para.17(b); E/C.12/ARG/CO/4, para.23; E/C.12/PAN/CO/3, para.13(b); E/C.12/IRQ/CO/5, para.17; E/C.12/BGD/CO/1, para.20.

[19] E/C.12/GC/20; A/HRC/26/28, para.36.

[20] E/CN.6/2024/L.3; A/73/179, para 54.

[21] E/C.12/ITA/CO/6, para.34; E/C.12/PSE/CO/1, para.26(a); E/C.12/BRA/CO/3, para.36; E/C.12/IRL/CO/4, para.25(b); E/C.12/IRQ/CO/5, para.25.

[22] UNIFEM, Budgeting for Women's Rights Monitoring Government Budgets for Compliance with CEDAW, 2008.

such as comprehensive care and support systems that are gender-, disability- and age-responsive.[23]

8. Taxation can also serve as a regulatory tool. Where appropriate, it could be used to create conditions that contribute to the realization of economic, social and cultural rights or to discourage behaviors that undermine them. The Committee has observed that tax policies can, for example, promote access to healthy diets by imposing taxes on junk food and sugary drinks,[24] or enable States parties to protect the environment and meet their climate commitments.[25] However, it is essential that such measures are designed and implemented in a way that does not disproportionately burden disadvantaged and marginalized groups, particularly through the adoption of measures to mitigate potentially regressive impacts.

III. International cooperation and extraterritorial obligations on taxation

9. Illicit financial flows and tax abuse represent a huge loss of public revenue and constitute an impediment to the mobilization of domestic resources for the realization of human rights and to combat persistent poverty and inequality, particularly in low- and middle-income countries. To address this issue, the Committee recalls that States parties have a duty to take measures to combat tax evasion and tax avoidance, both within and beyond their territory.[26]

10. Tax evasion and tax avoidance by corporations and high-net-worth individuals often have a transboundary nature and give rise to States' extraterritorial obligations. The Committee has observed situations where low effective corporate tax rates, wasteful tax incentives, lax regulation of illicit financial flows, tax evasion and tax avoidance, and the permitting of tax havens and financial secrecy drive a race to the bottom, depriving other countries of significant resources for public services on health, education, housing, and for social security and environmental policies.[27] As the Committee has clarified, the extraterritorial obligations deriving from article 2, paragraph 1, of the Covenant,[28] require States parties to ensure that their national tax policies do not undermine the capacity of other countries to raise public revenues to implement economic, social and cultural rights. To that end, States parties should conduct an independent and comprehensive assessment of the impact of their national and international tax policies on other countries, particularly on developing countries, and take corrective measures.[29]

11. Furthermore, States parties should take all measures to combat illicit financial flows, cross-border tax evasion, *inter alia*, through the misuse of transfer pricing and tax fraud by business enterprises operating within or domiciled in their territory, including through the adoption and enforcement of mandatory due diligence mechanisms.[30] States parties should also regulate the situation where shell companies are used for profit-shifting, tax evasion and fraud.[31] The Committee calls upon States parties to implement a global minimum tax on the profits of large multinational enterprises across all jurisdictions where they operate, and to explore the possibility of taxing these enterprises as single firms based on their total global

[23] A/HRC/53/39, para.63(e); E/CN.6/2024/L.3, para.54(nn); A/HRC/52/52, para.60.

[24] E/C.12/POL/CO/6, para.42(a); E/C.12/ARG/CO/4, para.46(f); E/C.12/BEL/CO/5, para.49(b); E/C.12/ITA/CO/6, para.56.

[25] E/C.12/ITA/CO/6, E/C.12/PSE/CO/1; E/C.12/IRL/CO/4, E/C.12/IRQ/CO/5; E/C.12/POL/CO/7, para.17(a).

[26] See E/C.12/KEN/CO/2-5, para.18; E/C.12/HND/CO/2, para.20; E/C.12/GBR/CO/6, para.17(c); E/C.12/DOM/CO/4, para.18; E/C.12/BGD/CO/1, para.20; E/C.12/ESP/CO/6, para.16(e); E/C.12/ZAF/CO/1, para.17(d).

[27] E/C.12/GC/24.

[28] E/C.12/GC/24, paras.25-37.

[29] A/HRC/26/28, citing A/HRC/21/39, para. 92; E/C.12/IRL/CO/4, para.15(c); E/C.12/PAN/CO/3, para.13(d).

[30] E/C.12/GC/24, para.37; E/C.12/LUX/CO/4, para.15; E/C.12/ZAF/CO/1, para.17(d).

[31] E/C.12/IRL/CO/4, para.15(d); E/C.12/LUX/CO/4, para.15.

profits, with the tax then apportioned fairly amongst all countries where its activities take place.[32]

12. States parties should also contribute to the efforts of other countries in combating tax abuse including by ensuring that public and private financial institutions under their jurisdiction are subject to appropriate regulation and monitoring.[33] States parties must adopt due diligence mechanisms for banks, professional service providers, and other financial institutions, requiring them to take measures to prevent tax fraud and transboundary tax evasion.[34]

13. In addition, the Committee reminds international organizations, including international financial institutions, that as subjects of international law, they must respect human rights and fulfill all obligations imposed by general rules of international law.[35] In particular, international financial institutions, as specialized agencies of the UN, are bound by the human rights provisions contained in the UN Charter. Accordingly, they should conduct human rights impact assessments of any proposed tax reforms to ensure that their recommendations do not undermine, but facilitate, the capacity of States to realize economic, social and cultural rights, especially in countries highly dependent on external financing.[36]

14. Moreover, States parties have the obligation to strengthen international cooperation to build an inclusive, fair and effective global tax governance and to combat tax-related illicit financial flows, with a view to creating an international environment conducive to the fulfilment of economic, social and cultural rights.[37] To this end, States parties should participate in good faith in the negotiations for a United Nations Framework Convention on International Tax Cooperation and develop international tax rules in an inclusive manner that apply fairly and equitably to all States, considering the different needs, priorities and capacities of countries, in particular developing countries.[38] States parties are encouraged, *inter alia,* to strengthen exchange of financial and tax information between them and to establish a public global asset registry, containing beneficial ownership information, in order to curb illicit financial flows and transfer of untaxed wealth by corporations and individuals.

15. In negotiations on international tax cooperation, States parties should refrain from making decisions and exercising their voting powers in ways that limit the ability of other States to mobilize all available resources for the realization of human rights, including economic, social and cultural rights.[39] In this context, States parties should ensure that all countries, particularly developing countries, can participate meaningfully and on an equal footing in decision-making processes and agenda-setting in the field of international taxation, recognizing the specific challenges they may face, including those related to climate financing and unsustainable debt.

16. To conclude, adopting a binding framework convention on international tax cooperation at the UN, grounded in a human rights-based approach, provides States parties with a unique opportunity to work towards creating an enabling environment both at the national and international level to fulfil their commitments under the International Covenant on Economic, Social and Cultural Rights. Aligning tax cooperation with the obligations under the Covenant can contribute to the effective mobilization of resources and redistribution of wealth, thereby addressing high levels of inequalities and facilitating substantial investments in the institutions, public services and programs essential for the realization of economic, social and cultural rights for all.

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[32] E/C.12/GC/24, para.37.
[33] E/C.12/LIE/CO/2-3, para.10; E/C.12/CHE/CO/4, para.13.
[34] E/C.12/PAN/CO/3, para.13(d).
[35] E/C.12/2016/1, paras.7-9.
[36] E/C.12/2016/1, paras.10-11.
[37] Universal Declaration of Human Rights, article 28. Cfr. E/C.12/GC/24, para.37.
[38] E/C.12/GC/24, para.37.
[39] E/C.12/GC/24, para.29.