Submission of the *Iniciativa por los Principios de Derechos Humanos en la Política Fiscal*[1]

Abstract

This submission addresses the human-rights content of the Co-Lead's Zero Draft. Article 2(c) commits the future Convention to alignment with States' obligations under international human rights law. International human rights law authorizes and, in defined circumstances, requires States to collect, request, exchange, and publish tax information and to cooperate to combat tax avoidance, evasion, and tax-related illicit financial flows. That conclusion rests on settled standards: the obligation to mobilise the maximum of available resources, individually and through international cooperation, as interpreted by the Committee on Economic, Social and Cultural Rights; the right of access to State-held information and the duty of proactive publication under Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and its regional counterparts; the sustained treatment of illicit financial flows by the Human Rights Council, the General Assembly and special procedures; and instruments of near-universal participation, including the United Nations Convention against Corruption and SDG 16. Confidentiality remains a legitimate but limited interest, subject to legality, necessity and proportionality, and held by natural persons rather than by corporate structures. The submission proposes drafting for Articles 2, 4, 6, 7, 8, 11, 15 and 16: an express publication obligation; automatic exchange of information; deletion of the open-ended secrecy exception; public country-by-country reporting and public beneficial-ownership registers; and disaggregated data enabling assessment of the Convention's human-rights impact. The submission is to be considered supplementary to the collective submissions to which members of the Initiative have subscribed.

Human rights, transparency and access to tax information in the Zero Draft

Article 2(c) of the Zero Draft requires alignment with States' obligations under international human rights law; Article 1(c) makes transparency an objective of the future tax system; Article 2(i) requires transparency and accountability of all taxpayers.[2] Article 2(c) supplies the legal content of the other two. The Convention should give that content operative effect.

1. Current standards from International Human Rights Law

1.1 Resources

Article 2(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) obliges each State to take steps to the maximum of its available resources and through international cooperation, towards the full realization of economic, social and cultural rights. This obligation concerns not only how much revenue is raised but also how fiscal burdens are distributed, requiring attention to equality, non-discrimination, and ability to pay. The ICESCR Committee has held that this entails preventing and combating tax abuse by corporations, including through the extraterritorial effects of a State's own tax and financial-secrecy rules, and in 2025 called for adequate taxation of multinationals and high-net-

[1] The following organizations are part of the *Iniciativa por los Principios de Derechos Humanos en la Politica Fiscal*: GI-ESCR, CELS, CESR, Dejusticia, Fundar, ACIJ, INESC, and Red de Justicia Fiscal. For more information, see: https://derechosypoliticafiscal.org/

[2] Co-Lead's Zero Draft of the UN Framework Convention on International Tax Cooperation, UN Doc A/AC.298/CRP.32 (21 July 2026) arts 1(c), 2(c), 2(i); Terms of Reference for a United Nations Framework Convention on International Tax Cooperation, UN Doc A/AC.298/2 (2024) para 9(c).

worth individuals (HNWIs), strengthened exchange of tax information, and a public global asset registry containing beneficial-ownership information.[3] Concordantly, other treaty bodies, such as the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW), have asked States to assess the extraterritorial effects of their financial secrecy and tax rules on rights elsewhere. The Committee on the Rights of the Child similarly treats revenue mobilization and budget transparency as conditions for realizing children's rights.[4]

1.2 Information

Article 19(2) of the ICCPR protects the right of access to State-held information and the duty of proactive publication of information of public interest; restrictions must be provided by law and be necessary and proportionate, and access does not depend on demonstrating a personal interest.[5] The Inter-American Court has held the same, placing the burden of justification on the State that withholds, and the African Commission requires proactive disclosure.[6] Across systems, therefore, publication of public information is the rule and secrecy the exception that must be justified. Publication also conditions participation, since the right to take part in the conduct of public affairs under Article 25 of the ICCPR is not meaningfully exercisable in the fiscal domain unless the underlying revenue information is public and the two guarantees are read together.[7]

1.3 Cooperation

The duty to cooperate has both an international and domestic dimension. Articles 55 and 56 of the UN Charter and Article 2(1) ICESCR make international cooperation a legal obligation rather than an optional matter, and States must refrain from conduct that foreseeably impairs another State's ability to mobilize resources for rights, including through the extraterritorial effects of their tax, secrecy and information-sharing rules.[8] In terms of what this means for tax cooperation, UN human rights bodies have accordingly called for effective tax-information exchange, beneficial-ownership transparency and public country-by-country reporting, while identifying restrictions on developing countries' access to tax information as a barrier to resource mobilization.[9] The Human Rights Council and the General

[3] CESCR, 'General Comment No 24 on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities' (2017) UN Doc E/C.12/GC/24, paras 25, 37; CESCR, 'Tax Policy and the International Covenant on Economic, Social and Cultural Rights' (2025) UN Doc E/C.12/2025/1, paras 11, 14–16. See also CESCR, 'Concluding Observations: United Kingdom' (2016) UN Doc E/C.12/GBR/CO/6.

[4] CEDAW Committee, 'Concluding Observations: Switzerland' (2016) UN Doc CEDAW/C/CHE/CO/4-5, paras 40–41; CEDAW Committee, 'Concluding Observations: Luxembourg' (2018) UN Doc CEDAW/C/LUX/CO/6-7; CRC Committee, 'General Comment No 19 on Public Budgeting for the Realization of Children's Rights' (2016) UN Doc CRC/C/GC/19, paras 63–65.

[5] Human Rights Committee, 'General Comment No 34: Article 19' (2011) UN Doc CCPR/C/GC/34, paras 18–19, 34; *Toktakunov v Kyrgyzstan*, Communication No 1470/2006, UN Doc CCPR/C/101/D/1470/2006 (28 March 2011) paras 6.3, 7.7–7.8.

[6] *Claude Reyes v Chile* (Merits, Reparations and Costs) IACtHR Series C No 151 (19 September 2006) paras 77, 92; African Commission on Human and Peoples' Rights, *Declaration ofPrinciples on Freedom of Expression and Access to Information in Africa* (2019) principles 26–29.

[7] Human Rights Committee, 'General Comment No 25: Article 25' (1996) UN Doc CCPR/C/21/Rev.1/Add.7, para 25.

[8] Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI, arts 55–56; CESCR, 'General Comment No 3: The Nature of States Parties' Obligations' (1990) UN Doc E/1991/23, paras 13–14.

[9] Magdalena Sepúlveda Carmona, Report of the Special Rapporteur on Extreme Poverty and Human Rights, UN Doc A/HRC/26/28 (2014) paras 21–23, 58–60, 79(g)–(j); Juan Pablo Bohoslavsky, *Illicit Financial Flows, Human Rights*

Assembly have treated illicit financial flows as a sustained human-rights concern requiring international cooperation.[10]

1.4 Equality

Where the wealthiest individuals and the largest enterprises can shield income and assets, the cost of financing public services shifts towards those with fewer resources, and the resulting shortfalls fall hardest on groups already disadvantaged. The ICESCR and CEDAW require States to eliminate the discriminatory effects of formally neutral fiscal measures, which cannot be identified without sufficiently disaggregated data; the CESCR has accordingly tied tax transparency to proportionate taxation at the top of the income and wealth distributions.[11] Transparency is therefore an instrument of substantive equality, not merely an administrative objective.

1.5 Relevant Legal Developments

The United Nations Convention against Corruption, with near-universal participation, already requires public reporting, public access to information, societal participation, and beneficial-ownership measures; SDG 16 pairs the reduction of illicit financial flows with public access to information; and the Sevilla Commitment endorses beneficial-ownership transparency and strengthened exchange of tax information.[12] In the Americas, IACHR Resolution 2/26 calls for comprehensive, timely, accessible and disaggregated fiscal information, including on tax benefits and their beneficiaries. It also requires tax secrecy to be exceptional, necessary and proportionate, and addresses beneficial-ownership transparency and information relevant to tax avoidance, evasion and preferential regimes.[13]

2. Proposals for the Zero Draft

On Article 2: Retain paragraph (c) as an operative provision and clarify that it refers to obligations authoritatively interpreted by international human rights treaty bodies**, particularly the realization of economic, social and cultural rights, including their environmental dimensions, and the right to development**. Retain paragraph (i) because transparency is an obligation on Parties to **publish and make accessible tax and fiscal information of public interest, subject only to restrictions that are lawful, necessary and proportionate and confined to the legitimate privacy and security interests of natural persons**.

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and the Post-2015 Development Agenda, UN Doc A/HRC/28/60 (2015) para 77(f); Independent Expert on the Effects of Foreign Debt on Human Rights, 'International Assistance and Cooperation' (report to the Human Rights Council).

[10] HRC Res 58/7 (2 April 2025) UN Doc A/HRC/RES/58/7; HRC Res 52/21 (2023) UN Doc A/HRC/RES/52/21; UNGA Res 79/190 (17 December 2024).

[11] ICESCR art 2(2); Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, art 2; CESCR, 'Tax Policy and the International Covenant on Economic, Social and Cultural Rights' (n 2) paras 11, 14.

[12] United Nations Convention against Corruption (adopted 31 October 2003, entered into force 14 December 2005) 2349 UNTS 41, arts 10, 13, 52; UNGA Res 70/1 (2015) targets 16.4, 16.10; *Compromiso de Sevilla*, outcome document of the Fourth International Conference on Financing for Development (Sevilla, 30 June–3 July 2025) paras 28(g), 47(d).

[13] IACHR, Resolution 2/26, *Fiscal Policies and Human Rights in the Americas* (28 April 2026) ss 2.8, 8.5–8.6; *Human Rights Principles in Fiscal Policy*, principle 7 (presumption of public availability of fiscal information); GIFT, *High-Level Principles on Fiscal Transparency, Participation and Accountability*, principle 6. Also, see María Emilia Mamberti, 'Human rights for whom? Divergent approaches in Latin America and Europe' (*Latindadd*, 22 July 2026) https://latindadd.org/justicia-fiscal/human-rights-for-whom/ accessedoutlined in 22 August 2026.

On Article 4: Add that Parties shall pursue tax cooperation approaches that will contribute to the achievement of sustainable development, **consistent with their obligation to mobilize the maximum available resources for the progressive realization of human rights, in accordance with United Nations norms and standards**, and report to the Conference of the Parties on performance on this commitment.

On Article 6: Article 6(3) should require Parties to **adopt**, not merely "explore", coordinated approaches to the effective taxation of HNWIs, supported by the publication of aggregate data on their effective taxation. A proactive verb for this commitment facilitates alignment with the Equality standards outlined in 1.4. above.

On Article 7: Tax avoidance should be retained in the definition in Article 3(2), consistent with the agreed United Nations definition; the African Group and a broad group of developing countries defended that scope at the fifth session.[14]

On Article 8: Paragraph 2 should read "explore and adopt appropriate measures and tools…", so an operative mandate can be created for the aims of paragraph 1.

On Article 11: The article should be retained and unbracketed, as the African Group and others have argued.[15] Two changes follow from Article 2(c). First, adopt "**may be**" relevant in paragraph 1, since "foreseeably relevant" has, in practice, operated as a barrier for lower-capacity administrations, clashing with States' obligation to cooperate internationally under international human rights law. Second, the open-ended trade-secret and *ordre public* exception in paragraph 3(c) should be deleted or narrowly defined: it is discretionary enough to shield beneficial ownership and avoidance structures, and paragraph 5, which rejects bank and nominee secrecy, already reflects the correct logic. The open-ended nature of the exception to transparency collides with the narrow nature of restrictions to transparency under international human rights law, discussed under 1.2 above.

On Article 15: Parties should **publish country-by-country reports through a central public database and maintain public beneficial-ownership registers that feed into a global asset registry**. They should also **collect and publish disaggregated data, including data disaggregated by gender, necessary to assess the impact of international tax cooperation on the capacity of all States to realize human rights**.

On Articles 12 and 16: Reporting under Article 16 should be public, thereby giving effect to accountability for the use of mobilized resources referred to in Article 12(2).

[14] INC Tax, Fifth Session, 4 August 2026 (afternoon meeting), UN Web TV <https://webtv.un.org/en/asset/k1y/k1yy7e4v6n> accessed 21 August 2026.

[15] INC Tax, Fifth Session, 5 August 2026 (morning meeting), UN Web TV <https://webtv.un.org/en/asset/k11/k115qyhs27> accessed 21 August 2026.