

Fiscal Policy for Human Rights and Equality

Mapping debates, initiatives and actors in the Andean Region

Report of a series of dialogues organized with the collaboration of:

DeJusticia · Latindadd · Oxfam
Red de Justicia Fiscal de América Latina y el Caribe
Red de Justicia Tributaria de Colombia
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CENTER FOR ECONOMIC AND SOCIAL RIGHTS
SOCIAL JUSTICE THROUGH HUMAN RIGHTS

Executive Summary

Fiscal policy plays a central role in reducing socio-economic inequalities and in realizing human rights. Its potential redistributive function makes fiscal policy an indispensable tool to foster a development model that has the promotion of equality, human rights and environmental sustainability at its core. This report aims to serve as a resource for a transformational fiscal reform agenda in the Andean Region, by mapping regional debates on fiscal policy, and the strategies and initiatives implemented by various civil society actors. It analyzes the strategic objectives of existing collaborative initiatives and the possibilities for closer links between the work of organizations from the fiscal justice, development and human rights fields.

This report is based on a rich and participatory process of dialogue with actors from across these different fields. Its findings draw from two national dialogues –one in Peru and one in Colombia– and one regional dialogue that also took place in Colombia. They were organized together with regional and national partners.¹ The panels, plenary sessions and discussion workshops were designed to encourage strategic reflection and collaboration between the participating organizations. The dialogues focused on the topic of fiscal policy and its link to social, economic and political inequality and human rights deprivation in the Andean Region. Experts in fiscal policy, development and human rights participated in the event, as did representatives of regional networks and NGOs, grassroots organizations and leaders of movements working for the rights of women, indigenous peoples and afro-descendent communities, as well as representatives of tax administration workers' unions. The dialogues were complemented by a literature review including research studies linking fiscal policy with inequality and human rights on a national and regional level.

Effective participation of civil society in the fiscal policies and measures that affect it requires understanding: the state of debates and approaches at play; the initiatives, actions and strategies proposed by different parties; the alliances, networks and actors involved, and the resources and capacities available. This report aims to contribute to this task by generating analysis and practical resources that can support the creation of an agenda aimed at changing the predominant fiscal policy discourse in the region, and consolidate alliances and platforms for cooperation between fiscal justice, development and human rights organizations.

This project is part of a broader initiative that the Center for Economic and Social Rights (CESR) has been implementing in Latin America since 2015 which seeks to strengthen accountability in decision-making regarding fiscal policy. In pursuit of this objective, CESR promotes interdisciplinary debates, produces solid evidence about the impact of unjust tax and budget policies on the enjoyment of human rights at a national level, and works to strengthen the 'normative architecture' of human rights standards as applied to fiscal policy, in alliance with global, regional and national NGOs and networks.

The report is divided into four sections. **Section 1** offers an introduction and provides information about the context in which debates about fiscal policy are taking place in the Andean Region. It also explains the premises underlying this report and gives

a general overview of its conclusions. One such conclusion, for example, is that strengthening cooperation and creating platforms across civil society organizations and movements that are approaching resource monitoring from different perspectives is a priority for advancing strategies to counter the risk of regressive fiscal austerity reforms emerging as a response to the current economic downturn in the region. The human rights approach is one of the most innovative aspects of social mobilization to tackle inequality through fairer fiscal policies. As well as focusing on the impact of fiscal policy on the well-being of individuals and communities, human rights provide a framework of normative principles which can potentially guide the construction of fairer fiscal compacts in the region. Accountability is the backbone of human rights; when applied to the fiscal sphere, the human rights framework also allows the activation of a series of monitoring and enforceability mechanisms to oversee the process, content, implementation and impacts of fiscal policy. The anti-discrimination and substantive equality provisions which are an integral part of human rights norms can aid an analysis of the differential impacts of fiscal policy and allow different groups' concerns about how fiscal resources are used – and to whose benefit - to be taken into account. Human rights potentially provide a unifying discourse about the kinds of budgetary and tax reforms that are necessary to progress towards reducing inequality and safeguarding of public goods.

Section 2 maps debates, approaches and actors in the fiscal policy field. The end of the commodities boom has highlighted the persistence of a series of problems common to the tax systems of the countries in the region. These problems include: insufficient resource mobilization; a strong dependence on the extractive sector; unequal distribution of the tax burden; inefficiency due to weak tax administration, and the absence of a culture of transparency, participation and accountability in issues of taxation.

Civil society and other relevant actors in the region, such as the Economic Commission for Latin America and the Caribbean (ECLAC), are promoting reforms aimed at creating progressive fiscal policies which would allow some of these problems to be solved. Influential elites have successfully opposed many of these policies, however. Such policies include increasing direct taxation (especially on personal income tax); correcting the imbalance between direct and indirect taxation; eliminating preferential treatment and other unjustified tax privileges as well as the periodic evaluation of their impacts; strengthening tax administrations' capabilities and working conditions; reforming territorial finances and strengthening cadastral systems and property administration; correcting the implicit bias in taxation against women or labor taxes; incorporating a gender and ethnic-racial perspective into fiscal policy; and fighting tax evasion and avoidance facilitated by tax havens as well as other practices that enable corruption on a large scale and thereby affect countries' fiscal revenue.

The results of the dialogues show that, although the formula for achieving progressive fiscal policy is clear, there are a series of gaps in the knowledge and practices of those who make decisions regarding tax matters, especially regarding the importance of including equality and human rights objectives when fiscal reforms are introduced. As well as avoiding 'state capture by elites', it is important to tackle the political economy of fiscal reforms. This can be done by identifying the roles of the different actors in the field, strengthening the strategies and agendas of those pushing for progressive

reforms, promoting their inclusion in debates and encouraging alliances among them so as to enhance the impact of their actions.

As a result of the consultations, it has become clear that a wide spectrum of actors from different fields are participating in national and regional fiscal debates. More and more, civil society actors are taking an interdisciplinary approach to the analysis of fiscal policy. In turn, this analysis is contributing to the creation of a knowledge base and a community of practice that will be instrumental in reaching consensus and creating a new discourse that can, in turn, help overcome institutional and political obstacles.

Section 3 analyzes how civil society actors approach the links between fiscal policy, inequality and human rights in debates, analysis and advocacy work. In terms of socio-economic inequality, the consultation has elucidated opportunities and initiatives to oppose regressive fiscal reforms, whether by building evidence and arguments, or through mobilization campaigns and advocacy. There is no doubt that these initiatives have boosted public awareness and scrutiny concerning the lack of transparency in fiscal policy adoption, implementation and evaluation processes. They have also helped to improve accountability in decision-making on these policies. However, many strategies are still reactive and fragmented and do not have decisive influence in decision-making spaces, nor have they contributed to consolidating channels for political participation and dialogue.

There are other factors, aside from the socio-economic, that fuel patterns of fiscal inequality in the Andean Region: these include (a) gender inequality, (b) ethnic and racial inequality, (c) inequalities linked to life cycle (especially youth and old age), (d) territorial inequalities (between rural and urban areas and between different regions within each country), and (e) political inequalities (disparities in access to information and decision-making), amongst others.² Often these factors are linked; they intersect and mutually reinforce each other, strongly impacting certain groups. The focus of the research and dialogues has been on identifying initiatives which explicitly or implicitly advance the link between fiscal policy and human rights (in particular economic, social and social rights), fiscal policy and socio-economic inequality (based on gender, ethnicity and race) and fiscal policy and political inequality (transparency, participation and accountability) or the connections between all these areas. One of the clearest conclusions that this exercise led to was that large sections of social movements (unions, campesino communities, women's organizations, indigenous groups, Afrodescendants and urban youth movements) do not have a voice in the spaces where fiscal policy decision-making is carried out.

Despite the progress made, findings show that unjust fiscal policy in the Andean Region is still both a cause and consequence of social structures that are persistently extremely unequal, not only in social and economical terms, but also in regard to how political power is distributed. There exists a culture of privilege rather than one of equality, and this prevents progress towards more progressive tax reforms.³ Key factors are political lobbying by corporations and the 'revolving door' phenomenon – which result in 'state capture' by these entities⁴ – as well as their use of tax havens to hide monies flowing from corruption and criminal activities. Furthermore, fiscal democracy in the region is precarious in comparison with other South American countries, as witnessed by the incipient development of participatory budgets or citizen oversight mechanisms in economic debates.

Regarding the human rights approach to fiscal policy, the dialogues examined the substantive and procedural principles that the human rights framework provides and the opportunities it offers for strengthening accountability in fiscal decision-making. A number of recent initiatives have shown the potential for cooperation between the human rights community, the development and the fiscal justice communities. This includes the outcomes and follow up of a strategy meeting entitled 'Advancing Fiscal Justice through Human Rights' (April 2015), which was organized by CESR, Tax Justice Network, Oxfam, LatinDADD, Global Alliance for Tax Justice and Red de Justicia Fiscal de América Latina y el Caribe. This meeting led to *The Lima Declaration on Tax Justice and Human Rights*, a collective charter that expresses a shared commitment to use human rights norms and strategies to advance tax justice and fairer fiscal governance.⁵ This consensus is an important starting point for concerted action amongst disparate movements and helps to establish the basis for accountability regarding tax matters in the region.

Finally, building on the foundations laid during the regional and national dialogues in Lima and Bogotá, **Section 4** describes a series of important initiatives that push for structural reforms in tax policy and warns of the risks of fiscal reforms that prioritize fiscal adjustment and austerity in public spending.

The organizations that participated in the debates expressed their concern at this clearly emerging trend in the countries of the Andean Region. For example, several of them pointed out that the fiscal measures proposed in Colombia and Peru go against the recommendations made by relevant regional economic bodies, such as ECLAC, which advocated for countercyclical policies focused on redistributing revenue, protecting social spending and fighting against tax evasion and avoidance in the current context of economic downturn.⁶ Such bodies argue that governments should aim towards a new sustainable development model based on equality and environmental sustainability.⁷

Civil society organizations and experts also agree that the task of achieving fair and progressive fiscal policies in the Andean Region is enormous and that a multidimensional strategy must be created. They argue that this can be implemented with the help of agreements and alliances between various groups with different levels of influence in politics and different approaches to social mobilization, albeit with the same aims. To make this vision a reality it is important to have an understanding of the current state of debates and approaches involved; the initiatives, actions and strategies proposed by different parties; the alliances, networks and actors committed to this task, and the resources and capacities available. This report and the process that generated it represent an important contribution towards this understanding.

The outcome of this mapping exercise offers a road map for civil society action in pursuit of progressive fiscal reforms based on equality and human rights. Such action revolves around four strategic objectives:

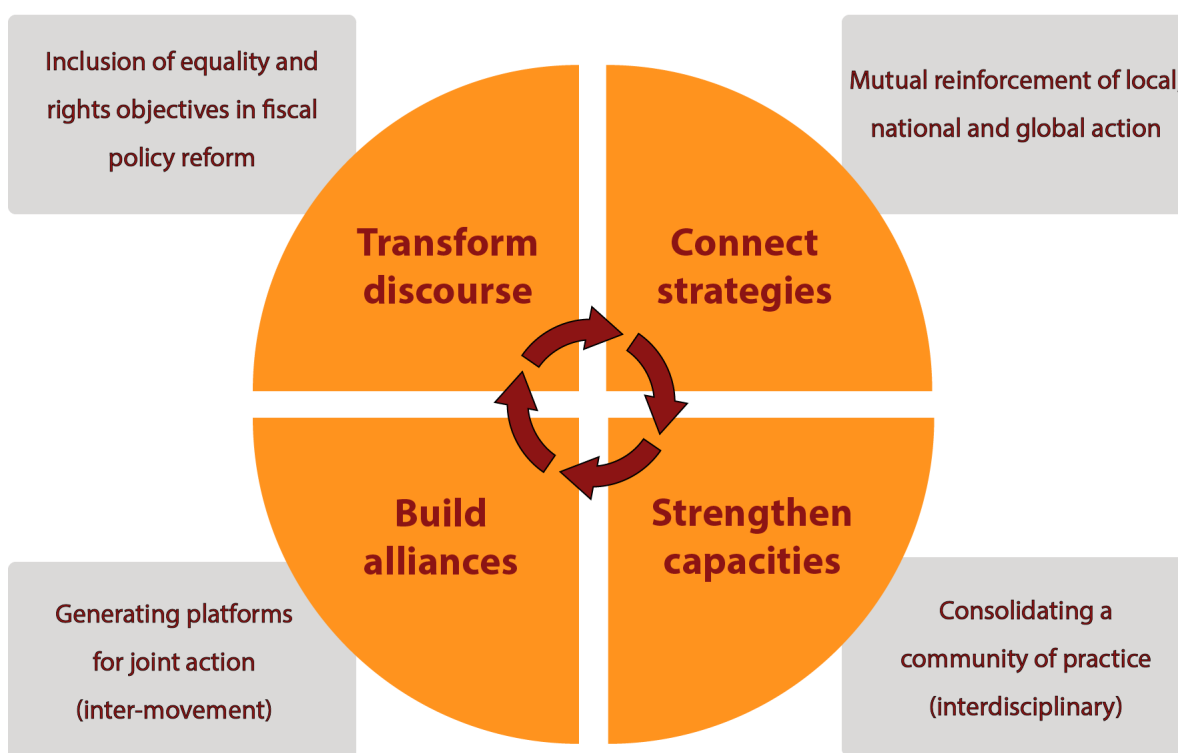
a) Transforming the traditional discourse around fiscal policy by: including economic and social equality and human rights objectives in fiscal debates; using accountability mechanisms at the policy and normative levels; and challenging orthodox discourse through arguments and evidence that will change the predominant way of thinking about the role of fiscal policy in redistributing natural and financial resources in the region.

b) Connecting local, regional and global strategies. Generating agendas with the participation of national, regional and global actors that are active in different accountability spaces, locally and globally. Influencing debates about fiscal governance and effectively including women's and indigenous movements, Afrodescendants and other sectors or groups who are largely excluded from these spaces.

c) Building alliances between movements working for sustainable development, tax justice and human rights, especially in the context of the Financing for Development and 2030 Agendas. Building joint action platforms for human rights, equality and tax justice with the aim of progressing towards a sustainable development model that is inclusive and rights-based.

d) Strengthening civil society's capacities in the Andean Region; consolidating a community of practice which is interdisciplinary and brings movements together; creating tools, resources and analytical frameworks which include the interests and concerns of various movements seeking fairer fiscal policies.

Strategic objectives of civil society advocacy on fiscal policy



To achieve these aims, the last chapter of the report presents a series of strategies and specific opportunities that were identified during the dialogues (see summary table below). It highlights initiatives that are already being implemented by the participating organizations. Taking into account the different stages at which fiscal debates in the various countries of the Andean Region find themselves, the report highlights regional and national proposals, in particular for Colombia and Peru.

Proposals for the achievement of objectives



Overall, there is an overwhelming consensus among tax justice, human rights and development actors, as well as among women's, indigenous and afro-descendent movements in the Andean Region, that unjust fiscal policies account for the alarming disparities (socio-economic, gender, racial, ethnic, political and other) which persist in the region. The governments of the Andean Region have a duty to generate and mobilize resources in a way that enables them to meet their human rights obligations, as well as their commitments to reduce poverty and inequality as recently reaffirmed under the 2030 Agenda for Sustainable Development. There is a renewed energy among civil society actors in the region to confront the fiscal policy orthodoxies which have perpetuated exclusion, and to deploy new tools and approaches in the pursuit of an alternative fiscal paradigm based on principles of human rights, equality and accountability.

References

¹ These dialogues were organized in collaboration with the following networks and national NGOs: La Red de Justicia Fiscal de América Latina y el Caribe; the Latin American Network for Debt, Development and Rights, Latinddad; the Colombian Tax Justice Network; the Center for Law, Justice and Society Studies, DeJusticia; el Grupo Nacional de Presupuesto Público; and OXFAM Peru. CESR thanks them for their contribution to this process and for their ongoing engagement. The content and drafting of this report is entirely the responsibility of CESR.

² ECLAC (2016). *The social inequality matrix in Latin America* LC/G.2690(MDS.1/2). Santiago. Available at: http://repositorio.cepal.org/bitstream/handle/11362/40710/S1600945_en.pdf?sequence=1&isAllowed=y

³ Bárcena, A and Prado, A (2016). *El imperativo de la igualdad. Por un desarrollo sostenible en América Latina y el Caribe*. CEPAL. 1^a edition. Buenos Aires: Siglo XXI. Available at: <http://repositorio.cepal.org/bitstream/handle/11362/40120/ElImperativodelaIgualdad.pdf?sequence=1>

⁴ Durand, F. 2016. *Extractive policies and political capture. Effects on institutions, equality and the environment*. OXFAM. Available at: https://peru.oxfam.org/sites/peru.oxfam.org/files/file_attachments/EXTRACTIVE%20INDUSTRIES%20AND%20POLITICAL%20CAPTURE.pdf

⁵ The charter can be consulted at: http://www.cesr.org/sites/default/files/ES_Lima_Declaration_on_Tax_Justice_and_Human_Rights-Final-signup.pdf

⁶ ECLAC (2016). *Fiscal Panorama of Latin America and the Caribbean 2016*. Public finances and the challenge of reconciling austerity with growth and equality. (LC/L.4140). Economic Commission for Latin America and the Caribbean: Santiago de Chile. Available at: http://repositorio.cepal.org/bitstream/handle/11362/40090/S1600112_en.pdf?sequence=1&isAllowed=y recovered on the 23rd of December 2016.

⁷ Altomonte, H; Sánchez, R (2016). *Towards a new form of natural resources governance in Latin America and the Caribbean* (LC/G.2679-P). Economic Commission for Latin America and the Caribbean: Santiago de Chile. Available at: <http://www.cepal.org/sites/default/files/news/files/diptychgovernancenrr.pdf> recovered on the 11th of May 2017.

ABOUT CESR

The Center for Economic and Social Rights (CESR) was established in 1993 with the mission to work for the recognition and enforcement of economic, social and cultural rights as a powerful tool for promoting social justice and human dignity. CESR exposes violations of economic, social and cultural rights through an interdisciplinary combination of legal and socioeconomic analysis. CESR advocates for changes to economic and social policy at the international, national and local levels so as to ensure these comply with international human rights standards.

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