

## **Budget 2021-22: Supporting the COVID-19 Recovery Scotland's Taxes and Fiscal Framework**

**8 October 2020**

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**Title:** Budget 2021-22: Supporting the COVID-19 Recovery – Scotland’s Taxes and Fiscal Framework

**RESPONDENT INFORMATION FORM**

Are you responding as an individual or an organisation?

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The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

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We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

## **Introduction**

The Commission welcomes the opportunity to respond to the Scottish Government's consultation on Scotland's Taxes and Fiscal Framework with a particular focus on the impact of COVID-19 on the Scottish Government's Budget 2021-22.

Previous submissions and publications by the Commission provide further detail on a range of areas relevant to this call for views and we suggest that these should be considered alongside this submission<sup>1</sup>.

Resources and rights are inextricably linked to improved outcomes for rights-holders. It is vital, therefore, that decisions about economic recovery from COVID-19 and the forthcoming 2021-22 budget are informed by and rooted in a comprehensive and robust rights-based analysis. This submission focuses on how the human rights framework and the government's obligation to respect, protect and fulfil human rights can support the government's decisions around supporting recovery through tax policy and the fiscal framework.

## **Changing discourse on tax and fiscal policy**

Much current discourse is questioning "how do we build back better?" There is clear evidence of a recognition that things were not working for everyone before and that an appetite exists for wholesale change. However, truly building back better means that tackling Scotland's pre-existing inequalities must be at the heart of how we move forward as a society. If there is not the genuine desire to tackle the structural and systemic causes of these inequalities, many of which have been created by tax and fiscal policies that benefit the wealthy, then any proposed solutions will in all likelihood fail to deliver transformational change.

Hard questions need to be asked about what has created such extremes in wealth inequality, as well as health inequalities and other inequalities based on gender, race, disability and socio-economic status in particular. Whilst it is accepted that there are limitations to Scottish government action, all possible levers available to the Scottish Government to address these inequalities moving forward need to be

examined and must be connected to the government's budgetary commitments moving forward.

There is also a need to change the way we approach the budget in Scotland. Instead of starting from what resources are anticipated and exploring how best to allocate those resources based on competing departmental interests, the start point needs to be - what kind of Scotland do we want? What does a system look like that can deliver a life of dignity for all who live in Scotland? Before asking - what will that cost to deliver? and then asking how do we raise the necessary revenue to achieve that?

At the current moment in time, we are presented with an opportunity to learn from past mistakes and create a new narrative about the values that should underpin Scotland's future economy, one that is built on economic and collective social thinking grounded in the government's existing human rights obligations. Such transformative policy can be found when there is political will to look for it<sup>2</sup>.

## **Why are human rights relevant to taxation?**

The way governments generate, allocate and spend money play an important role in progressively realising human rights. Taxation – as a critically important resource generating power of the state – provides a level of control over the resources available to it. Tax revenues are the main source of income for governments to facilitate the execution of their legal obligations to respect, protect and fulfil human rights.

A human rights based approach to taxation requires governments to look at public finances in a new way.

## **Human rights obligations**

All governments<sup>3</sup> must respect, protect and fulfil human rights. What this means, is broken down in Box 1 below.

## Box 1: Elements of Respect, Protect and Fulfil

**Respect:** the government must refrain from interfering with the enjoyment of rights;

**Protect:** the government must prevent violations of such rights by third parties;

**Fulfil:** the government must take appropriate legislative, administrative, **budgetary**, judicial, social and educational measures.

The measures or 'steps' are taken in order to:

Facilitate: access to goods and services

Promote: rights and how to claim them, and

Provide: goods and services to people when, for reasons beyond their control, they are unable to obtain them.

States, such as the UK (including Scotland), who have signed and ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) have freely undertaken international legal obligations to ensure the protection of the social, economic and cultural rights, including the right to an adequate standard of living, housing, healthcare, education and work for their citizens.

Any country that is a signatory to ICESCR is mandated to:

*“take steps... 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”.*

Article 2(1) ICESCR

The taking of positive steps (including budgetary) is necessary to:

- ensure delivery of the minimum essential levels or a '**minimum core**' of each right<sup>4</sup>,

- increase the **Availability, Accessibility, Acceptability and Quality** of goods and services (often referred to as AAAQ),
- **progressively realise** people’s rights – the minimum core is not a ceiling of achievement, but a basic floor of provision to build from,
- not take deliberately **retrogressive measures**,

In taking these steps a government must use the **maximum of their available resources** to do so.

To support a better understanding of how human rights norms can support tax and budgetary choices, it helps to translate the human rights obligations outlined above into a series of normative questions. Table 1 below sets out questions based on the standards relevant to resource generation, allocation and spend.

**Table 1: Assessing Budgets Against Norms<sup>5</sup>**

	Generation	Allocation	Spending
<b>Minimum Core</b>	Is sufficient revenue generated to invest in realising basic levels of rights for all?	Do allocations prioritise the achievement of basic levels of rights for all?	Do financial management systems ensure efficient management of funds allocated?
<b>Non-Discrimination</b>	Who are resources generated from? Are particular groups unjustly impacted?	Do allocations prioritise closing the gaps in human rights enjoyment between different groups?	Have funds been redirected in a way that disproportionately impacts particular groups?

<b>Progressive realisation and non-retrogression</b>	Is (or could) government revenue increase/ing?	Are allocations growing or shrinking? Are reductions justified (in human rights terms)?	Have financial management systems improved or weakened over time?
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## **Human rights principles and taxation**

In Scotland, the Scottish Parliament and Ministers have a responsibility to observe and implement international obligations, including international human rights treaties within the areas of its devolved competence. A rights-based approach to taxation would therefore require fiscal policymakers to take into account those obligations. These include the right to participation and principle of transparency, the right to equality and non-discrimination and the principle of accountability.

### **Right to participation and transparency**

Political and public participation rights play a crucial role in the promotion of democratic governance, the rule of law, social inclusion and economic development. The right to directly and indirectly participate in public life is important in empowering individuals and groups, and is one of the core elements of human rights based approaches aimed at eliminating marginalisation. Many human rights treaties emphasise the right to participation. Article 25 of the International Covenant on Civil and Political Rights includes the right of all people to take part in the conduct of public affairs, including people living in poverty. Other international human rights instruments contain similar provisions<sup>6</sup>.

Meaningful participation, and not only information, must be implemented throughout the policy cycle, from design of budgets and tax codes to allocation of expenditure, implementation and evaluation. Human rights principles are essential components of effective and democratic government<sup>7</sup>.

Critical to 'building back better' is consideration of whose voices are heard in, and how different groups are affected by, the Scottish Government's fiscal decisions — with reference to human rights standards to make that assessment. Human rights standards, by themselves, do not provide all the answers on what specific choices and trade-offs the government should make, although they do provide a guiding decision making framework. How choices are discussed and made is therefore key in determining the extent to which different human rights obligations are met or not.

Public participation in formulating policy - on tax and spending - contributes to a more open relationship between government and civil society and can lead to both a more balanced distribution of public resources and greater accountability. However, at present the lack of fiscal transparency hinders public participation.

Open Budget Research published by the Commission<sup>8</sup> in late April 2020 revealed that despite improvements made since the Budget Process Review Group report, Scotland remains below what is considered to be acceptable by international best practice standards, with regards to fiscal transparency and public participation.

Transparency and accountability are key principles of a human rights based approach to policy making across all domains, and specifically in fiscal policy and public finance management. Some of the measures that can enhance transparency are: the adoption of laws ensuring the public's access to information on governmental processes, decisions and policies as well as institutional reforms on operating procedures and decision-making processes. Transparency is an important human rights principle that supports efficiency, especially in relation to both the design and greater disclosure of information over tax incentives. Accessible mechanisms for complaints and redress should also be put in place as part of both transparency and accountability principles.

### **Right to equality and non-discrimination**

It is a key principle that the enjoyment of economic, social, cultural, civil and political rights should be secured without discrimination on any grounds. Revenue collection is a vital tool for States in redressing



discrimination and ensuring equal access to human rights. The way in which revenue is raised plays an important role in the realisation of human rights. Regressive tax systems indirectly discriminate or disproportionately negatively impact the most vulnerable in society, increasing inequality. It is crucial that taxes are raised and collected in human rights-compliant ways, where those who can least afford it are not asked to pay more.

The concept of progressive realisation (in the International Covenant on Economic, Social and Cultural Rights<sup>9</sup>) implies that any retrogressive measures, including on taxation, would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the ICESCR<sup>10</sup>. States should evaluate the differential impact of existing and proposed fiscal policies on different groups, in particular those whom historically have experienced discrimination, marginalisation or inequalities.

In addition, Scottish and UK Government efforts to promote human rights are meaningless without an adequate effort to collect the necessary funds to provide for basic public services. A State or devolved administration that does not take strong measures to combat tax abuse is not allocating the maximum available resources<sup>11</sup> to the realisation of rights. Such allocation is required by international human rights law. In order to maximise the government's available resources tackling tax evasion and tax avoidance is critical. Given that tax evaders and avoiders end up paying less than taxpayers with the same or less capacity to pay, both tax evasion (illegal) and tax avoidance do not only undermine the fiscal base, but the principles of equality and non-discrimination.

The former UN Independent Expert on Extreme Poverty and Human Rights noted that tax abuse is:

*'not a victimless practice; it limits resources that could be spent on reducing poverty and realizing human rights, and perpetuates vast income inequality'*<sup>12</sup>.

Human rights law is also clear that even in times of severe resource constraints – whether caused by a process of economic adjustment,

recession or a pandemic induced economic crisis – vulnerable members of society must be protected. Therefore, fiscal policy should ensure equality, through being progressive and assisting the most disadvantaged individuals and groups in society.

### **Principle of accountability**

The promotion of accountability for meeting obligations is continuous in a human rights based approach. Accountability means monitoring, review and oversight of what is actually going on. A human rights compliant fiscal framework requires accountability mechanisms that are both proactive - allowing participation at the point of design and reactive – allowing for aggrieved parties to raise their concerns regarding tax law and policy. Accountability also means judicial and non-judicial remedies (within and out-with the court system) and these are only useful if people know they can use them, and have effective access to them.

### **Human rights based approach to taxation**

The Commission has long advocated<sup>13</sup> for taking a human rights based approach to the budget – of which taxation plays a key role - in relation to the resource generation necessary for a state to maximise its available resources.

Taking this approach means using:

- human rights principles to shape the budgetary process and
- human rights standards to shape the budget's goals.

Human rights standards and principles can guide transparent, accountable and participatory decisions that require balancing competing interests and priorities. In the context of COVID-19, a time when trust and public confidence is both fragile and critical, this is more important than ever.

Before the development of the budget comes the development of laws, regulations, policies and plans that are shaped by human rights standards. The standards draw on the content of the specific rights and

help to identify what a government should prioritise its spending on (minimum core and non-discrimination) and work towards achieving (progressive realisation and non-retrogression). Understanding the way that government obligations are framed in international human rights law, with reference to all available guidance<sup>14</sup>, helps to set the scene for how these duties can be leveraged as a driver for more equitable, people-centred budgetary decisions in the Scottish context.

This approach also examines what effort has been made to generate resources.

- Does the taxation system raise the maximum available funds?
- Who are resources generated from? Are any groups impacted unjustly?
- Has tax evasion, avoidance and debt been reduced in line with EU standards?

Resources must also be spent the way they were intended to be. Unspent allocations highlight that a government has not made the 'maximum use of available resources'. In-year and mid-year reviews are crucial in highlighting whether budget allocations are being fully spent and if not, what plans exist to re-invest any surplus finance in rights (in a transparent, participative and accountable way).

Lack of resources is a common reason given by governments for being unable to fulfil their human rights obligations (especially economic and social rights, and particularly in times of economic crisis). This should not go unchallenged. We know for example from 2012 research undertaken with tax inspections and the Centre for Economic and Social Rights in Spain, that a reduction of tax evasion and tax avoidance by 10% (in line with EU standards) would have resulted in the generation of 38 billion euros, exceeding the total austerity budget cuts for Spain in 2012<sup>15</sup>.

Public and political support<sup>16</sup> for the willingness to put conditions on financial bailouts for those who are resident in tax havens for example, highlights growing political will to explore the fairness of how revenue is generated as we enter the recovery phase. Concluding Observations of the Committee on Economic, Social and Cultural Rights are also

increasingly expressing concern in their state reviews about issues such as: insufficient revenue generation by states (including the need to tackle tax avoidance and evasion, and exceptions<sup>17</sup>); the distribution of the tax burden and regressive tax policy<sup>18</sup>; efficiency of the tax system in promoting the realisation of rights<sup>19</sup>; and the sustainability of domestic systems of taxation systems<sup>20</sup>. The Committee on Economic, Social and Cultural Rights General Comment No.24 (June 2017) also provides concrete examples of states' failures regarding the mobilisation of resource – focused on Corporate tax<sup>21</sup>.

The UK Government Treasury Committee's current inquiry into 'Tax after coronavirus'<sup>22</sup> provides an opportunity for the Scottish Government to engage in constructive dialogue on the future of taxation in the UK. A UK system which is better able to prevent (in the first instance) and retrieve (where prevention has failed) lost revenue through tax evasion, avoidance and debt would mean a potentially substantial revenue injection (tens of billions of pounds), which the Scottish Government would benefit from through the Barnett Consequential.

Whilst there is ongoing uncertainty about the exact impact of COVID-19 on future devolved tax revenue (see Appendix 1), it is very clear that it will be considerable. The issue of how and who we tax in Scotland has been explored before, with limited steps taken towards a more progressive system of taxation. Scotland can choose to approach COVID-19 economic recovery by creating a more progressive system.

## **International human rights responses relating to taxation and COVID-19**

Juan Pablo Bohoslavsky, UN Independent Expert on the effects of foreign debt and human rights has urged governments to:

*“seriously engage in structural reforms for redistributive justice including progressive taxation reforms, where millionaires and billionaires and large corporate conglomerates are requested to contribute to the society in a proportional measure to their fortunes”<sup>23</sup>.*

The Center for Economic and Social Rights in New York<sup>24</sup> has also published a “Comprehensive Response to COVID-19 Demands Redistributive Fiscal Policies” which sets out a range of fiscal policy options recommended by the Initiative for Human Rights Principles in Fiscal Policy<sup>25</sup>. This is drawn from current work of the Initiative who are developing an instructive resource: Rights Principles and Guidelines in Fiscal Policy<sup>26</sup>. Many of their proposed options would be relevant for consideration and should be encouraged within the UK context. Whilst acknowledging that the majority of levers will not be in the gift of the Scottish Government, there are some areas where Scotland would also have devolved capacity to explore<sup>27</sup>.

The UN Secretary-General has also called for countries to “build back better” from the crisis<sup>28</sup>, identifying six specific recommendations which focus on complementary aspects of fiscal policy. These are set out in Box 2 below.

### **Box 2: UN Secretary-General Recommendations**

- With the large amounts of money set to be spent on recovery from COVID-19, this must deliver new jobs and businesses through a clean, green transition.
- Where taxpayers’ money is used to rescue businesses, it must be tied to achieving green jobs and sustainable growth. Taxation and fiscal policy is important here.
- Fiscal firepower must drive a shift from the grey to green economy, empowering societies and people to be more resilient.
- Public funds should be used to invest in the future, not the past, and flow to sustainable sectors and projects that help the environment and the climate. Fossil fuel subsidies must end, and polluters must start paying for their pollution.
- Climate risks and opportunities must be incorporated into the financial system as well as all aspects of public policy making and infrastructure.
- Work together as an international community.

## **Employability and skills to improve Scotland's tax base**

Scotland's tax base is small, and it cannot afford for large sections of the population to become and/ or remain unemployed. Pre COVID-19, only 2.5 million of the potential 4.5 million working age adults in Scotland earned enough to pay tax, with 300,000 fewer women tax payers than men<sup>29, 30</sup>. This highlights that Scotland is a low wage or no wage economy with an incredibly tight tax base<sup>31</sup>. This is of concern when early analysis reveals that the government anticipates that the low earners will be one of the groups hardest hit by the pandemic<sup>32</sup>.

It is clear from the current analysis of the labour market impacts, that some employment sectors may take considerably longer than others to recover, due to the need for continued social distancing, for example tourism and the entertainment sector. It may also be the case that considerable proportions of the working age population will not be able to return to their previous employment and will require opportunities to re-train and learn new skills.

It will therefore be important as the Scottish Government develops its plans for economic recovery, that suitable investment is set out in the forthcoming Scottish budgets to facilitate the delivery of employability and re-training services that are targeted at those who require them most and aligned with the social and economic needs of Scotland post COVID-19.

## **A changing Fiscal Framework**

The significant shift in the nature of Scottish public finances in recent years now means that the Scottish budget is becoming increasingly complex, with more available choice over taxation and spending, as well as how and when new financial powers can be used.

Even before the arrival of COVID-19, Audit Scotland noted that "understanding the opportunities and risks associated with the operation of the Fiscal Framework, and how these are unfolding, is critical to the effective oversight of the Scottish public finances"<sup>33</sup>. This is ever more

important in the context of the COVID-19 pandemic, where the significant impact of the virus – and responses taken to it – on Scotland’s health, wellbeing and economy will be felt in terms of its impact on public finances for many years to come.

Understanding how rapid changes in both the health and economics of the nation will influence the budget throughout 2020/21 and beyond is challenging. There is an expectation of some difference between the economic impact in Scotland and the rest of the UK. This could be either positive or negative in relation to Scottish resource generation, but predicting these differences is not possible at present. However, as uncertain as things are and may remain, this cannot justify a lack of transparency, accountability and public participation in Scotland’s budgetary process.

It is clear from the government’s own commentary and that of the likes of the Fraser of Allander Institute, that the Fiscal Framework was already proving to be insufficiently flexible before COVID-19<sup>34</sup>. When the review goes ahead, it will be enhanced by a good understanding of how well the Framework responded to this major economic crisis. The analysis of this consultation will be immensely helpful in providing a thorough evaluation of the Fiscal Framework’s strengths and weakness in response to COVID-19 which will support its improved development.

Other organisations are better placed to answer the specific questions regarding potential changes to the fiscal framework, however the Commission would like to draw attention to Appendix 1, which sets out the various uncertainties about the impact of COVID-19 on Scotland’s Fiscal Framework and public finance and how that relates to relevant human rights standards and principles.

## Appendix 1 – The knowns and uncertainties about Scotland’s fiscal framework and public finance and the impact of Covid-19

Known aspects of current public finance and fiscal framework	Relevant human rights norms & principles
<p>The Scottish Budget is determined through a combination of the block grant (determined via the Barnett formula), devolved tax revenue and a ‘block grant adjustment’.</p> <p>The arrangements in the fiscal framework mean there will be no effect on the Scottish Budget in 2020-21 as this funding is fixed for the year.</p> <p>The impact of COVID-19 on Income tax revenues and LBTT, as well as Non-Domestic Rates (though temporary relief) will be significant in Scotland – with likely reductions in tax revenues and increases in social security spending.</p> <p>The Scottish budget is protected against the risk of fiscal shocks that impact Scotland proportionately in the same way as the UK.</p> <p>The Scottish Government has limited borrowing powers to deal with fiscal uncertainty and volatility, but it cannot borrow to fund any additional COVID-19 related spending.</p>	<p>Resource Generation; Minimum Core</p>
<p>Increased spending by the UK Government has meant that the 2020/21 Scottish Budget has proportionately grown since the budget was announced in February.</p> <p>Any changes to income tax funding for 2020-21 will be applied to the Scottish Budget in 2023-24 through a reconciliation.</p>	<p>Resource Generation; Progressive realisation and non-retrogression</p>



<p>The Scottish budget is not insured against the risk that COVID-19 might have a disproportionate fiscal impact on Scotland compared to the rest of the UK (rUK).</p> <p>There remain a number of unresolved issues in the Fiscal Framework, including: the timing of reconciliations between different indexation mechanisms, the timing and methodologies underpinning Scottish tax forecasts, and the timing of the calculation of some aspects of the Block Grant Adjustments. These are due to be negotiated after the 2021 Scottish Parliamentary elections.</p>	
<p>Most of the significant economic policy responses to Covid-19 are implemented by the UK Government covering the whole of the UK (e.g. the Job Retention Scheme, the Self-Employment income support scheme and changes to Universal Credit).</p> <p>The Scottish Government has made a number of large financial policy commitments in response to COVID-19, including: support to third sector organisations, grants for SMEs and increased pay for social care workers.</p>	<p>Resource Allocation; Minimum Core</p>
<p>Before the arrival of COVID-19, the Scottish Government (and those scrutinising the budget) had already expressed concern about the uncertain environment within which it had to prepare and publish its budget plans for 2020/21.</p> <p>Forecasting in the current crisis is impossible. As such, the Scottish Fiscal Commission was absolved from updating its tax, spend and borrowing forecasts in May.</p> <p>Scotland's Medium Term Financial Strategy (due in May 2020), which sets out risks associated with spending, revenues and borrowing, was postponed.</p> <p>The UK Government's Spending Review planned for the summer of 2020 was delayed.</p> <p>The planned Scottish Government multi-year Resource Spending Review (post-UK Spending Review) was postponed.</p>	<p>Transparency</p>

<b>Uncertain aspects of current public finance and fiscal framework</b>	<b>Relevant human rights norms &amp; principles</b>
<p>The impact of COVID-19 on devolved tax revenues.</p> <p>The sustained impact of COVID-19 on the global oil price.</p> <p>The fiscal responses to COVID-19 required by both Governments.</p> <p>The consequential (positive or negative) expected from the UK Government for future years.</p>	<p>Resource Generation; Minimum Core</p>
<p>The impact of a false re-start of the economy and resources if scientific evidence states that a second (and subsequent) wave requires restrictions to be reinstated.</p> <p>How quickly the Scottish economy will recover (and how similar/different that recovery compares to rUK).</p> <p>The potential gap in impact of COVID-19 on Scotland's economy vs rUK, which could mean Scotland risks suffering a disproportionate fiscal impact from the virus.</p>	<p>Resource Generation; Progressive realisation and non-retrogression</p>
<p>The duration of COVID-19, including future waves and in turn the duration and scale of the required response to COVID-19.</p>	<p>Resource Allocation; Minimum Core</p>
<p>The divergence in timescale of economic lockdown between Scotland and rUK and what this might mean for the resource allocation of both UK Government administered support e.g. the Job Retention Scheme, and Scottish measures such as business rates relief.</p>	<p>Resource Allocation; Progressive realisation and non-retrogression</p>

<p>The impact of COVID-19 on devolved social security expenditure.</p> <p>The impact of COVID-19 on health and social care expenditure, based on longer-term population ill/health (including the impacts of 'lockdown' on the mental health of the nations) – and the impact of any specific differences in such allocations between Scotland and rUK.</p>	<p>Resource Spend; Progressive realisation and non-retrogression</p>
<p>The timing of UK fiscal events this year, including the next (and now postponed) UK Budget.</p> <p>When postponed devolved policy commitments will be honoured (e.g. increased childcare provision and roll out of new benefits).</p>	<p>Transparency</p>
<p>If the 2021 Scottish Parliamentary elections will go ahead as planned (which could impact on the fiscal framework negotiations planned for negotiated after the 2021 Scottish Parliamentary elections).</p>	<p>Participation</p>

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- 1 • Human Rights Budget Work: What, Why and How?: Collated Briefing Papers  
<https://www.scottishhumanrights.com/media/1902/hrbw-collected-briefing-papers-vfinal.docx>
- Submission to Scottish Government consultation on devolved taxes  
<https://www.scottishhumanrights.com/media/1882/shrc-response-to-scottish-government-consultation-on-devolved-tax-policy-framework.docx>
  - Submission to the Finance Committee: A Scottish Approach to Taxation  
<https://www.scottishhumanrights.com/media/1882/shrc-response-to-scottish-government-consultation-on-devolved-tax-policy-framework.docx>
  - [https://www.scottishhumanrights.com/media/2034/20\\_05\\_fincom\\_covid\\_publicfinances\\_humanrights\\_vfinal.pdf](https://www.scottishhumanrights.com/media/2034/20_05_fincom_covid_publicfinances_humanrights_vfinal.pdf)
  - Submission to Scottish Parliament Finance Committee Inquiry: Impact of COVID-19 on public finances and Fiscal Framework <https://www.scottishhumanrights.com/media/2035/advisory-group-on-economic-recovery-call-for-views-vonline.pdf>
  - Submission to Advisory Group on Economic Recovery: Human Rights and Economic Recovery

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2 For example see <https://www.theguardian.com/commentisfree/2020/apr/17/coronavirus-deficit-american-economy>

3 Government is meant in its widest sense, national and local.

4 Guidance on what the minimum core should mean in practice is contained within General Comments of the various UN Treaty Body Committees: <https://www.ohchr.org/EN/HRBodies/Pages/TBGeneralComments.aspx>

5 <https://www.scottishhumanrights.com/media/1912/hrbw-paper-5-vfinal.docx>

6 These include the Universal Declaration of Human Rights (art. 21); the International Covenant on Economic, Social and Cultural Rights (art. 8); the International Convention on the Elimination of All Forms of Racial Discrimination (art. 5 (c)); the Convention on the Elimination of All Forms of Discrimination Against Women (arts. 7 and 8); the Convention on the Rights of the Child (art. 15); the Convention on the Rights of Persons with Disabilities (arts. 4 (3), 29, 33 (3)); the International Convention on the Protection of All Migrant Workers and Members of Their Families (arts. 41 and 42)

7 Human Rights institutions are also key to democratic governments.

8 See The Open Budget Survey 2019 results for Scotland's 2017/18 Budget:

<https://www.scottishhumanrights.com/media/2014/scotland-2019-obi-report-vfinal.pdf>

9 International Covenant on Economic, Social and Cultural Rights (ICESCR) <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

10 See ICESCR General Comment No 1 (1989)

11 This short briefing by the Center for Economic and Social Rights sets out clearly all governments' obligations to invest Maximum Available Resources in human rights, See:

[https://www.cesr.org/sites/default/files/CESR\\_COVID\\_Brief\\_1.pdf](https://www.cesr.org/sites/default/files/CESR_COVID_Brief_1.pdf)

12 See: Report of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona. A/HRC/26/28

13 This was most recently called for in the Commission's responses to the Advisory Group on Economic Recovery to support Scotland's economic recovery<sup>13</sup>; the Scottish Parliament's Environment, Climate Change and Land Reform Committee inquiry into a Green Recovery; the Finance and Constitution Committee's inquiries into the Impact of COVID-19 on public finances and Fiscal Framework and their Pre-Budget Scrutiny 2021-22; and the Equalities and Human Rights Committee's Pre-Budget Scrutiny 2021-22.

See:

<https://www.scottishhumanrights.com/media/2035/advisory-group-on-economic-recovery-call-for-views-vonline.pdf>; file://scotland.gov.uk/dc2/fs3\_home/n320068/UNCRC/green-recovery-shrc-final.pdf;

[https://www.scottishhumanrights.com/media/2034/20\\_05\\_fincom\\_covid\\_publicfinances\\_humanrights\\_vfinal.pdf](https://www.scottishhumanrights.com/media/2034/20_05_fincom_covid_publicfinances_humanrights_vfinal.pdf); file://scotland.gov.uk/dc2/fs3\_home/n320068/UNCRC/fcc-pre-budget-scrutiny-shrc-final.pdf;

file://scotland.gov.uk/dc2/fs3\_home/n320068/UNCRC/shrc-equalities-and-human-rights-committee-pre-

budget-scrutiny-2021-22.pdf

14 For example see the current UN recommendations relevant to COVID-19 for the UK

[https://www.ohchr.org/Documents/Events/COVID19/Infographics/UNITED\\_KINGDOM\\_OF\\_GB\\_AND\\_NORTHERN\\_IRELAND.pdf](https://www.ohchr.org/Documents/Events/COVID19/Infographics/UNITED_KINGDOM_OF_GB_AND_NORTHERN_IRELAND.pdf) and more generally - General Comments and recommendations produced by Treaty Body

Committee and Special Procedures: <https://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

15 See [https://cesr.org/sites/default/files/FACT\\_SHEET\\_SPAIN.pdf](https://cesr.org/sites/default/files/FACT_SHEET_SPAIN.pdf)

16 See <https://www.independent.co.uk/news/business/news/scotland-tax-have-ban-coronavirus-bailoutfund-a9526006.html> ; <https://www.theguardian.com/politics/2020/may/21/scotland-bans-covid-19-supportfirms-tax-havens> ; <https://www.dailymail.co.uk/news/article-8344973/Scotland-bans-companies-based-taxhavens-using-coronavirus-relief-funding.html> ; <https://www.taxjustice.net/2020/05/21/scotland-joins-wave-ofcountries-blocking-tax-haven-tied-corporations-from-receiving-covid-19-bailouts-tax-justice-networkresponds/>

17 See CESCR, 'Concluding Observations: Paraguay' (20 March 2015) E/C.12/PRY/CO/4 para 10;

CESCR, 'Concluding Observations: Burundi' (16 October 2015) E/C.12/BDI/CO/1 para 14.

18 See CESCR, 'Concluding Observations: Namibia' (23 March 2016) E/C.12/NAM/CO/1 para 24;

CESCR, 'Concluding Observations: Republic of Macedonia' (15 July 2016) E/C.12/MKD/CO/2-4 para

42.

19 See CESCR, 'Concluding Observations: Mongolia' (7 July 2015) E/C.12/MNG/CO/4 para 16;

CESCR, 'Concluding Observations: Uganda' (8 July 2015) E/C.12/UGA/CO/1 para 19.

20 See CESCR, 'Concluding Observations: Venezuela' (7 July 2015) E/C.12/VEN/CO/3 para 6.

21 General Comment No 24. States "Lowering the rates of corporate tax solely with a view to attracting investors encourages a race to the bottom that ultimately undermines the ability of all States to mobilise

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resources domestically to realise Covenant rights. As such, this practice is inconsistent with the duties of the state parties to the Covenant.” No. 24 (n 55) para 37.

22 See <https://committees.parliament.uk/call-for-evidence/206/tax-after-coronavirus/>

23 See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25793>

24 A key partner in the Commission’s human rights budget work project.

25 See <https://derechospoliticafiscal.org/es/>

26 See <https://derechospoliticafiscal.org/index.php/es/principios-iii#principio-09>

27 See <https://www.cesr.org/comprehensive-response-covid-19-demands-redistributive-fiscal-policies>

28 see more here: <https://www.un.org/en/un-coronavirus-communications-team/un-urges-countries-%E2%80%98build-back-better%E2%80%99>

29 See O’Hagan, A, Dec 2018, How does austerity impact women’s human rights? See

<https://wbg.org.uk/wpcontent/uploads/2018/12/Angela-OHagan-remarks-4-December-2018.pdf>

30 Two million workers are earning less than 12,000 per year or not earning from waged income at all

31 See <https://wbg.org.uk/wp-content/uploads/2018/12/Angela-OHagan-remarks-4-December-2018.pdf>

32 2 See <https://www.gov.scot/publications/wealth-and-assets-in-scotland-2006-2018/>

33 Audit Scotland (2019) Briefing: Scotland’s new financial powers Operation of the Fiscal Framework 2018/19, Edinburgh. See <https://www.audit-scotland.gov.uk/report/scotlands-new-financial-powersoperation-of-the-fiscal-framework-201819>

34 See <https://www.scottishparliament.tv/meeting/finance-and-constitution-committee-may-14-2020>