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Taxation and Human Rights: The Statement on Tax Policy and the International Covenant on Economic, Social and Cultural Rights

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This article examines the UN Committee on Economic, Social and Cultural Rights' 2025 Statement on tax policy under the ICESCR, highlighting its origins, contents and implications. It critiques the Statement's limited transparency, potential civil society influence and one-size-fits-all approach, urging nuanced, regularly updated guidance that balances economic efficiency with human rights objectives.

1. Introduction

The International Covenant on Economic, Social and Cultural Rights (the "ICESCR") is one of the fundamental pillars of international human rights law.^[1] Together with the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights it constitutes one element of the International Bill of Rights. The ICESCR has been ratified by 173 countries.^[2] It contains undertakings by States to promote a wide-range of economic, social and cultural rights including: the right to work (Article 6), the right to just and favourable conditions of work (Article 7), the right to form trade unions (Article 8), the right to social security (Article 9), protection of the family and the right to marriage (Article 10), the right to an adequate standard of living (Article 11), the right to physical and mental health and protection of the environment (Article 12), the right to education (Articles 13 and 14) and the right to take part in cultural life (Article 15). Taxation is inextricably tied up with the promotion of these collective rights as most of them have to be provided by States through their revenue, including tax revenue.

The link between these collective rights and State resources is made explicit in the principal obligation on States found in Article 2(1) of the ICESCR, which provides as follows:

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

The precise nature of the obligation on States to undertake steps to the maximum of available resources, and the implications for the tax system of each State Party to the Convention, is an issue of some debate.^[3] However, it is generally recognised that tax revenue provides perhaps the most significant and the most stable source of resources that permits a State to fulfil its obligations under the Covenant.

States Parties to the ICESCR undertake to provide periodic reports on their progress in achieving the objectives of the Covenant to the Committee on Economic, Social and Cultural Rights (the "CESCR").^[4] This is a body of 18 independent experts elected from among the States Parties to the Covenant that monitors implementation.^[5] In recent years, when the CESCR reviews the periodic reports supplied by States Parties, and puts various questions to the government of the State concerned,

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1. The ICESCR was adopted and opened for signature by the UN General Assembly Resolution 2200A (XXI) of 16 Dec. 1966 and entered into force on 3 Jan. 1976.
2. The list of countries that have ratified the ICESCR can be found at: tbiinternet.ohchr.org/_layouts/15/treatybodyexternal/treaty.aspx?treaty=cescr&lang=en (accessed 4 July 2025).
3. See, on this, M. Sepúlveda, *The Nature of the Obligations under the International Covenant on Economic, Social and Cultural Rights* (Intersentia, 2003).
4. Reports are due two years after joining the ICESCR and then (in principle – there are often delays) every five years thereafter.
5. Unlike the Committee of Experts on International Tax Cooperation, where virtually all members are government officials, the CESCR consists largely of experts who are not government officials – the current membership is listed (with their CVs) at [Membership | OHCHR](#) (accessed 4 July 2025).

it has become increasingly common to ask questions relating to the tax system of the State. Information about the tax system is often supplied by civil society organizations, providing evidence of possible criticisms of the tax system. The CESCR, after examining the periodic report, adopts concluding observations which, almost invariably now, contain certain observations and recommendations in relation to the tax system of the State concerned.^[6] These observations on the tax system come under the rubric of “Maximum Available Resources” and relate to the obligation of the State to promote the various rights to the maximum of available resources.

From time to time the CESCR – like many of the other monitoring committees established under human rights instruments – produces general comments or statements about a topic, not related to a specific country, but drawing upon the Committee’s experience of considering periodic reports. On 28 February 2025, the CESCR adopted a statement on “Tax Policy and the International Covenant on Economic, Social and Cultural Rights” (“the Statement”).^[7] The purpose of this article is to examine in some detail the contents of this Statement.

The format of this article is, after this introduction, to set out by way of quotation most of the contents of the Statement, and to follow the various quotations with comments on the material quoted. The purpose of this article is not to criticise the CESCR for adopting this Statement, nor to criticise the civil society groups that appear to have been involved in developing the Statement. Rather, the purpose is to highlight the existence and contents of the Statement, to add a critique of some of the contents, and to indicate possible alternative views or other considerations that might play a role.^[8]

The actual process of drafting the Statement was somewhat less than transparent. Relatively few people appear to have known about the plan to draft and issue the Statement. Certainly, it appears that none of the members of the United Nations Committee of Experts on International Cooperation on Tax Matters was aware that the document was in the process of evolution.^[9] As the only UN expert committee specifically dedicated to the issue of taxation, and particularly the interests of developing countries, one might have expected that the Committee of Experts would have been consulted. It appears that the Statement was drafted by a working group, though all members of the CESCR were involved in the final adoption of the Statement.

What is perhaps more significant is that, examining the contents of the Statement, it is relatively easy to detect the hand of a number of civil society groups in the wording and contents of the Statement. On the day the Statement was issued, the Center for Economic and Social Rights issued a press release welcoming the Statement and indicating that the Center had been arguing for such a Statement with other partners in the “Initiative for Human Rights in Fiscal Policy” for over a year.^[10] A joint statement was also issued together with the Global Initiative for Economic, Social and Cultural Rights and Tax Justice Network. Readers of this article who are aware of the various positions taken by these civil society organizations will be able to judge, when reading the contents of the Statement, how far it reflects the views of these organizations. Similarly, readers who are familiar with the various views expressed within the UN Committee of Experts may also like to speculate whether the contents of the Statement would have been different if those experts had been involved in the drafting.

2. The Statement: Overall Themes

Before turning to look at the detail of the Statement, a few general comments may be made about its contents. There are several notable themes that run through the Statement.

First, as one might expect, the Statement emphasizes the need for States to take account of their obligations under international human rights law when designing and implementing their tax policies. That is entirely understandable and appropriate for a human rights body to remind States of the impact on their tax systems of the obligations they have undertaken under human rights law. One point that might be drawn from this is that there is some evidence of a lack of understanding or clarity among States and their representatives as to the exact impact human rights may have.^[11] To that extent, the Statement

6. See, for example, the concluding observations of the CESCR on the Seventh Periodic Report of the United Kingdom of Great Britain and Northern Ireland, document E/C.12/GBR/CO/7, released on 12 Mar. 2025; paragraphs 18 and 19 contain comments on the UK tax system under the heading “Maximum Available Resources”.

7. Document E/C.12/2025/1, distributed on 17 Mar. 2025.

8. It is beyond the scope of this article to discuss in detail alternative approaches to taxation and development that might have led to different conclusions from the Statement. There is a full literature on approaches to development. Samples include: Y. Brauner & M. Stewart, eds., *Tax, Law and Development* (Edward Elgar, UK 2013), Introduction (ch. 1), pp. 3-22; and D. Brautigam, O-H Fjeldstad & M. Moore, eds., *Taxation and State Building in Developing Countries*, Introduction: taxation and state-building developing countries (Cambridge University Press, 2009).

9. This statement is made on the basis of the author’s discussions with members of the Committee of Experts.

10. Center for Economic and Social Rights, “UN CESCR issues historic statement on tax and human rights” (28 Feb. 2025), available at [UN CESCR issues historic statement on tax and human rights — Center for Economic and Social Rights](https://www.cesr.org/en/un-cescr-issues-historic-statement-on-tax-and-human-rights) (accessed 4 July 2025).

11. This was particularly apparent in the discussion of the inclusion of references to human rights in the draft Terms of Reference for the UN Framework Convention of International Tax Cooperation during August of 2024.

is a first step in the direction of clarifying these obligations, but is far from comprehensive. It points a way forward under which the CESCR might be involved (with others) in further clarification of the impact on the design of tax systems arising from human rights obligations.

Second, another theme that runs through the Statement is the importance of avoiding regressive tax measures which have a negative impact on the most disadvantaged in society. Linked with that is a theme of reducing gross inequality, together with operating through the tax system to alleviate the results of historic discrimination. The avoidance of regressive measures produces several comments in the Statement about the regressive impact of VAT, a point that is discussed in more detail below.

Third, the Statement repeatedly refers to the process of drafting a UN Framework Convention on International Tax Cooperation.^[12] This is mentioned at least three times at different points in the Statement. First, in paragraph 2 of the Statement:

2. The Committee on Economic, Social and Cultural Rights welcomes General Assembly resolution 78/230, in which the Assembly decided to establish a Member State-led, open-ended ad hoc intergovernmental committee for the purpose of drafting terms of reference for a United Nations framework convention on international tax cooperation, with a view to strengthening the inclusiveness and effectiveness of international tax cooperation. ... Promoting inclusive and effective international tax cooperation will help countries effectively mobilize their resources, including through strengthening ongoing efforts to prevent and combat illicit financial flows, corruption, money-laundering and tax evasion, eliminate safe havens and recover and return assets derived from illicit activities. The Committee welcomes that the terms of reference for a United Nations framework convention on international tax cooperation, adopted by the General Assembly in its resolution 79/235, highlight that, as one of the principles of the convention, efforts in the pursuit of international tax cooperation should be aligned with States' obligations under international human rights law. This development presents an important opportunity to create global tax governance that enables States Parties to adopt fair, inclusive and effective tax systems and to combat tax-related illicit financial flows, thereby facilitating the realization of economic, social and cultural rights.

Then again in paragraph 14, the Statement says the following:

14. Moreover, States Parties have the obligation to strengthen international cooperation to build an inclusive, fair and effective global tax governance and to combat tax-related illicit financial flows, with a view to creating an international environment conducive to the fulfilment of economic, social and cultural rights. To this end, States Parties should participate in good faith in the negotiations on a United Nations framework convention on international tax cooperation and develop, in an inclusive manner, international tax rules that apply fairly and equitably to all States, considering the different needs, priorities and capacities of all countries, in particular developing countries.

Finally, in the concluding paragraph the Statement says:

16. To conclude, adopting a binding framework convention on international tax cooperation at the United Nations, grounded in a human rights-based approach, provides States Parties with a unique opportunity to work towards creating an enabling environment at both the national and international levels to fulfil their commitments under the Covenant. Aligning tax cooperation with the obligations under the Covenant can contribute to the effective mobilization of resources and redistribution of wealth, thereby addressing high levels of inequalities and facilitating substantial investments in the institutions, public services and programmes essential for the realization of economic, social and cultural rights for all.

In this advocacy for the UN Framework Convention, one can detect quite clearly the influence of the civil society organizations that appear to have been involved in the drafting process. It is reasonable to point out, however, that there are divergent views as to the practical advantages that will flow, particularly for less developed countries, from the current work on the framework convention. Paragraph 14 of the Statement, quoted above, says "States Parties [to the ICESCR] should participate in good faith in the negotiations on a United Nations Framework Convention on International Tax Cooperation...". Encouraging States to participate in good faith in a negotiation seems innocuous. However, there is something slightly incongruous about the CESCR calling upon States that have voluntarily decided to sign up to the ICESCR to participate in the negotiation of a separate Framework Convention, on which those States will then have the choice whether or not to sign, ratify or accede. Put another way, it is difficult to see why the fact that a State has signed up to the ICESCR should in any way oblige that State either to participate in the negotiation of a UN Framework Convention, or to sign up to that convention if and when it is concluded. Equally, it would seem to be quite inappropriate for the CESCR to quiz States Parties to the ICESCR when examining their

12. For background on the UN Framework Convention, see P. Baker, *United Nations General Assembly Resolution on the 'Promotion of Inclusive and Effective International Tax Cooperation at the United Nations'*, British Tax Review, p. 20 (2023); P. Baker, *United Nations Secretary General's Report on the Promotion of Inclusive and Effective International Tax Cooperation at the United Nations*, British Tax Review, p. 364 (2023); R. Christensen, *Between Revolution and Rhetoric: the UN Vote and the Future of International Tax Cooperation*, British Tax Review, p. 2 (2024); A.P. Dourado & C. Peters (eds.) *Special issue on International Tax Cooperation at the United Nations*, 53 Intertax 1 (2025).

periodic reports as to their participation in the negotiation of the Framework Convention or to adopt concluding observations that criticize or commend States for their involvement in the process of developing the Framework Convention. If a State Party to the ICESCR chooses not to participate in the negotiations of the Framework Convention or chooses not to sign the Framework Convention or its protocols, it would seem quite inappropriate for the CESCR to comment adversely on that approach.

There are some people (of whom the author of this article is one) who believe very strongly in multilateral cooperation on tax matters through the United Nations, but nevertheless feel that the proposed UN Framework Convention is the wrong type of instrument and is heading in the wrong direction.^[13] In that context, the author considers that it is unfortunate that the Statement gives so much prominence to the development of the Framework Convention and does not consider other ways in which States may participate in international tax cooperation, for example through the UN Committee of Experts (which is not mentioned once in the Statement).

3. The Statement: Introduction

The Statement is divided into three parts: Introduction; Obligations arising from the Covenant in the area of tax policies; International cooperation and extraterritorial obligations on taxation. Each of these is discussed in turn here.

So far as the Introduction is concerned, the Statement contains a number of clear, non-controversial points about tax policy. Paragraph 1 opens as follows:

1. Under the International Covenant on Economic, Social and Cultural Rights, States Parties are required to take steps, individually and through international assistance and cooperation, to the maximum of their available resources, with a view to achieving progressively the full realization of economic, social and cultural rights (art. 2 (1)). Furthermore, the principle of non-discrimination and equality (art. 2 (2)) requires States Parties not only to eliminate formal discrimination but also to ensure substantive equality by taking measures to address socioeconomic and gender inequalities.

The Statement then continues by emphasizing the importance of taxation as an instrument for mobilizing resources, together with the importance of having regard to international human rights obligations:

[1...] Ensuring the enjoyment of economic, social and cultural rights and promoting substantive equality requires sound fiscal policies, including both the mobilization of sufficient resources and adequate social spending. Taxation is a key instrument for mobilizing resources to realize economic, social and cultural rights and to address poverty and socioeconomic inequalities. While States have the right to design, implement and regulate their tax policies in accordance with their national priorities, this prerogative must be exercised in a manner consistent with their obligations under international human rights law, including the Covenant.

After referring to the UN Framework Convention, as discussed above, the Introduction ends by explaining that the Statement seeks to provide guidance to help States in adopting a human rights approach when designing their tax policies:

3. The Committee has addressed tax-related issues in its concluding observations following the review of State Party reports and in its general comments, recognizing their impact on the realization of economic, social and cultural rights. Drawing upon this work, the Committee reminds States Parties and other stakeholders of the importance of adopting a human rights-based approach when designing their tax policies and international tax cooperation mechanisms. With the present statement, the Committee seeks to provide guidance on States Parties' obligations under the Covenant with respect to these areas, emphasizing the need to ensure that tax policies promote equality and non-discrimination, and the mobilization of resources for the realization of economic, social and cultural rights. In doing so, it aims to assist States Parties in better aligning their decision-making with those obligations, both in ongoing United Nations and regional processes and in their domestic tax policies.

It is interesting to contrast this call for a human rights-based approach to tax policy with the decision of the Committee that drafted the Terms of Reference for the UN Framework Convention to down-play the references to human rights in the ToR.^[14]

13. See P. Baker, *Reform of the international tax architecture: the UN fails to reach consensus*, The Tax Journal, p. 12 (6 Sept. 2024).

14. See *supra* n. 11.

4. The Statement: Obligations Arising from the Covenant in the Area of Tax Policies

The second part of the Statement essentially addresses domestic tax policy and makes a number of recommendations. It starts with an emphasis on avoiding regressive tax policies:

4. In reviewing the implementation of the Covenant by States Parties, the Committee has identified situations in which regressive and ineffective tax policies hamper the capacity of States Parties to fulfil economic, social and cultural rights and have a disproportionate impact on low-income households, women and disadvantaged groups. One such example is a tax policy that maintains low personal and corporate income taxes without adequately addressing high income inequalities. In addition, consumption taxes, such as value added tax, can have adverse impacts on disadvantaged groups such as low-income families and single-parent households, which typically spend a higher percentage of their income on everyday goods and services. In this context, the Committee has called upon States Parties to design and implement tax policies that are effective, adequate, progressive and socially just.

One point that might be made here is that, while consumption taxes such as VAT can be regressive, they are in practice some of the easier taxes to collect, and are harder to avoid, particularly if there is a credit mechanism for input tax. The regressive nature of the tax may be mitigated by imposing different tax rates, such as lower rates on basic food and fuel, and much higher rates on luxury goods and services. At the same time, this approach in the Statement does not perhaps recognize the difficulties of implementing personal income taxes in some least developed economies where there is a high level of non-monetary or hidden economy.

Some of these points are taken up again further on in the Statement.

[6...] In this regard, States Parties could consider taking measures such as: (a) ensuring that those with higher income and wealth, in particular those at the top of the income and wealth spectrums, are subject to a proportionate and appropriate tax burden; (b) shifting focus to a more direct income taxation approach rather than relying on indirect taxes, such as value added tax and goods and services tax, which tend to disproportionately affect individuals and families with lower incomes; and (c) levying adequate taxation on the profits of large companies, in particular multinational companies domiciled or operating in the State Party and on high-net-worth individuals, including through the introduction of a globally coordinated minimum income tax for ultra-high-net-worth individuals.

The recommendation of “shifting focus to a more direct income taxation approach rather than relying on indirect taxes...” may not necessarily be the most appropriate formula for some of the least developed countries. As discussed further below, indirect taxes may be easier to implement and yield a more stable source of revenue; income taxes require good record keeping and are problematic for countries with a large informal economic sector and where there are challenges to administrative capacity.

As one might expect, the Statement contains a number of points relating to the reduction of inequality and the removal of gender bias. This can be seen in the following paragraphs:

6. A well-designed tax system should serve to effectively raise revenue to secure economic, social and cultural rights and reduce high levels of economic and social inequality. The Committee recalls that the implementation of any tax system must not have a detrimental impact on the enjoyment of the rights covered under the Covenant, in particular, the right to an adequate standard of living, in particular for disadvantaged and marginalized groups.

7. States Parties are also required to ensure that tax policies are designed and implemented, as far as possible, in a manner that promotes substantive equality and removes explicit and implicit gender biases. In this regard, States Parties should avoid adopting regressive taxation, such as value added tax, that disproportionately affects women with low or no income.

The point bears repeating that taxes such as value added tax are often easier to collect, and the regressive nature can be mitigated. At the same time, income taxes may – if not carefully designed – have an excessive impact on those who are disadvantaged, for example those who work only on a part-time basis.^[15]

15. With grateful thanks to my colleagues teaching Tax and Development at Oxford, some of the selected literature on these topics includes: B. Clements, R. de Mooij, S. Gupta & M. Keen, eds., *Inequality and Fiscal Policy*, (IMF 2015); D. Benedik, et al., *A Post-Pandemic Assessment of the Sustainable Development Goals*, (IMF Staff Discussion Note, April 2021); *Sustainable Development Solutions Network, SDG Costing & Financing for Low-Income Developing Countries, A UN Global Initiative* (2019); L.P. Ebrill, M. Keen, J. Bodin & V. Summers, *The Modern VAT* (IMF 2001); R.M. Bird & E.M. Zolt, *Redistribution Via Taxation: The Limited Role of the Personal Income Tax in Developing Countries*, 52 UCLA Law Review, pp. 1627-1695 (2005); D. Benedek, J.C. Benitez & C. Vellutini, *Progress of the Personal Income Tax in Emerging and Developing Countries* (IMF working paper WP/22/20, January 2022); A. Joshi, W. Prichard & C. Heady, *Taxing the informal economy: The Current State of Knowledge and Agendas for Future Research*, 50 The Journal of Development Studies, pp. 1325-1347.

Interestingly, the Statement addresses specifically the procedural guarantees in designing and implementing tax policies, including informed public debate:

5. As a prerequisite, the Committee emphasizes that, both domestically and in the context of international tax cooperation, States Parties must observe the procedural guarantees derived from their human rights obligations in designing and implementing tax policies. Tax policymaking should be inclusive, transparent, participatory and evidence-based, fostering informed public debate. Furthermore, States Parties should conduct comprehensive assessments of the impact of existing and proposed tax policies on the realization of economic, social and cultural rights. Impact assessments should be conducted, in a transparent manner, with the meaningful and informed participation of social stakeholders. Such assessments should include an analysis of: (a) the ratio of taxation to gross domestic product; (b) the revenue derived from individual and corporate income taxes, and from consumption taxes, including value added tax; (c) the overall distributional impact and the tax burden on different income groups, women and disadvantaged groups; and (d) the benefits and impact of various tax exemptions, including those related to natural resources.

Participation of taxpayers in the formulation of tax policy may increase public commitment to those policies, improving overall tax morale, and may help to design an overall better tax system, more appropriate to the needs of the particular country.^[16] So far as impact assessments are concerned, one may speculate that the CESCR will expect to see such assessments when important tax changes are explained through the process of periodic reports.

Finally, in terms of a discussion of domestic tax policy, this part of the Statement notes the regulatory role of taxation as follows:

8. Taxation can also serve as a regulatory tool. Where appropriate, it could be used to create conditions that contribute to the realization of economic, social and cultural rights or to discourage behaviours that undermine them. The Committee has observed that tax policies can, for example, promote access to healthy diets through the imposition of taxes on junk food and sugary drinks or enable States Parties to protect the environment and meet their climate commitments. However, it is essential that such measures are designed and implemented in a way that does not disproportionately burden disadvantaged and marginalized groups, in particular through the adoption of measures to mitigate potentially regressive impacts.

There is much more that might have been said here about other forms of taxation, including excise duties and Pigouvian taxes on items that are detrimental to health (the right to the enjoyment of the highest attainable standard of physical and mental health is guaranteed by Article 12 of the ICESCR). Similarly, a phenomenon found in many developing countries is the low reliance upon social security taxation (and Article 9 of the ICESCR recognizes the right of everyone to social security). This goes to emphasize that the Statement can only be a beginning, and that there is much more to be said about the tax system, available resources, and maximizing tax revenues for the promotion of economic, social and cultural rights.

5. The Statement: International Cooperation and Extraterritorial Obligations on Taxation

Over a third of the Statement is devoted to international aspects of taxation and, in doing so, arguably it underplays the importance of domestic tax policies in maximizing resources and overplays international issues (which may be the greater concern of the civil society groups that influenced the drafting).

As one might expect from current preoccupations, there is a heavy emphasis on illicit financial flows and on tax evasion.

9. Illicit financial flows and tax abuse represent a huge loss of public revenue and constitute an impediment to the mobilization of domestic resources for the realization of human rights and to combating persistent poverty and inequality, in particular in low- and middle-income countries. To address this issue, the Committee has underscored that States Parties have a duty to take measures to combat tax evasion and tax avoidance, both within and beyond their territory.

10. Tax evasion and tax avoidance by corporations and high-net-worth individuals are often transboundary in nature and give rise to States' extraterritorial obligations. The Committee has observed situations in some States where low effective corporate tax rates, wasteful tax incentives, weak oversight and enforcement against illicit financial flows, tax evasion and tax avoidance, and the permitting of tax havens and financial secrecy drive a race to the bottom, depriving other States of significant resources for public services such as health, education and housing and for social security and environmental policies.

16. It would be a little bit churlish to point out that the development of the Statement hardly matched the injunctions to transparency and public participation which are reflected in this paragraph.

[14...] States Parties are encouraged, inter alia, to strengthen the exchange of financial and tax information among themselves and to establish a public global asset registry, containing beneficial ownership information, in order to curb illicit financial flows and the transfer of untaxed wealth by corporations and individuals.

Two points might be made here.

First, the issue of combatting illicit financial flows was not chosen as the topic for the second early protocol to the UN Framework Convention. There is something of a contradiction, therefore, between encouraging States Parties to participate in the drafting of the Framework Convention, and at the same time emphasizing the combatting of IFFs, that are not currently a subject of that process.

Second, the call for a *public* global asset registry is particularly indicative of the impact of some civil society organizations on the drafting. While it might well be the case that the Statement could emphasize access for tax administrations to reliable beneficial ownership information, it is much harder to see why *public* registries of asset ownership are essential to the promotion of human rights. The issue of confidentiality of information needs to be addressed, and a balance achieved between the appropriate protection of confidentiality and the assurance that tax authorities are not impeded in their work (particularly to combat IFF and tax evasion) by lack of access to information.

The objective of combatting illicit financial flows and cross-border tax evasion also leads, in the Statement, to a discussion of corporate taxation:

11. Furthermore, States Parties should take all measures necessary to combat illicit financial flows and cross-border tax evasion through, inter alia, the misuse of transfer pricing and tax fraud by business enterprises operating within or domiciled in their territory, including through the adoption and enforcement of mandatory due diligence mechanisms. States Parties should also regulate the use of shell companies for profit-shifting, tax evasion and fraud. The Committee calls upon States Parties to implement a global minimum tax on the profits of large multinational enterprises across all jurisdictions where they operate and to explore the possibility of taxing these enterprises as single firms based on their total global profits, with the tax then apportioned fairly among all the countries in which they undertake their activities.

Once again, the imprint of certain civil society groups is notable here. At the time of writing, the future of a global minimum tax – or, at least, an effective global minimum tax – remains uncertain. In any event, there are serious doubts as to whether the current designs of global minimum tax are really beneficial to developing countries, particularly having regard to the impact on redrafting of tax incentive measures.^[17]

At the same time, there is very much a division of views as to whether unitary taxation of global groups would be feasible or an improvement on the current system of transfer pricing. It is notable that the Statement simply refers to exploring the possibility of taxing multinational enterprises as single firms on a unitary basis.

Several paragraphs in the Statement address the need for States – particularly the more powerful and wealthier States – to have regard to interests of other States (perhaps less developed) in formulating their international tax policies and in their participation in international fora. Thus, for example:

[10...] As the Committee has clarified, the extraterritorial obligations deriving from article 2 (1) of the Covenant require States Parties to ensure that their national tax policies do not undermine the capacity of other countries to raise public revenues for the realization of economic, social and cultural rights. To that end, States Parties should conduct an independent and comprehensive assessment of the impact of their national and international tax policies on other countries, in particular on developing countries, and take corrective measures if required.

15. In negotiations on international tax cooperation, States Parties should refrain from making decisions and exercising their voting powers in ways that limit the ability of other States to mobilize all available resources for the realization of human rights, including economic, social and cultural rights. In this context, States Parties should ensure that all countries, in particular developing countries, can participate meaningfully and on an equal footing in decision-making processes and agenda-setting in the field of international taxation, recognizing the specific challenges that they may face, including those related to climate financing and unsustainable debt.

This raises an interesting ethical issue as to how far States should be required, in implementing their international tax policies and in their participation in international fora, to have regard to the interests of, and impact on, other States, particularly those

17. Again, with thanks to my colleagues in Oxford, some of the readings on Pillar 2 and developing countries include: E. Eze, S. Picciotto, M. Ashfaq, A.M. Chowdhary, B. Michel & T. Faccio, *The GloBE Rules: Challenges for Developing Countries and Smart Policy Options to Protect Their Tax Base*, South Centre, Tax Cooperation Policy Brief (2023); M.D. Astuti, *The Implementation of Global Minimum Tax in ASEAN Countries*, Tax Notes International (2024); S. Hebous, C. Hillier & A. Mengistu, *Deciphering the GloBE in a Low-Tax Jurisdiction*, IMF Working Paper (2024); A. Titus, *Pillar Two and African Countries: What Should Their Response Be? A Case for a Regional One* 50 Intertax 10, pp. 711-720 (2022).

less capable of raising adequate resources. There is much to be said here that the obligation of international cooperation explicit in Article 2(1) of the ICESCR requires States Parties to have regard both to the impact on other countries and to the interests of other countries in exercising their power.^[18] That is not, however, necessarily a view sustained by all.

Some of these comments in paragraph 15 of the Statement (quoted above) appear to be directly related to the discussions that have taken place in the Inclusive Framework, and some of the criticisms that have been made of the procedures adopted.^[19]

In general, the Statement makes a number of allusions to other international organizations – such as the IMF, World Bank, OECD and the OECD/G20 Inclusive Framework – without identifying them by name. Thus, for example, the Statement provides:

12. States Parties should also contribute to the efforts of other countries in combating tax abuse, including by ensuring that public and private financial institutions under their jurisdiction are subject to appropriate regulation and monitoring. States Parties must adopt due diligence mechanisms for banks, professional service providers and other financial institutions, requiring them to take measures to prevent tax fraud and transboundary tax evasion.

13. In addition, the Committee reminds international organizations, including international financial institutions, that as subjects of international law, they must respect human rights and fulfil all obligations imposed by general rules of international law. In particular, international financial institutions, as specialized agencies of the United Nations, are bound by the human rights provisions contained in the Charter of the United Nations. Accordingly, they should conduct human rights impact assessments of any proposed tax reforms to ensure that their recommendations do not undermine, but instead facilitate, the capacity of States to realize economic, social and cultural rights, in particular in countries that are highly dependent on external financing.

Without naming them, the IMF and the World Bank Group are both financial institutions and specialized agencies of the United Nations.^[20] A reminder that all international organizations are bound by the human rights provisions of the UN Charter is not inappropriate, even if some – such as the OECD – do not have a specific human rights mandate.^[21]

6. Conclusions

Welcoming the Statement, the Center for Economic and Social Rights said as follows:

A formal statement from the CESCR is a game-changer – setting a new standard for governments worldwide and ensuring that human rights concerns are not sidelined in global tax negotiations. Without this guidance, fiscal policies will remain skewed towards economic efficiency at the expense of social justice and equality.

There is an element of hyperbole in this Statement. It also suggests that economic efficiency on the one hand and social justice and equality on the other are incompatible: part of the art of tax policy design is to try to achieve both objectives.

The Statement is an important document, but it has its limitations. As explained above, some of the points made are contestable, and it would seem quite wrong for the CESCR to assess the compliance of States Parties by reference to principles that might well not be commonly shared (and may not necessarily reflect the interests of all countries).

Two overall points might be made in conclusion.

First, while the Statement makes occasional references to the particular position of less developed countries, there is something of a tendency to imply that, in respect of tax policies, certain approaches are appropriate for all. That fundamentally fails to recognize that every State faces different problems from every other in terms of the best design of its tax system to achieve both economic efficiency and enhancing tax justice and equality. In particular, each State faces unique circumstances in maximizing tax revenue as a resource for the promotion of economic, social and cultural rights. It might have been more helpful if the Statement had given greater recognition to the diversity of problems facing States and emphasized that one tax policy does not fit all.

18. In this context, an interesting example under the Convention on the Elimination of Discrimination against Women is the concluding comments in relation to the impact of Swiss international tax measures on other countries. See CEDAW Concluding Observations: Switzerland 2016 (CEDAW/C/CHE/CO/4-5), paras. 41 and 42.

19. See, in particular, R.C. Christensen, M. Hearson & T. Randriamanalina, *At the Table, Off the Menu? Assessing the Participation of Lower-Income Countries in Global Tax Negotiations*, ICTD Working Paper (2020).

20. A full list of the UN Specialized Agencies is available at [Specialized Agencies - UN System Documentation - Research Guides at United Nations Dag Hammarskjöld Library](#) (accessed 4 July 2025).

21. The OECD Convention makes no reference to human rights, though its preamble does refer to “the preservation of individual liberty and the increase of general well-being”.

Second, it is important to recognize that the Statement is temporally limited. References to the UN Framework Convention, to the global minimum tax, to beneficial ownership registers etc. reflect the preoccupations of the moment, particularly the preoccupations of some civil society groups. These may not be the preoccupations of all States, and they may very well not be the preoccupations of many States in a decade or more. Put simply, the Statement is likely to be largely out of date within a relatively short period of time.

All this suggests that the publication of this Statement, important as it is, is only the start of a process. The guidance that should be given to States in aiding them to maximize their resources from tax revenue that are available to promote economic, social and cultural rights needs to be enhanced, expanded and updated on a regular basis. Whether the CESCR is the right body to do that alone is doubtful. The Committee lacks expertise in tax policy and, consequently, is unduly reliant on interest groups.^[22] In October 2025, a new membership of the UN Committee of Experts on International Tax Cooperation will meet, and might well be encouraged to take up the topic of clarifying the nature of the obligations with regard to tax policy that are undertaken by States through their participation in human rights instruments. This Statement might provide a starting point for some discussions of that working party, but it is not the last word.

22. This may explain why the views of the CESCR were issued as a Statement and not as “general comments”, which is the more formal summation of the CESCR’s views.