Grounding tax policies on human rights law: What does it take?
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Statement by Nicole Bidegain Ponte, Development Alternatives with Women for a New era (DAWN) for the Righting Finance and Action Aid side event at the 26th Session of the Human Right Council

Introduction

The urgent need to reorienting finance to serve productive economy, peoples’ human rights and sustainability was one of the major lesson learnt from the recent global financial crisis. In this sense, DAWN together with other networks and organizations gathered under the “Righting Finance Initiative”\(^1\) to link the discussion on financial regulation and macroeconomic policy with the realization of Human Rights.

Since last year, Righting Finance has been supporting the mandate of the Special Rapporteur on extreme poverty and human rights to prepare a report focusing on the revenue-rising side of fiscal policy, in particular taxation and its links with the realization of human rights and equality. We have been asking governments to respond the questionnaire prepared by the rapporteur, we organized public forums and we submitted publications and country based information for the preparation of the report.

But, why this is important and how taxation and human rights are linked?

Firstly, the link between fiscal policy and HR is important because the tax structure and the level of revenue collection on the one hand, and budget allocations and expenditure on the other, influence the ability of States to fulfill their human rights obligations and to tackle discrimination and structural inequalities.

Secondly, by assessing fiscal policies we can identify government priorities and the distributional consequences of public policies among different economic actors and social groups. In this sense, fiscal policies assessment with human rights lens shows which kind of economic activities and actors are promoted, and even what kind of household structures and family arrangement are contemplated. So we can respond to the question: who are benefiting and who are being affected by current tax schemes and exceptions at national and global levels? Moreover, redistribution measures can be put in place not only in the expenditure side of the fiscal policies but also in the revenue side. As Mr Ferreri, Head of the Uruguayan Tax Collection Agency said at the public forum we organized and I quote: “Collecting taxes is not enough, what matters is how and from whom”.

Thirdly, there is increasing recognition of the importance of securing sustainable sources of revenue to fund the Post 2015 development agenda. The private and the corporate sector is

\(^1\) The Steering Committee of Righting Finance is composed by AWID, CIVICUS, CESR, Center for Women’s Global Leadership, Center of Concern, DAWN, ESCR-Net, IBASE, Norwegian Center for Human Rights and Social Watch. For more information: http://www.rightingfinance.org/
being promoted as a “development actor” that should be a key driver in the implementation of the Sustainable Development Goals. However fostering the mobilization of private resources for sustainable development can’t replace nor downplay the role of states in mobilizing maximum available resources at national and global level to guarantee human rights and environmental sustainability. The key role that mobilization of official resources for development play should be highlighted. As the report states: “taxation is the primary source of public resource generation, besides being also the most sustainable and predictable source of financing for the provision of public goods and services” (Para 2).

To respond to the second question, I would strengthen the point about applying the principle of equality and non-discrimination to taxation with three examples from the report.

1. Tax regimes are not neutral, they can perpetuate or the contrary promote social equality and even gender equality. For instance, women and men experience the impacts of tax policies, as members of the workforce, as consumers, producers, and as responsible for the activities of the “care economy” within and outside households. The report of the Special Rapporteur acknowledges that women tend to use larger portions of their income on basic goods because of gender norms that assign them responsibility for the care of dependents, so they bear the regressive brunt of consumption taxes (Para 46). Moreover, it recognizes that “certain tax arrangements that directly or indirectly disincentivize women’s participation in the labour force or promote the male bread-winner family model could threaten women’s enjoyment of human rights” (Para 17).

In this sense the report make an important contribution stating that:

“Policymakers should be aware of the extent to which tax policies, such as the treatment of income derived from jointly-owned assets of married couples, strengthen or break down gender inequalities, or discriminate against different types of households” (Para 49).

Furthermore, states should “review tax structures, codes and instruments for explicit and implicit gender bias and ensure they do not reinforce existing gender inequalities, including through their impact on unpaid care work (Para 79 f))

2. Additionally, applying the HR principle of equality and non-discrimination to taxation would mean as the report considers “to set up a progressive tax system with real redistributive capacity that preserves, and progressively increases, the income of poorer households”. It is also recommended to “increase reliance on personal and direct taxes, and carefully consider the income tax threshold to ensure that persons below or near the poverty line are not driven deeper into poverty by tax policies” (Para 79 c) and d)). Affirmative action measures aimed at assisting the most disadvantaged individuals and groups that have suffered from historical or persistent discrimination, such as well-designed subsidies or tax exemptions are also contemplated (Para. 16).

3. What is more, to advance in the implementation of human rights obligations and sustainable development, governments seek to increase tax revenue. In order to apply the principle of equality, the tax base should be expanded in a progressive way. This would imply to shift the tax
burden from consumption taxes paid by women, people living in poverty and other marginalized groups such as gays, lesbian and trans people who are in the bottom of the income distribution, to progressive taxation systems including profitable sectors who are undertaxed (for instance the financial sector, extractive industries).

For example, the report calls states to “ensure the public revenue raised from the financial sector is commensurate to the sector’s profitability and the risks it generates; implement a financial transaction tax, and consider allocating the revenues specifically to expenditure that can contribute to the realization of human rights” (Para 79 n))

This kind of measures would also have positive impacts in terms of addressing global inequalities and promoting long-term sustainable development. According to the report increasing taxation of the financial sector could discourage the excessive risk-taking that led to the crisis. Taxes on certain types of financial transactions can raise revenue from the financial sector as well as to deter speculative trading activities that generate risks for the whole of society (in the form of crises or fluctuations in food/fuel prices) (Para 69).

Finally, a specific comment on the duty of international cooperation and assistance, should inform taxation policies at the global level along with the principle of equality. This implies reverting “the race to the bottom”, moving from tax competition to attract Foreign Direct Investments to tax cooperation. The report calls for very specific and sharp recommendations such as to “adopt country-by-country reporting standards for all transnational corporations” (Para 81 f)), “adopt a framework that commits it to full disclosure of beneficial ownership of registered companies through national public registries;” (Para 81 g)) and to “develop a system for more systematic and regular exchange of information between tax authorities, laying the foundations for an eventual multilateral, global system of automatic tax information exchange” (Para 81 d)) among other measures.

To conclude, while governments at the UN headquarters in New York are discussing whether and how to adopt goals and/or targets on reducing poverty and inequality, we strongly support the recommendation to “include a commitment to align fiscal policy with human rights obligations as part of the post-2015 sustainable development framework, including by raising sufficient public revenue in equitable ways, allocating and spending revenue to realize human rights for all, and strengthening public oversight, transparency, participation in and accountability over fiscal policy” (Para 81 h)).

Thank you very much.