



PRINCIPLES FOR
HUMAN RIGHTS
IN FISCAL POLICY

Here we are, demanding the budget! Tax policy and organized civil society in Latin America

AUTHOR

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for Human Rights in Fiscal Policy N° 1





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A graphic consisting of three silver coins stacked on top of each other, with a black horizontal bar partially obscuring them. The coins are positioned above a teal horizontal line that spans the width of the page.

SUMMARY

As stated in the introduction to the **Principles on Human Rights in Tax Policy**, the increasing regulatory complexity to which the financial policies of States are subject and the consequent disciplinary specialization with which they are associated, mean that tax policy is often conceived as a purely technical matter to be handled by a narrow circle of “experts”. However, tax policy is directly linked to the welfare of individuals and communities and has a direct impact on the human rights of the population. The absence of adequate mechanisms for debate and participation, and the lack of transparency with which fiscal information is produced, exacerbates this phenomenon and further distances fiscal decisions from those who are primarily concerned and affected by them.

In this context, the Principles are presented as a platform that calls for more transparent, participatory and accountable tax policies in response to the needs of the population and the requirements imposed by the standards of the international and inter-American human rights system. This document gathers some of the concerns expressed by different civil society organizations and social movements throughout Latin America regarding this scenario of opacity in fiscal decisions. These include some general considerations on tax systems, public spending, public debt, and other particular ones related to the needs of specific sectors, such as gender, health, education, environment, as well as indigenous groups, people of African descent and peasants.

In general, the measures demanded include the review of tax expenditures in order to evaluate whether they serve to guarantee human rights and the participation of civil society in these evaluation and reform processes. Also, the prioritization of social expenditures in the budget, the universalization of social protection policies, the establishment of more equitable allocation systems among subnational entities, the design of responsible public debt systems, and the regulation of the regional and international financial system to combat tax evasion.

On the other hand, civil society organizations and social movements are calling for tax policies that are aware of the disproportionate burdens that are often imposed on women, as they are overrepresented in caregiving duties, informal jobs, and low-income populations. They also reject tax policies that benefit the private sector and demand more public investment in health and education in order to achieve universal coverage and free education. Finally, indigenous groups as well as people of African descent and agricultural workers demand tax policies that protect them from extractive industries, promote their traditional economies, and finance access to services necessary for their social integration, such as bilingual intercultural education.





INTRODUCTION

Traditionally, issues related to tax policy are seen as essentially technical and devoid of political significance. However, tax collection and spending policies of nation states have direct consequences on the (un)fulfillment of the rights of Latin American populations, especially their most vulnerable segments, such as women, indigenous groups, people of African descent, peasants and urban workers. For decades, civil society organizations (CSOs) in the region have brought the fight for tax justice into their demands, because they also understand the need to bring this issue closer to society as a whole.

In this sense, the article aims to understand the main demands of Latin American civil society when it comes to tax policy. This article is part of the initiative **Principles on Human Rights in Tax Policy (P&G)** (PG/HR/TP, 2021), which aims to insert the human rights outline into the fiscal agenda of Latin American governments. For this purpose, the document has incorporated demands from organized civil society through various instruments, such as the preparation of this article.

A total of 25 Latin American organizations were surveyed for this research, including social movements, networks and campaigns, civil society organizations (CSOs), trade unions, and business coalitions. The methodology used included research on documents, statements, and studies published by the organizations on their official websites. We prioritized texts and ideas that contribute new aspects to the P&G, mainly in terms of incorporating civil society's demands to the document's guidelines.

The selection of organizations was based on the following criteria: 1) Relevance: to be a prominent and recognized organization in the region; 2) Latin American representativeness: to be active in at least three countries in the region; 3) Online access: to have some position related to tax policy on their web page. The list of organizations surveyed can be found in **Annex I**. The organizations were not formally surveyed for this article and it was necessary to adapt the documents consulted to the language of tax policy. Therefore, the organizations should not be considered as coauthors of this work.

The different actors surveyed were grouped according to the topics for which they have proposals. Despite the political and ideological divergences among the selected CSOs, the article sought to synthesize their demands into a single argument—so as to create a single, albeit plural, voice for organized civil society. It is always possible, however, to see exactly whose idea and claim it is through the footnotes.

Finally, it is important to clarify that the research was conducted before the outbreak of the new-coronavirus pandemic, between November 2019 and February 2020. With the emergence of Covid-19, organizations took a position on how to address the crisis and how to promote it with tax justice and guarantee human rights. Therefore, some approaches that civil society is pointing to for confronting the crisis and the post-pandemic have been added to the final considerations.



2.

GENERAL CONSIDERATIONS ON HUMAN RIGHTS AND TAX JUSTICE: THE FIGHT AGAINST LATIN AMERICAN INEQUALITIES IS THE FIGHT FOR THE PUBLIC BUDGET

Latin America is a region in which an unparalleled ethnic and racial diversity is mixed with an equally unique inequality in access to rights. In the midst of the Covid-19 pandemic, 73 billionaires increased their fortunes by \$48.2 billion, while an estimated 52 million people fell into poverty (Oxfam, 2020). Tax policy is a state tool that can both create or address this inequality, as well as guarantee rights or withhold them. In general, the CSOs researched in this article argue that Latin American States ought to use this instrument to guarantee rights by formulating public and tax policies aimed at equality and from an intersectional perspective that values the region's ethnic and gender diversity.

CSOs have several proposals for a tax policy focused on human rights. In these general considerations, we will analyze the tax system, the public spending, and other related issues: transparency, social participation and accountability; public debt and financialization. Following these considerations, we will examine in the ensuing sections the demands by specific areas and groups: gender; health and education; environment; international cooperation; non-State actors; and indigenous peoples, individuals of African descent and peasant.

2.1 Tax system

Questioning aggressive and unfair tax systems in Latin America is one way to fight inequality and guarantee rights (Christian, Aid, 2014). The reform's main aim should be to reduce regressivity: the principle that those that have more pay more should be the basis of the Latin American tax structure (RJFALC, 2012), something that is not currently the case. The tax system must, therefore, be progressive, favoring direct and indirect taxes, linked to income and assets, and not to consumption. The modification of the income tax in favor of a higher taxation of the super-rich and millionaire companies is another demand in favor of progressivity (Fernández Ortiz, 2016).

Another face of the struggle for equality and human rights in tax policy is the demand that companies contribute their share of tax revenues. In recent decades, when growth expectations in Latin America have been extremely low, companies operating in the region have developed strategies to evade their fiscal responsibility. These involve not only hiding revenue to avoid paying taxes –known as tax evasion– but also limiting payment through tax engineering –known as tax avoidance (Fernández Ortiz, 2016).

Tax avoidance and tax evasion affect horizontal equality, since individuals and companies with the same contributive capacity do not participate in the same way.

Moreover, they force States to increase indirect taxes, such as those related to consumption (CBGA *et al.*, 2014). In order to combat these practices, tax evasion should be regulated as a crime against the State and should be viewed as a criminal offense and classified as such in the criminal law (RJFALC, 2012). It is also important to promote increased capacity in the Ministries of Finance or their equivalent in terms of budget, technical and human resources, so that they can prosecute tax evasion. The institutions responsible for tax policies should publish an annual tax law that addresses any identified regulatory gaps (Fernández Ortiz, 2016). Cooperation between Latin American countries is also necessary to put an end to these practices, a subject that will be discussed in a specific section.

Another issue is when the States themselves voluntarily choose to reduce the payment of taxes through incentives and tax benefits. These are known in the specialized literature as tax expenditures, because they are indirect government expenditures. On the one hand, these expenditures can be considered just another way to avoid paying taxes (RMAAD, 2019); on the other hand, tax expenditures also have the power to promote a number of benefits, such as domestic investment, job creation, development of less developed regions, and support for the most vulnerable sectors of society (Oxfam & CEPAL, 2019: 12).





Currently in Latin America, tax expenditures are reducing government revenues by anywhere from 10 to 20 per cent (Renzi, 2019). Despite representing such a large amount, they do not go through the same processes of transparency, governance, and accountability as budget expenditures. Furthermore, they are usually the result of government decrees, with no deadline, evaluation, or revision process. They are thus consolidated as opaque expenditures that remain for decades in government accounts (Renzi, 2019). The problem gains relevance when we look at the biggest beneficiaries of tax expenditures in Latin America: companies, mainly multinationals. According to an ECLAC study, there are currently 337 temporary exemption regimes for transnational corporations in the region (LATINDADD, n.d.).

A number of Latin American CSOs have proposals to improve this scenario. Tax expenditures must first be considered within a broad rights-based fiscal framework, i.e., they must be evaluated insofar as they limit the ability of governments to promote the realization of rights (IBP, 2018). They should therefore be exceptions, limited to measures that have proven to be more

effective than direct budgetary spending, and subject to regular social control and evaluation (RJFALC, n.d.; PSI, 2020).

In this perspective, the process of granting tax expenditures needs to be thoroughly revised, so that society can assess whether the promised gains are being realized. Decision-making, governance, transparency, monitoring, evaluation, and review processes must therefore be reformed (Martorano, 2018). It is also necessary to reduce profit-based incentives and replace them with investment-based benefits, thus ensuring that the tax deduction will lead to increases in production, innovation, and employment –not just increases in corporate profits (Oxfam & CEPAL, 2019). Finally, one last aspect present in the demands of the CSOs, especially union organizations of tax and fiscal authorities in the region, is the importance of the independence of the tax agencies, which need resources to oversee the proper use of tax expenditures. A single body within the government should hold the ultimate authority for the management and monitoring of these expenditures (Martorano, 2018).

➤ 2.2 Public budget and rights

If CSO policy demands concerning budget spending are, in a way, simpler than those concerning the tax system, they also are more difficult to achieve, as they require radical changes in government priorities and greater vigilance by society.

The organizations claim that public spending policies should prioritize and guarantee the rights of the popular, marginalized, and disadvantaged sectors (RJFALC, 2012). This prioritization goes hand in hand with the universalization of public policies related to social protection. The budget system must always be endowed with sufficient resources for the progressive funding of policies for quality basic social services and robust social protection systems that guarantee the realization of economic, social, and cultural rights (Bogota Declaration, 2017).

Although the P&G state that social protection systems should ensure minimum floors of rights as a priority, they also advocate, in accordance with civil society demands, that these systems be expanded to other rights. The demands of the region's CSOs, in this regard, signal an expansion of these floors to rights such

as food, social welfare, housing, transportation, education, information, and health. Health and social services should, to this effect, be public, high-quality, universal, accessible, and free of charge for all treatments and in all pandemics (Mujeres en Red, 2005).

One last factor that is emphasized by organized civil society regarding public spending is the issue of budgetary federalism. Starting in the 1980s, Latin American governments promoted budgetary decentralization, increasing responsibilities at the subnational levels (provincial and local). These processes involved the strengthening of local autonomies and the creation of opportunities to act on issues formerly concentrated in the national sphere, such as the environment, labor, and gender. For most subnational governments, however, these new responsibilities were not backed by resources and institutional capacities. It is therefore necessary to reform tax collection and geographical distribution systems in order to achieve greater equality among resources and accountability at different federal levels (UIM, 2012).

➤ 2.3 Transparency, participation and accountability in tax policy

Strengthening citizen control of tax policy calls for a series of measures to provide transparency and ensure participation and accountability in the decision-making processes of the State, related to both the collection and execution of public spending. It is necessary to democ-

ratize and ensure the transparency of fiscal reforms and decisions, providing effective mechanisms for a broad public debate about these processes and their impacts on the promotion of rights (DataIgualdad, 2019).

Several proposals are made by CSOs in this direction. First, the transparency of the budget cycle needs to be deepened. Strategic plans are fundamental tools for this, as they enable us to know the resources and their destinations, as well as their distribution by issue and geographic location (UIM, 2012). The plans should, therefore, portray the reality and the transformations of mid-term tax policy decisions, which is not the case in most of Latin America.

Transparency must also be present in tax policy. Citizens have the right to know the effective contribution that taxpayers make to society, with disaggregation by taxpayer, region, and social strata, and whether the tax

system is progressive and is leading to the guaranteeing of rights (RJFALC, 2012).

Social participation, meanwhile, needs to go beyond the creation of formal mechanisms for debate and deliberation by society in fiscal decision-making processes. It must include people in situations of poverty and socio-environmental vulnerability, including indigenous peoples, women, and people of African descent (Christian Aid, 2014).

Finally, accountability should be developed beyond policy evaluations through parliamentary mechanisms that assess the reality and effectiveness of the objectives of the Executive Branch and monitor progress and setbacks in fiscal decisions (DataGualdad, 2019).

➤ 2.4 Other factors affecting tax policy: Public debt and financialization

CSOs make claims in areas of tax policy other than tax collection and public spending, but which strongly affect these accounts.

In the first place, public debt is part of tax policy, because decisions on whether to incur or pay debts—be they domestic or foreign—determine part of the revenue available for other public spending. External debt is already known for imposing conditionalities on governments, often related to austerity measures and cuts in social areas. In recent years, the domestic debt of Latin American countries has become an increasingly important instrument for funding public spending, in some cases becoming larger than external debt, as is the case of Argentina, Brazil, Colombia, and Mexico. These debts do not carry the conditionalities of external debts, but sometimes have high interest rates, which can generate problems of indebtedness and income distribution. Another mechanism that creates internal public debt are public-private partnerships, which often underestimate the costs of the project to be financed, affecting the resources available to governments (LATINDAAD, 2018).

Given this scenario, a change in the global debt system becomes necessary, as a tool for obtaining financing in favor of guaranteeing rights. Moreover, an international court for debt arbitration should be created to contribute to sovereign debt resolution processes (LATINDAAD, 2018).

Another mechanism that interferes with the amount of government revenue is financialization, which is the process of deregulation and expansion of financial markets and actors that has been taking place in recent decades. This process has facilitated tax avoidance and evasion mechanisms, and directed economic flows to the financial sector, which is largely untaxed and controlled by the wealthier sector. After the 2008 crisis, financialization expanded because while the big banks were bailed out with taxpayers' money, States neglected their obligations to promote human rights by resorting to austerity measures (CFJ, 2018).

In this scenario, in order to ensure resources for public policies as well as a progressive tax system, it is first necessary to make sure that there is no differential treatment in the taxation of income on the basis of its financial origin, eliminating exemptions and taxing financial transactions and investments as well as investment funds (RJFALC, 2012). Secondly, it is necessary to coordinate capital control policies at the regional and international levels, because financialization is essentially a cross-border phenomenon (Fernández Ortiz, 2016). Finally, a broad process of Latin American financial integration must be organized to reduce the contagion impacts of international crises, create mechanisms to stabilize the region's balance of payments, and ensure cooperation among countries once the natural resource boom cycle is over (Albrieu, 2015).



3.

GENDER

Due to the structural nature of gender inequality in Latin America and its intersections with other categories such as age, race-ethnicity, sexual orientation, and class, women continue to be overrepresented in the poorest populations and the more precarious and lowest paid jobs. At the same time, they are underrepresented in political and leadership spaces, in addition to facing gender violence, sexual trafficking, and limitations in their sexual and reproductive rights and autonomy (CBGA, 2014). The poverty of Latin American women extends beyond the economic sphere; it is also poverty in terms of rights, justice, education, and of possibilities of breaking the cycle of poverty itself (UIM, 2012).

One of the consequences of this gender inequality is the invisibilization of women in Latin American societies (PSI, 2018). An important struggle of the feminist movement has been to emphasize the fundamental role of women in the so-called care economy, which consists of tasks that ensure the life and reproduction of society, such as housework and caring for children, the elderly, and sick relatives. These jobs are often unpaid and are mostly performed by women. The non-recognition of the role of women in the production and reproduction of society leads to a lack of appreciation and a failure to share these activities across society as a whole.

In this regard, social movements related to gender equality in Latin America argue that States should promote concrete actions to support families, such as child-care, community kitchens, homework programs, etc. Governments must also take all necessary measures to do away with patriarchal values and make society aware of the importance of democratizing family structures (MMM, 2000). This is the only way to reduce the marked inequality in women's participation in unpaid work and to increase their participation in market income and political representation (Bogota Declaration, 2017).

Another part of women's work that is made invisible is their participation in the productive sphere. This occurs, among other reasons, because of their greater participation in informal economy. Informal women workers, despite contributing to the economic development of the country and paying taxes on their activities, do not possess property rights and legal status, which prevents them from accessing public policies (RMAAD, 2014), especially those related to work (social security, unemployment insurance, maternity leave, among others).

This scenario outlined by CSOs fighting for gender equality entails several claims for tax policies. We will now consider the implications for tax policy, the budget cycle, and austerity measures.

The quintessential argument relating gender and tax policy is that of the excessive burden of Latin America's regressive taxes on women. Since they are overrepresented among the poorest people, they are disproportionately affected by the tax burden, where consumption taxes are high compared to taxes on income and wealth. The trend of increasing the proportion of consumption taxes relative to the total tax burden is not only a Latin American problem, but a global one (Bogota Declaration, 2017). Furthermore, in countries where consumption taxes are applied to food and medicine, women are also impacted more than men, since they are the ones who commonly purchase these products (Pérez Fregoso, n.d.).

These can be considered implicit biases of the tax system: regulations that, while not containing explicit inequality, discriminate against women. Other examples are tax systems that do not take into account the overrepresentation of women in informal work or the care economy (Rodríguez, 2012).

Beyond national tax policy, women are also impacted by bilateral and multilateral tax-related agreements. When multilateral trade negotiations reinforce the deindustrialization process in Latin American countries, they deepen gender inequalities by affecting female industrial employment in particular. The industrial sector concentrates high-paying jobs, and by having them filled by women, they allow for the reduction of wage gaps. In addition, the tariff reductions agreed upon in these negotiations reduce customs revenues, which restricts the fiscal space for the promotion of women's policies (RGC, 2017)

Another issue concerning the international sphere and taxation is that of tax evasion and tax havens. The lack of transparency in international financial flows encourages illicit activities such as human trafficking. This activity disproportionately affects women and girls in developing countries—79% of human trafficking is related to sexual exploitation (CBGA, 2014).

With regard to budgetary spending, the inclusion of women and gender issues in public budgets is another demand from Latin American social movements. Public budgets with a gender perspective are used in some

countries in the region and are tools recognized for their role in integrating government policies and efforts, fostering transparency and cross-sectionality of public resources. However, this tool usually does not include investments in the care economy, as it determines women's possibilities of participating in the labor market and the public debate (Pérez Fragoso, n.d.). In this sense, it is also necessary to guarantee public investments in education, healthcare, caregiving services, transportation, food, and housing (Bogota Declaration, 2017).

Women's participation in the public domain is a matter of particular concern when it comes to the public budget. Active participation in the process of elaborating, monitoring, and evaluating the government budget involves technical knowledge and allocation of time, the latter an especially scarce resource for Latin American women, who often work double or triple shifts. In addition, these transparency and social participation policies are often limited to large cities, excluding rural

women from the processes. This set of issues consequently limits women's participation in the budget cycle (FOG, 2019). For this reason, a gender approach is urgently needed in the participation mechanisms of fiscal decisions in order to guarantee women's involvement in these processes.

Finally, fiscal austerity policies carried out by governments in times of economic crisis rely on the work of women. This is due to their role in the care economy, which cushions the impact of spending cuts in health and social welfare policies (MMM, 2019). The increased workload means that women find it more difficult to enter the labor market and end up having their wages reduced, minimizing the expected effects of the tax policy by removing women from the productive economy (Spino, 2011). Therefore, investments in policies for gender equality and the care economy must be preserved even when cuts in public spending occur.



4.

HEALTH AND EDUCATION

The importance of health and education for the realization of human rights and the general welfare of the population is a consensus across different views of the political and ideological spectrum. Spending on these sectors is usually protected by the constitution and is part of the minimum content of public spending. In light of this, the organizations and movements for health and education raise other demands, related to fiscal mechanisms of loss of rights and their consequences for societies. We are mainly referring to the processes of privatization and commercialization of health and education that have been taking place in recent decades in Latin American countries.

Public health systems built during the twentieth century in the region removed health from the market sphere in favor of universal and free healthcare. In recent years, however, the systems are in the crosshairs of pharmaceutical companies and health insurance companies, among others, that seek to recover health as a business. The transition from universal health care systems to universal health coverage, which transfers public resources to private systems, is another tool of capital accumulation that reproduces social inequality. At times, the tax policies of Latin American States contribute to this process by cutting spending and dismantling public services, demonstrating their inefficiency and presenting privatization as a solution (ALAMES, 2018).

Another aspect of the relationship between tax policy and health is the need to combine tax efforts with regulatory measures to inhibit the use of harmful substances. There is a consensus in the region about the effectiveness of raising taxes on the tobacco industry to reduce its consumption. The lack of regulation of this sector, however, is an overlooked opportunity in Latin America, with few countries regulating the production, distribution, and sale of tobacco. With this in mind, it is recommended that taxation and regulation be used together to develop comprehensive public policies that encourage a reduction in the consumption of substances that are harmful to health (AASPA, 2018).

Education, in turn, is going through similar processes of privatization and commercialization, such as educational reforms that have as tools the promotion of standardized evaluations and the deregulation of labor in the educational sector (IEAL, 2019). Another issue emphasized by unions is the lack of access to decisions involving fiscal and educational policies. Privatization and commercialization are usually implemented unilaterally by governments and justified in part by the need to increase government revenues in the short term. Including teachers in these deliberations is critical to the success of these processes, given that, specifically in the Latin American context, resistance to reforms is largely explained by a failure to consult with unions (IEAL, 2017).



5.

THE ENVIRONMENT

Latin American economic history, from the colonial period onwards, is intrinsically associated with extractive activities. In recent decades, however, extractivism has expanded even further in the region due to the quadrupling of mineral and fossil fuel prices between 1991 and 2011. Although this expansion brought economic growth, it also entailed a reinforcement of the primary-export model and did not translate into economic and energy mix diversifications, which would allow for greater sustainability of extractive revenues and the fulfillment of Latin American commitments related to climate change (EITI, 2016).

Part of the demands of Latin American civil society regarding the environment are therefore related to the region's extractive dynamics and their economic, social, and environmental consequences. There is, overall, a rejection of the narrative of the extractive model as a vector for economic development. The main objections to this narrative are its use to promote armed conflict against forest populations and nature; the specialization of the productive agenda around the exploitation of natural resources; and the rejection of the extractive model by local communities.

This rejection is translated into demands at the fiscal level. Firstly, in the claim to end tax incentives for the extractive industry. This sector currently receives hundreds of incentives in Latin America, which result in a higher tax burden for workers than for companies (FSP, 2018). This phenomenon is due to the competition among countries to attract multinationals, which, especially in times of crisis or decreases in commodity prices, results in a race to the bottom, i.e., a general reduction in taxes and environmental and labor regulations for companies in the industry. The most affected are Latin American countries that are highly dependent on revenues from the extractive sector, which end up without the resources needed to promote public policies. So far, the solution presented by governments has been to increase production at levels that are increasingly less sustainable both socially and environmentally (EITI, 2016).

CSOs are also calling for the taxation of polluting companies within the environmental agenda. They demand the use and expansion of the polluter-payer principle to structure the tax burden, as well as the use of collected resources to invest in the fight against climate

change. The owners of capital, meanwhile, would not have the speed and willingness to make such changes in a timely manner and State intervention is required (BWI, 2015). The carbon offsetting system should also be controlled by the State (FSP; 2017).

Taxation, tax earmarking, and permit sales, however, are not enough to guarantee the necessary resources for the environmental agenda—especially since a portion of environmental expenditures must be allocated to assist populations directly affected by extractive companies and the climate crisis. The government must therefore spend beyond these revenues to ensure compliance with internationally agreed environmental targets (BWI, 2015).

Another demand concerns the broad, non-discriminatory right to transparency, access to information, and participation and consultation in decisions related to extractive activities. There is often a lack of involvement of ethnic communities and local populations living in resource-rich territories, especially for indigenous peoples and in the Amazon. Transparency, in fiscal terms, also needs to achieve the identification of transfer pricing and the actual beneficiaries of the extractive industry (BWI, 2015).

The demand for transparency and the right to consultation, however, is not limited to extractive activities, but rather encompasses all decisions involving the environment. In this respect, CSOs are calling for the implementation in Latin America of Principle 10 of the Rio Declaration on Environment and Development, signed at the 1992 Earth Summit (RLIE, 2016). This principle ensures that all people have access to timely and reliable information and can participate meaningfully in decisions that affect their lives. A group of 10 Latin American countries committed during Rio+20 to create an agreement that guarantees the rights stated in Principle 10. This process culminated in the Regional Agreement on Access to Information, Public Participation, and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), an international treaty signed in 2018 by 22 Latin American countries. Between the signing of the agreement in September 2018 and the end of 2019, however, it had only been ratified domestically by five countries in the region.



EQUALITY AND NON-DISCRIMINATION: INDIGENOUS PEOPLES, PEOPLE OF AFRICAN DESCENT, AND PEASANTS

The field of research connecting non-discrimination –referring here primarily to ethnic, racial, and agrarian justice agendas– with tax policy is still incipient, although these agendas are already gaining ground in fiscal decisions (CESR, n.d.). Despite their differences, indigenous people, people of African descent, and peasants in Latin America share the questioning of the purported benefits of economic development from the rampant exploitation of natural resources, an issue inherently related to the fiscal agenda, as discussed in the previous section. For indigenous people, for example, the exploitation of natural resources in the territories they occupy has only brought benefits to big cities, companies, and elites. Moreover, it ignored the traditional economy of indigenous peoples and nations, who have their own strategies of production and commercialization for meeting their needs and aspirations (COICA, 2017).

Indigenous peoples, together with peasants, recently obtained an important victory concerning the guarantee of rights before the advance of extractive exploitation and agribusiness in their lands. The UN Declaration on the Rights of Peasants, signed in October 2018, was the result of decades of struggles by social movements and peasant and indigenous unions. It recognizes the role of family-based, peasant, and indigenous agriculture in sustainable development and is groundbreaking in that it incorporates collective rights of peasants and indigenous people, such as the right to seed, communal land use, and the management of common goods (CLOC, 2019).

Regarding the demands of tax policy specifically, the three groups face a common problem, which is the insufficiency and irregularity of governmental resources allocated to the realization of their rights. For example, the mechanisms for promoting racial equality in Latin America, besides having rather heterogeneous areas of action throughout the region, are in a constant process of progress and setbacks due to their sensitivity to economic cycles and changes in government, which lead to constant changes in their legal status, available resources, and organizational structures (ECLAC *et al.*, 2017).

Government agencies related to family-based agriculture and indigenous issues are in more stable situations, being on average older than institutions for the

promotion of racial equality. Additionally, several Latin American governments have created agrarian policy instruments that allowed family-based, peasant, and indigenous farming (AFCI) to integrate into markets and increase production, thus reducing poverty in rural areas. However, there is a concentration of resources in the most structured APCI, with better conditions for productive and commercial development. This concentration deepens exclusion and does not contribute to an inclusive rural development. Besides, in some countries, such as Peru, Bolivia, Argentina, and Paraguay, the resources allocated to APCI are exhausted in the administrative structures of governmental institutions (COPROFAM, n.d.).

Another issue raised by movements is the disconnection between agrarian policies and the overall public spending policy. Public investments that are crucial for APCI, mostly in infrastructure, are not decided upon taking into consideration the demands of these groups, nor are they articulated with the funding of APCI productive activities (COPROFAM, n.d.).

Specific public policies for Latin American indigenous peoples face a similar situation. Although the States have made progress with health and education policies for indigenous people, structural inequalities and the lack of user involvement in designing policies have led to an implementation that leaves much to be desired. It is also necessary to expand spending for bilingual intercultural education and the extension of social benefits, with exclusive funding sources for the particular cultural needs of indigenous peoples. Finally, free, prior and informed consent (ILO Convention 169 of 1989) ought also to be applied to tax policy decisions when they directly affect indigenous rights and the material and symbolic reproduction of their culture (LATINDAAD *et al.*, 2018).



7.

TAX RESPONSIBILITY OF COMPANIES AND FINANCIAL INTERMEDIARIES

Latin America is a region characterized by a combination of low taxation and tax avoidance and evasion practices, which diminish the resource mobilization capacity of the countries in the region. Each year in Latin America and the Caribbean an estimated 10% to 15% of corporate revenue tax collection is lost to international trade price manipulation, which is just one of the different types of corporate tax abuse. These practices are propagated due to a number of factors, from the limited capacity of tax authorities to the lack of financial transparency in some countries, which is not regulated by a system of international cooperation (CESR *et al.*, 2018).

Therefore, in addition to complying with international human rights conventions, which also apply to companies, the social responsibility of corporations must translate into the payment of their taxes and the transparency of their tax information (ComunicaRSE, 2018). On the issue of transparency, the annual tax reports of multinational companies must be separated by corporate group and by country and must contain information about the country, activities performed, subsidies received, personnel employed, and tax payments. Only with reports at this level of detail will it be possible to tax all locations where the activity takes place and to make assessments on tax policies.

When it comes to partnerships between the public and private sectors, other requirements are necessary, in addition to standardized fiscal reports. Transparency

must extend to the tendering processes and contracts, to the supervision of the contractor's production, to tax collection, and the distribution and spending of the revenue generated. All this data should be disclosed in a single report, which can be used as input for independent evaluations (PC, 2016).

In their relationship with the State, companies should also stop interfering in the formulation of tax policies, particularly they should stop lobbying for benefits, incentives, and special tax rates that are unnecessary or have a negative impact on human rights, and they should support State measures to counter abuses in domestic and cross-border taxation (CESR *et al.*, 2018).

Finally, beyond their relationship with the State, companies have responsibilities to civil society, which are usually the focus of Corporate Social Responsibility (CSR) policies. A recent survey has shown that society distrusts Latin American companies, especially when it comes to the issues of transparency and decision-making. This aspect is not trivial and shows that companies need to present to their employees, and to society in general, the people responsible for making final decisions, under what criteria they do so, and how is it that such deliberations meet CSR policies, regional development, and the fulfillment of human, economic, social, and cultural rights (Forum Empresa, 2011).



8.

WHAT INTERNATIONAL COOPERATION CAN DO FOR TAX JUSTICE

Fiscal cooperation in Latin America becomes necessary as countries in the region face obstacles whose solution requires the coordination of their activities. The operations of multinational companies, foreign direct investment (FDI) incentive policies, and the establishment of bilateral and multilateral economic agreements are examples of fiscal externalities, that is, policies of a country or a group of countries that can affect the tax policy of other countries, particularly in terms of tax collection.

Civil society organizations call for the establishment of a global tax control organization with the necessary powers and capabilities to establish standards for the production and disclosure of tax information. As well as to identify and mitigate tax externalities, in favor of a financial and commercial architecture at the service of sustainable and equitable development (RJFALC, 2012; Fernández Ortiz, 2016).

Among the tax issues that require cooperation among countries, trade disputes are perhaps the most obvious. The race to the bottom, which results in lower taxation for businesses and lower revenues for governments, was discussed earlier in this article. The solution to these problems depends, to a large extent, on the coordination of efforts among countries. In this regard, changes in international tax standards need to protect the tax collection capacity of countries. Bilateral and regional free trade agreements, on the other hand, should be approached with caution, as they limit and constrain national efforts to achieve sovereign, fair, progressive, and equitable tax systems (RJFALC, 2012).

Another potential solution to the race to the bottom in Latin American cooperation is to tax multinationals as

single global companies, based on a formula that uses the distribution of labor among the multinational's production chain to determine where the profits are. The minimum tax would be the same in all countries in which the multinational operates, with the amounts to be taxed per country determined by where production is actually taking place (PSI, 2020).

Development funding is another aspect of international cooperation and relates to the provision of loans and investments by development banks and international financial institutions to countries, particularly those in the developing world. In these transactions, great caution must be taken not to condition this aid on a reduction of spending aimed at guaranteeing human rights. Furthermore, safeguards, which are policies to mitigate the social and environmental impacts of investments, must be applied, always in dialogue with the communities affected by the projects (CHRD, n.d.).

Finally, the fight against tax evasion and tax avoidance also requires international cooperation, as these practices usually benefit from international trade. Among the alternatives proposed by the CSOs are: (i) the creation of an international convention on whistle-blowers, which provides them with legal protection and physical security; (ii) the implementation of an initiative to end tax havens, which includes the realization of a dirty list that is both harmonized and linked to sanctions (PSI, 2020; Datalgualdad, 2019; Fernández Ortiz, 2016); (iii) the regulation of transfer pricing, putting an end to corporate discretion in the definition of intra-group prices by laying out a range of commonly accepted values for each situation and context, in addition to including in this list the prices of services and intellectual property that are also favored by these practices (Zabalo, P., n.d.).



9.

FINAL CONSIDERATIONS

Civil society organizations that advocate for human rights demand that public authorities, private companies, and international organizations comply with human rights agreements when implementing their policies. In recent decades, the number of organizations that demand a space for participation in tax policy decisions has been increasing, as they understand the fundamental role of this space for the guarantee of rights. These organizations demand that States prioritize, in tax policy, the fight against inequalities and the guarantee of human rights for all Latin American citizens, focusing on the most vulnerable populations.

In 2020, the world was caught by surprise with the outbreak of Covid-19, which in Latin America led to 500,000 deaths, thus becoming a global epicenter of the pandemic (UOL, 2021). Several of the organizations surveyed in this article have created initiatives to cope with the crisis that are in line with this research, within the framework of tax justice and the mobilization of State resources. Oxfam, for example, with the slogan "Who pays the bill?" suggested a series of reforms to the Latin American tax system that would fall on those who have more and

who have suffered less from the pandemic (Ruiz, 2020). The Pan-Amazon Social Forum, in turn, harshly criticized economic recovery plans that perpetuate the extractive model implemented in the region and, in opposition, articulated a proposal for Good Living that incorporated interculturality and the full and effective participation of indigenous or native peoples, women, and all social movements in a new State structure (FSP, 2020). Finally, Public Service International developed a call to action to promote progressive domestic funding for public education as a result of the Covid-19 pandemic (PSI, 2020b). The initiatives are counted by the dozens, these being just a few examples.

The claims of CSOs, for tax policy as a whole and for addressing the pandemic specifically, are in dialog with the Principles of Human Rights in Tax Policy and are bridges to the long-term goals we want to achieve in realizing rights and promoting a more just and equal society in Latin America. Despite the technical nature of tax policy, CSOs show that they have much to say and contribute to the debate.



LIST OF CIVIL SOCIETY ORGANIZATIONS (CSOS) SURVEYED

PLAYER	AREA	TYPE	REPRESENTATION IN LATIN AMERICA	OFFICIAL WEBSITE
AASPA Alianza De Asociaciones De Salud Pública De Las Américas	Health	Network	Argentina; Bolivia; Brazil; Canada; Chile; Colombia; Cuba; Costa Rica; United States; Guatemala; Uruguay; Mexico; Nicaragua; Panama; Puerto Rico; Dominican Republic; Venezuela.	http://aaspa.net/es/nosotros/
AFM Articulación Feminista Marcosur	Gender	Network	Brazil; Paraguay; Peru; Argentina; Dominican Republic; Mexico; Bolivia; Uruguay; Peru; Chile; Ecuador; Colombia.	https://www.mujeresdelsur-afm.org/
ALAMES Asociación Latinoamericana de Medicina Social	Health	Network	Argentina; Bolivia; Brazil; Chile; Colombia; Cuba; Costa Rica; United States; Uruguay; Mexico; Nicaragua; Dominican Republic; Venezuela; Haiti, El Salvador; Honduras; Ecuador; Peru; Paraguay.	http://www.alames.org/
CHRISTIAN AID LATIN AMERICA	Human Rights and Tax Justice	NGO	Christian Aid has five programs in Latin America and the Caribbean: Brazil; Central America; Colombia; Haiti and Dominican Republic.	https://www.christianaid.org.uk
COMUNICARSE	Corporate Social Responsibility	Network	Argentina; Chile; Mexico; Central America.	https://www.comunicarseweb.com/
COPROFAM Confederación de Organizaciones de Productores Familiares del Mercosur Ampliado	Family-based Agriculture	Social Movement/ Trade Union	Countries of affiliated unions: Uruguay; Peru; Bolivia; Brazil; Argentina; Chile; Paraguay.	http://coprofam.org/
COICA Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica	Indigenous Peoples	Social Movement	Peru; Bolivia; Ecuador; Brazil; Colombia; Guyana; Suriname.	https://coica.org.ec/



PLAYER	AREA	TYPE	REPRESENTATION IN LATIN AMERICA	OFFICIAL WEBSITE
CLOC Coordinadora Latinoamericana de Organizaciones del Campo <i>Vía Campesina</i>	Peasants	Social Movement	84 organizations in 18 countries in Latin America and the Caribbean (not specified).	http://www.cloc-viacampesina.net/
PAN-AMAZON SOCIAL FORUM	Amazon	Network	Colombia; Suriname; French Guyana; Venezuela; Ecuador; Peru; Bolivia; Brazil; Guyana.	http://www.forosocialpanamazonico.com/pt/
FORUM EMPRESA	Corporate Social Responsibility	Corporate	United States; Mexico; Honduras; Costa Rica; Nicaragua; Colombia; Ecuador; Peru; Chile; Uruguay; Panama.	http://www.empresa.org/
INDUSTRIALL	Mining, Energy and Manufacturing	Union	All (not specified).	http://www.industriall-union.org/
EDUCATION INTERNATIONAL	Education	Union	EI has 36 member organizations in 19 Latin American countries. (not specified).	https://www.ei-ie-al.org/
ICM Internacional de Trabajadores de la Construcción y la Madera	Construction Union		Bermuda; Barbados; Jamaica; Mexico; Haiti; Dominican Republic; Guatemala; El Salvador; Honduras; Costa Rica; Nicaragua; Colombia; Suriname; Venezuela; Ecuador; Peru; Bolivia; Chile; Brazil; Argentina; Uruguay; Paraguay; Panama; Guyana.	https://www.bwint.org/
LATINDADD Red Latinoamericana por Justicia Económica y Social	Tax Justice	Network	Argentina; Bolivia; Brazil; Colombia; Costa Rica; Ecuador; El Salvador; Guatemala; Honduras; Mexico; Nicaragua; Paraguay; Peru.	https://www.latindadd.org/
LATERAL	Tax Justice	Network	Argentina; Bolivia; Brazil; Colombia; Costa Rica; Dominican Republic; Ecuador; El Salvador; Guatemala; Honduras; Mexico; Nicaragua; Paraguay; Peru.	https://www.internationalbudget.org/analysis-insights/lateral-project/



PLAYER	AREA	TYPE	REPRESENTATION IN LATIN AMERICA	OFFICIAL WEBSITE
MMM World March of Women	Gender	Social Movement	In Latin America, has centers in Brazil, Chile, Costa Rica, Honduras, Mexico and Bolivia.	http://www.marchemondiale.org
OMAL Observatory of Multinational Companies in Latin America	Multinational Companies	NGO	Does not have offices in Latin America.	http://omal.info/
OXFAM LATIN AMERICA	Human Rights and Tax Justice	NGO	Has projects in: Cuba; Haiti; Dominican Republic; Guatemala; El Salvador; Honduras; Nicaragua; Colombia; Peru; Bolivia; Brazil; Paraguay.	https://www.oxfam.org
PSI Public Services International - Americas	Public Services	Union	Anguilla; Antigua and Barbuda; Argentina; Aruba; Bahamas; Barbados; Belize; Bermuda; Bolivia; Brazil; Chile; Colombia; Costa Rica; Curaçao; Dominica; Dominican Republic; Ecuador; El Salvador; Grenada; Guatemala; Guyana; Haiti; Honduras; Jamaica; Mexico; Montserrat; Nicaragua; Panama; Paraguay; Peru; St. Lucia; St. Vincent and the Grenadines; St. Martin; Trinidad and Tobago; Uruguay; Venezuela.	https://www.world-psi.org/
RJFALYC Latin America and the Caribbean Tax Justice Network	Tax Justice	Network	Argentina, Brazil, Paraguay, Bolivia, Ecuador, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Mexico.	https://www.facebook.com/RJFALyC/
RMAAD Red de Mujeres Afrolatinoamericanas, Afrocaribeñas y de la Diáspora	Gender e Ethnic/Racial	Network	Argentina; Belize; Bolivia; Brazil; Chile; Colombia; Costa Rica; Cuba; Curacao; Ecuador; El Salvador; Guatemala; Guyana; Haiti; Honduras; Mexico; Nicaragua; Panama; Peru; Puerto Rico; Dominican Republic; St. Lucia; Suriname; Uruguay; Venezuela.	http://www.mujeresafro.org/



PLAYER	AREA	TYPE	REPRESENTATION IN LATIN AMERICA	OFFICIAL WEBSITE
RED LATINOAMERICANA DE GÉNERO Y COMERCIO	Gender and Trade	Network	Uruguay; Argentina; Brazil; Paraguay.	https://generoycomercio.net/
RLIE Red Latinoamericana sobre las Industrias Extractivas	Extractive Industry	Network	Bolivia; Brazil; Chile; Colombia; Ecuador; Guatemala; Mexico; Peru.	https://redextractivas.org/
VIA CAMPESINA	Peasant Agriculture	Social Movement	Colombia; Venezuela; Ecuador; Peru; Bolivia; Chile; Brazil; Argentina; Uruguay; Paraguay.	https://viacampesina.org/



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