A BOTTOM-UP APPROACH TO RIGHTING FINANCIAL REGULATION

Why is a Human Rights Approach Needed in Financial Regulation?

The global financial and economic crisis has laid bare the myth that giving free rein to the market will automatically promote stable economic growth and the realization of continuous improving living standards for all. It has shown the global consequences of failing financial regulatory measures1 and growing income inequality-both widely cited as significant structural root causes of the 2008 financial crisis. The recovery of the financial markets appears in the short term to have reduced the pressure for more systemic change. In the longer term, however, the failure to address these structural roots of the crisis is likely to continue to spawn growing social unrest in the face of austerity and renewed financial volatility. As such, the human rights movement faces an unprecedented opportunity for revisiting and revitalizing the struggle for economic and social rights by demanding accountability for failures to protect human rights through economic policy. The establishment of a Financial Transaction Tax (FTT) would be an important step in that human rights direction.

What is the FTT?

The FTT currently under debate has two basic policy objectives. First, it would raise significant revenue. By introducing a tiny tax rate on the trading of bonds, shares, and derivative products, such as futures contracts, the FTT would yield about US$48 billion at its lowest rate across the G20 countries, with higher rates offering up to US$250 billion per year-significant amounts to offset the widespread austerity measures in countries North and South. Second, the FTT aims to stabilize financial markets by discouraging speculation (especially in high-frequency trades) and mitigating price volatility.

Why is the FTT the Right Thing to Do?

The FTT is a human rights imperative on three grounds. First, human rights law obliges governments to cooperate in the mobilization of the maximum of available resources required to provide social services, battle widening income inequality and otherwise realize economic and social rights without discrimination. Taxation on income and consumption are widely understood as tools in doing so. Taxes on financial products are equally justifiable.

Financial transaction taxes are a mechanism for reintroducing a measure of equality and progressivity in taxation systems, helping governments thereby to meet their legal commitments to make substantial resources available to respect, protect and fulfill people's rights. In keeping with the imperative of accountability, nondiscrimination and equality, a human rights-centered FTT would place those most affected by the crisis (in the North and South) at the center of decisions about who would benefit from the proceeds of the tax, through a transparent and participatory mechanism to distribute funds.

Second, governments are required to protect against, and prevent, human rights abuses by third-parties, including the very private financial actors whose conduct spawned the global economic crisis. A financial transaction tax is a tool to discourage excessive risktaking or speculation, reduce the financial incentive for fast, high risk-taking transactions whose collapse caused vast harm to the overall economy and human rights. FTT s can aid governments to better manage risks in the financial sector to mitigate the effects of financial sector collapse, or reduce their likelihood of happening all together.

Finally, human rights entail remedies. People whose economic and social rights are infringed by crisis-related economic policies have the right to obtain appropriate, effective and proportional remedy. To be effective, remedies must lead to an end to any ongoing violations, and ensure adequate reparation, including, as necessary, restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition. What might constitute effective remedy for human rights infringements resulting from the financial and economic crises? Meaningful regulation of the financial sector in systemically important countries would be one structural step towards guaranteeing non-repetition. Redressing the costs of the crisis by making fiscal policy more progressive and redistributive nationally and globally would also reflect governments' legal commitment to fulfill economic and social rights in non-discriminatory ways, and ensure reparation to those affected. The FTT is one such way of exacting accountability from those responsible for the 2008 financial crisis, raising revenue to contribute to effective remedies for the consequent human rights impacts, and establishing transparent mechanisms to mitigate the type of financial vulnerability which led to the crisis to begin with.

Where the global financial crisis has brought about the loss of millions of jobs, socialized debt accrued by financial corporations and now risks significant human rights harm through wide-ranging austerity packages, financial transaction taxes are essential tools to providing the means for governments to protect and fulfill the human rights of their people. In so doing, the FTT is one step toward addressing the structural causes of this Great Recession and preventing a sequel to the 2008 global financial calamity.

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