

# Lima Declaration on Tax Justice and Human Rights

*The Lima Declaration arises from the international strategy meeting, “**Advancing Tax Justice through Human Rights**,” held in Lima, Peru in 2015, convened by the Center for Economic and Social Rights, the Global Alliance for Tax Justice, Oxfam, Red Latinoamericana sobre Deuda, Desarrollo y Derechos (LatinDADD), Red de Justicia Fiscal de América Latina y el Caribe and the Tax Justice Network.*

We come together as a broad-based community of experienced advocates, practitioners, activists, scholars, jurists, litigators and others committed to advancing tax justice through human rights, and to realizing human rights through just tax policy.

Tax revenue is the most important, the most reliable and the most sustainable instrument to resource human rights in sufficient, equitable and accountable ways. The realization of all human rights, likewise, is a core *raison d’être* of government. It is through respecting, protecting and fulfilling civil, political, economic, social, cultural and environmental rights that the state earns its legitimacy to tax. Taxation also plays a fundamental role in redistributing resources in ways that can prevent and redress gender, economic and other inequalities and reduce the disparities in human rights enjoyment that flow from them. Moreover, a just system of taxation can cement the bonds of accountability between the state and its people, fostering governments to be more responsive to the rights and claims of those to whom they are answerable. Tax policies can likewise counteract glaring market failures and protect global common goods – not least a healthy environment within planetary boundaries.

Yet many countries struggle to collect sufficient tax revenue to adequately fund the realization of human rights, all of which come with some financial cost. In parallel, unjust tax systems at the national and global levels continue to fuel rising inequality and widening disparities in human rights enjoyment, shifting the burden of financing public services onto society’s least well-off, weakening the provision of existing services and concentrating wealth in the hands of a privileged few. Regressive fiscal policies being pursued in many countries across the globe from North to South are a serious threat to the economic and social rights of already disadvantaged groups. This basic injustice is fuelling deeper economic, gender, and political inequalities, eroding trust in government institutions, which are perceived as more accountable to transnational economic elites than to their own people.

Tax policy is public policy, and so can no longer be treated as a matter of mere technical engineering or be left entirely to the often unaccountable discretion of government. Instead, we call on governments to cultivate transformative social and

fiscal compacts, and empower citizen watchdog institutions that have the purpose of subjecting tax policy to the most rigorous standards of transparency, public participation, and meaningful accountability in line with internationally-recognized human rights principles.

Existing human rights standards provide a normative justification for a capable and well-resourced state. In order to comply with their obligations to protect and progressively realise economic and social rights, states must use and generate the maximum available resources (especially through sufficient and sustainable taxation) in equitable, non-discriminatory ways.

Tax laws, policies and practices must work to end structural discrimination rather than entrench growing inequalities of all kinds, including gender, ethnic, and economic disparities. Indeed, taxation is a key instrument for addressing discrimination against women and ensuring their substantive equality. Regressive revenue-raising measures (including those which effectively impose a disproportionate fiscal burden on the most disadvantaged within and between households and disregard individual ability to pay) as well as socially-useless tax incentives and relief for business and the wealthy that have the effect of shifting the tax burden to those less able to pay while relieving those more able to pay, are inconsistent with the human rights principles of non-discrimination and equality. We call on governments to conduct impact assessments of the human rights and equality implications of tax laws. Likewise, we urge governments and statistical agencies to collect individual, household, and corporate data that enables decision-makers to accurately evaluate the human rights and equality impacts of all fiscal policies.

Today's international corporate tax system – put in place when the nature and composition of the global economy was fundamentally different – is thoroughly outdated, privileging the interests of multinational corporate groups, global financial interests and some advanced economies while preventing national governments from raising sufficient revenue in non-discriminatory and accountable ways. Rigorous, evidence-based scrutiny of the impacts tax laws, policies and practices have on human rights and equality abroad should replace the all-too-often unsubstantiated assumptions about the economic benefits of maintaining the prevailing international tax system. Grounded on states' existing legal duties to take steps individually and through international cooperation and assistance to achieve the full realization of human rights, we call for the rewriting of global tax rules under the auspices of a legitimate, fully inclusive and democratic United Nations global tax body.

A state implementing tax policies or practices that erode the capacity of other states to resource human rights (whether by means of preferential tax rulings, preferential corporate tax regimes for internationally mobile forms of capital, or any other means) may be in violation of this international legal duty to cooperate. Further, states which purposefully obstruct tax information exchange, as well as banks and law firms that exploit secrecy arrangements to the detriment of the public purse, are foreseeably depriving other states of the resources needed to meet their human rights obligations. We therefore call on states to conduct human rights impact assessments

of the spill-over effects of their tax policies on other countries, to take immediate action to halt any harmful practices, and to provide effective remedy where harm is done. Likewise, we call on states to enact legislation to regulate transfer pricing mispractices, and to curtail financial and banking secrecy so as to enable governments to effectively combat tax abuse.

Business behaviour—and tax advice—that place tax revenues at risk may well deprive states of the resources they need to realise human rights. Therefore, the tax behaviour of business can no longer be treated outside the purview of the corporate responsibility to respect human rights. In order to implement their obligations in accordance with the United Nations Guiding Principles on Business and Human Rights, we call on governments to develop legal and regulatory frameworks which safeguard against the human rights risks of business tax behaviour. We also call on governments to provide effective remedy for any harmful conduct stemming from tax behaviour. In parallel, we urge companies and corporate groups to assess and address corporate tax abuse, for example in their policy statements, due diligence and grievance processes. Starting from a clear recognition of the adverse human rights impacts of tax abuse, companies should then conduct their tax arrangements in transparent and accountable ways so as to not jeopardize government revenue collection, even when such arrangements are technically lawful yet contravene human rights principles. We especially call on suppliers of schemes which may put government revenues at risk (in particular tax lawyers, accountants and financial intermediaries) to avoid colluding in tax abuse, to recognize their particular human rights responsibilities, to conduct human right due diligence, and to redress any harmful activities. Further, we call on companies of all stripes to refrain from interfering in the public interest of tax policy-making, be that directly through special-interest lobbying or indirectly through provoking tax competition.

We call on international institutions to support the reform of the broken global tax system by, amongst other things, integrating human rights standards into how they address corporate tax avoidance and the adverse spill-over effects of certain governments' tax policies. Likewise, international financial institutions which advise governments on their tax and fiscal policies should, above all, respect those governments' human rights obligations.

Rather than be an obstacle, the law should be transformed into an instrument of tax and fiscal justice. We urge the legal profession (including human rights and tax lawyers, judges and the judiciary at large) to consider its particular responsibilities to oppose unjust tax policies that impede the realization of human rights.

One of the human rights community's most urgent challenges is to ensure states are accountable for equipping themselves with the material means for the fulfilment of human rights. We therefore call on the human rights community at large (e.g. advocates, lawyers, academia, women's rights organizations, NGOs, trade unions, national human rights institutions, treaty bodies and regional commissions) to actively examine how tax practices affect their missions, and develop capacities and practices to advance human rights through closer monitoring and review of tax policy. Whistleblowers and other tax justice advocates who work in the public interest to

expose blatant tax-related human rights abuses, meanwhile, should be considered human rights defenders, and protected accordingly.

Finally, we call on the tax justice and development communities at large to integrate human rights into their research and advocacy, so as to harness the power of invoking human rights discourse, norms and accountability mechanisms in the pursuit of just taxation and sustainable development.