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**T20 POLICY BRIEF**

Task Force 01

**FIGHTING INEQUALITIES, POVERTY, AND HUNGER**

# Human Rights, Substantive Equality, and Taxation

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## Abstract

The realization of rights for all is inseparably connected to taxation. Among other things, taxes provide the resources needed to finance human rights; they can redistribute resources to fulfill the promise of equality at the heart of the rights' framework; and incentivize behaviors needed to guarantee rights (e.g., through green taxes). Human rights constitute a binding framework to align fiscal policy with values such as equality, justice and accountability. They provide normative reasons to expand States' fiscal space, prioritize progressive taxation, advance inclusive and transparent decision making, and for States to cooperate internationally.

Despite the growing recognition of the relationship between taxation and human rights, institutions often fail to fully grasp human rights standards. The policy brief will therefore discuss this connection, focusing specifically on rights' prohibition of discrimination with an intersectional approach.

Building on the Principles for Human Rights in Fiscal Policy, the brief will distill concrete recommendations for G20 members. It will concretely recommend G20 members to: 1. Ensure policy coherence to mainstream equality considerations in taxation; 2. Support and endorse the process to build a Framework Convention on Tax at the United Nations; 3. Start discussions to introduce a global approach to tax wealth; 4. Commit to enhancing progressive taxation domestically.

**Keywords:** International taxation - policy coherence - intersectional discrimination - international human rights law - progressive taxation

## A Crisis of Inequality and the role of Human Rights

We live in a moment of unbearable inequality. Multiple measurements show that business as usual cannot stand any longer. The wealth of the five richest men has doubled since 2020, while five billion people were made poorer (Oxfam, 2024; Oxfam 2023A). The richest 1% has produced as much carbon pollution in 2019 as the poorest two-thirds of humanity (Oxfam, 2023). Importantly, while these figures focus on inequality of income and wealth (within and among countries), these categories intersect with others, given the common correlation between economic and other forms of inequality, such as those related to gender and race (Inequality.org, N/A).

It is no wonder, therefore, that the Brazilian presidency of the G20 has chosen the fight against inequality as one of its priorities. Building on the Principles for Human Rights in Fiscal Policy (Initiative for Human Rights in Fiscal Policy, 2021), this brief engages with the human rights framework to provide additional arguments to fight inequality. It distills the implications of human rights commitments to taxation, a key issue in the G20's work.

So why is the human rights framework relevant? First, human rights provide a normative, binding framework against which to assess State action. While they do not fully constrain policy choices, they do limit absolute discretion by providing a common understanding and guiding principles on how States should act (for example, ensuring due process and equal treatment before the law). Human rights are essential in the promotion of values such as transparency, justice and accountability. Furthermore, they set a clear, measurable purpose for public decisions, giving taxation a "human face" that is key in the fight for equality.

We do acknowledge that the connection between human rights and vertical inequality has been contested (Chaparro & Umprimny, 2019). However, there are deep connections

between human rights and practices that fuel, result in, or enable inequality. Arguably, current levels of offensive inequality run contrary to human rights commitment to use an intersectional approach that contributes to eradicating structural inequalities and discrimination. In general, inequality and related discrimination undermine the fulfillment of human rights for a relevant part of the population, and economic growth is insufficient to address this problem (UN Committee on Economic, Social and Cultural Rights, 2009).

Even if the connections between vertical inequalities and human rights are less straightforward, the principle of non-discrimination discussed in this brief (which more clearly protects against "horizontal" inequalities) is in tension with economic inequalities when people face discrimination on multiple prohibited grounds in law are also disproportionately represented among people living in poverty (Danieli, 2018). In many countries, including Brazil, the correlation between vertical and horizontal inequality for race and gender, for example, is clear (Pereira Vieceli & Iturriet Avila Março, 2023).

The next section focuses on the principles of equality and non-discrimination, which should guide decision-making around international taxation not only because rights standards should be observed in all forms of State action but also due to taxation's huge potential to promote or hinder equality. Indeed, the conceptual and normative connection between taxation and human rights is widely recognized. Overall, the obligations to respect, protect and fulfill all human rights of all peoples limit States' discretion in regard to taxation, as they must design, implement, and assess tax policy in accordance with those obligations (IACHR, 2017).

## Scope of States' duties

The Universal Declaration of Human Rights states that everyone is "born free and equal in dignity and rights" and is entitled to rights and freedoms "without distinction of any kind". The prohibition of discrimination has been recognized in several other treaties. Many of them include an explicit reference to discrimination on a socioeconomic basis, using different terminology<sup>1</sup>.

The idea of discrimination has been interpreted broadly, to include *any* differential treatment either directly or indirectly based on prohibited grounds of discrimination, which has either the intention or the effect of affecting rights on an equal footing. States are immediately (not progressively) obliged to observe the principle of non-discrimination in their actions and omissions, and domestically and internationally (UN Committee on Economic, Social and Cultural Rights, 2009, inter alia). It is crucial, in the G20 context, to stress that States have "extraterritorial" obligations, according to which they must abstain from undermining another State's capacity to fulfill human rights and assess the extent to which their actions interfere in other States' ability to realize rights.

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<sup>1</sup> International Covenant on Economic, Social and Cultural Rights: "social origin" and "property" (more broadly interpreted "a person's social and economic situation"); African Charter on Human and Peoples' Rights: "social origin" and "fortune" (art. 2); American Convention on Human Rights: "social origin", "economic status" and "any other social condition"; Charter of Fundamental Rights of the European Union and the European Convention on Human Rights: "property" and "social origin"; Arab Charter on Human Rights: "social origin" and "wealth".

With this broad scope, the principle of non-discrimination entails several duties for States, both positive and negative (meaning that they must take active steps to fulfill this duty, not only avoid discriminating). For example, under United Nations conventions on racial discrimination, civil and political rights, and discrimination against women, States must take measures to eradicate norms that cause discrimination in the equal exercise of rights in practice, regardless of intent. They must, under certain circumstances, make affirmative efforts to promote equality (for example, by “devoting greater resources to traditionally neglected groups”, UN Committee on Economic, Social and Cultural Rights, 2009).

As anticipated, States must tackle explicit and implicit, or indirect discrimination (for instance, measures that appear “neutral” on their face, but affect low-income groups disproportionately; UN Committee on Economic, Social and Cultural Rights, 2009). States must similarly address formal discrimination and discrimination in practice (substantive or de facto) (UN Committee on the Elimination of All Forms of Discrimination against Women, 2004). They must, overall, protect themselves from laws and policies that discriminate against certain individuals or groups (what calls for amending norms with such effect; UN Committee on Economic, Social and Cultural Rights, 2009). In other words, States must achieve "equality of result" (Rebouché, 2009).

Finally, there are procedural dimensions to equality and non-discrimination. For example, States must produce sufficiently disaggregated information to assess the impact of their decisions on different groups and ensure *meaningful* participation of those affected by decisions.

## Implications on Taxation

The obligations discussed in the previous section and other related principles have, according to their authoritative interpretation, several implications for tax policy. As a starting point, States must ensure that tax policy is effective, adequate, progressive and socially equitable (UN Committee on Economic, Social and Cultural Rights, 2014A, 2014B, 2016A, 2016B); and must take financial measures (which included tax measures) to effectively address discrimination and inequalities (UN Committee on Economic, Social and Cultural Rights, 2016 C)—including income (UN Committee on Economic, Social and Cultural Rights, 2016 D) and other economic inequalities (UN Committee on Economic, Social and Cultural Rights, 2016B, 2017)—, and as a matter of priority (UN Committee on Economic, Social and Cultural Rights, 2009).

As a result, States should ensure tax systems are increasingly redistributive and socially fair (UN Committee on Economic, Social and Cultural Rights, 2018, 2018B) and eliminate all, directly and indirectly, discriminatory legislation, regulations, and practices (International Commission of Jurists, 1987), for example, ensuring that those with higher income are subject to an appropriate tax burden (UN Committee on Economic, Social and Cultural Rights, 2018). In procedural terms, States must assess the consequences of current and proposed tax measures on different persons and groups (Special Rapporteur on Extreme Poverty and Human Rights, 2014), considering the direct and indirect discriminatory effects and contemplating multiple, intersectional forms of discrimination (Initiative for Human Rights in Fiscal Policy, 2021, Principle 5). The Principles for Human Rights in Fiscal Policy further express that States must use tax policy to eradicate structural discrimination and promote substantive equality (Idem). This means that the *redistributive potential of taxation should not be ignored by States*.

Similarly, the Principles indicate that States must refrain from adopting differential and unjustified tax treatment that is not reasonable and proportional to achieve a legitimate purpose (Initiative for Human Rights in Fiscal Policy, 2021, Principle 5.2), noting that an unjustified tax incentive may mean an indirect form of discrimination. Importantly, being non-discrimination is an obligation that is not subject to "progressive realization," States cannot excuse their incapacity to eliminate differential treatment by alleging a lack of resources (Initiative for Human Rights in Fiscal Policy, 2021, Principle 5.4).



## Recommendations to G20 countries on taxation and non-discrimination

The following recommendations are derived, either directly or indirectly, from the interpretation of the human rights standards just discussed. They are organized depending on the decision-making level (national or international) to which they pertain the most:

### At any decision-making level

#### ***1. Ensure policy coherence to mainstream rights-based equality considerations in taxation***

To achieve this goal, G20 States should: i) conduct impact assessments (which are timely, well informed, etc.) of the human rights impacts of the tax measures they suggest; ii) guarantee policy coherence and cooperation among institutions, by establishing adequate coordination spaces and information systems; iii) produce and share information on the incidence of taxes on different groups, considering the direct and indirect discriminatory effects and contemplating multiple, intersectional forms of discrimination (Initiative for Human Rights in Fiscal Policy, 2021, Principle 1, Guideline 2; Principle 5.4).

### At the international level

#### ***2. Support and endorse the process to build a Framework Convention on Tax at the United Nations***

While recognizing the advances that the G20/OECD Inclusive Framework on Base Erosion and Profit Shifting (BEPS) has made, G20 countries should support the ongoing process of drafting and adopting a Framework Convention on Tax Cooperation at the United Nations (UN). This requires that G20 countries cooperate in good faith in that

process and ensure that all related decision-making grants, in paper and in practice, equal voice and voting rights for *all* States (as an exercise of their duty to cooperate internationally for the realization of rights, of the right to self-determination of their people, and of the prohibition of discrimination on the basis of national origin, all principles emerging from the human rights framework).

Making the United Nations the key forum for international tax cooperation is relevant for equality for different reasons. First, considering inequality among countries, the United Nations would provide a space where the needs and interests of all countries, especially of developing ones, are adequately observed. It would also enable them to participate on equal footing and in inclusive manners in practice (Secretary General, 2023). Furthermore, the United Nations is already home to a variety of fora, agencies, and instruments that seek to promote equality (for example, gender and racial equality), as discussed in section I. Attributing key competencies on taxation to the UN would, therefore, facilitate the mainstreaming of equality considerations in taxation.

***3. Start discussions to introduce a global approach to tax wealth (to be fully regulated at the UN level)***

According to Oxfam, less than 8 cents in every dollar of tax collected in G20 countries comes from taxes on wealth (Oxfam, 2024A). In this scenario and in line with human rights principles, international tax cooperation should not stop at its current core agenda. Instead, States should adopt the necessary international cooperation measures to ensure that the redistributive potential of taxes is not forgone, given their duty to promote substantive equality and the extraterritorial nature of their obligations. For this end, it is key that G20 countries commit to a "beyond BEPS" approach to international taxation,

under which they take concrete measures to increase coordination and cooperation around taxing wealth, in particular, that held by high net worth individuals (EU Tax Observatory, 2023).

It is important that, when measures to enhance tax cooperation around wealth taxation are taken, they are decided in a forum that is inclusive for all countries, as discussed under recommendation number 2.

#### At the national level

#### ***4. Commit to enhancing progressive taxation domestically***

In line with the human rights standards discussed in this brief and as stated in the Principles for Human Rights in Fiscal Policy, G20 countries should ensure domestic tax rules are designed in accordance with the principles of horizontal and vertical equity, non-discrimination, ability to pay, progressiveness, and other principles which are often enshrined in their constitutions (Minatta, O., et.al, 2021; Initiative for Human Rights in Fiscal Policy (2021). They must ensure that their tax systems promote substantive equality and that the duty to pay taxes in accordance with the ability to pay is observed. To this end, they should commit to establishing appropriate tax thresholds; correcting the high dependency on regressive taxes and biases in tax systems when needed; and ensuring that the main sources of revenue of the population at the top of the income scale – including dividends and capital gains – are taxed at rates similar to or higher than other sources (Initiative for Human Rights in Fiscal Policy, 2021).

## Conclusions and Opportunities

G20 countries *are particularly well placed to make a historic, bold commitment to end the crisis of inequality the planet is undergoing*. When doing so, they must act guided by the binding human rights norms they have endorsed in different international instruments, which order states to dismantle inequality in norms and in practice, and direct and indirect inequality, as a matter of priority, within and beyond their borders. A key instrument in this pursuit lies in rethinking tax systems.

G20 countries should seize the existing opportunities to transform taxation globally and fully utilize their redistributive potential. Opportunities include the momentum to reshape multilateral institutions -for example, through the upcoming Summit of the Future-; the ongoing process to draft a framework convention on international tax cooperation at the United Nations; relevant regional experience of successful cooperation for tax matters, such as the recently launched Tax Platform of Latin America and the Caribbean (PT-LAC), and sustained and successful collaboration of the African States.

Before finalizing, we would like to stress the importance of enhancing and institutionalizing the efforts of the Brazilian Presidency of the G20 to promote participation within the finance track of the group, to enhance the legitimacy, effectiveness and equity of their decision, in line with the principles discussed in this brief.

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## Appendix

Principles for human rights in fiscal policy ([English](#), [Portuguese](#), [Spanish](#))





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