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Mandate of the Special Rapporteur on the right to food

Tax policies and the right to adequate food

- Information note -

As underlined by the Special Rapporteur on the right to food in various reports, taxation systems are directly relevant to the realization of the right to food. The International Covenant on Economic, Social and Cultural rights imposes an obligation on each State to take steps to the maximum of its available resources, with a view to achieving progressively the full realization of the right to adequate food (arts. 2(1) and 11). Raising taxes is one important means available to States to raise the funds required to progressively improve access to the right to food and other human rights for their populations.

The present note highlights examples from resent reports of the Special Rapporteur as to some of the ways in which taxation policies directly impact on the right to adequate food.

Taxation and access to adequate diets

In his 2012 report to the Human Rights Council (A/HRC/19/59), the Special Rapporteur explores the issue of the nutrition dimension of the right to adequate food and the importance of protecting and promoting access to adequate diets. A section of this report, dedicated to "using taxation to encourage healthy diets", highlights:

"The WHO Global Strategy on Diet, Physical Activity and Health refers to the need to rethink fiscal and agricultural policies to align them with public health concerns (paras. 41 (2) and (4)). The introduction of food taxes and subsidies to promote a healthy diet constitutes a cost-effective and low-cost population-wide intervention that can have a significant impact (A/66/83, para. 42). As acknowledged by the recent introduction of such taxes in Denmark, Finland, France and Hungary,[1] the taxation of HFSS foods and beverages can be an effective tool. Price is an important determining factor in consumption levels, and demand elasticity is especially high for snacks and drinks consumed outside the home. Research shows that a 10 per cent tax on soft drinks, which have considerable negative health impacts,[2] could lead to an 8 to 10 per cent reduction in purchases of these beverages.[3] The standard concern raised when such taxes are

[1] In Denmark, Law No. 247 of 30 March 2011 (Fat duty law) imposed, starting 1 October 2011, a new duty on saturated fat in a range of foods, based on evidence that the substitution of saturated fat by polyunsaturated fatty acids reduces the risks of cardiovascular diseases (A. Astrup and others, "The role of reducing intakes of saturated fat in the prevention of cardiovascular disease: where does the evidence stand in 2010?", *American Journal of Clinical Nutrition*, vol. 93, No. 4 (2011), pp. 684-688). In Hungary, since 1 September 2011 a levy has been imposed on products containing "too much" salt, sugar, or fat – "junk food," in effect – while taxes on soft drinks have increased by 10 per cent; the revenues shall contribute to meeting the costs of health care.

[2] L.R. Vartanian and others, "Effects of soft drink consumption on nutrition and health: a systematic review and meta-analysis," *American Journal of Public Health*, vol. 97, No. 4 (2007), pp. 667–675; G. Woodword-Lopez and others, "To what extent have sweetened beverages contributed to the obesity epidemic?", *Public Health Nutrition*, vol. 14, No. 3 (2011), pp. 599-609.

[3] T. Andreyeva and others, "The impact of food prices on consumption: a systematic review of research on the price elasticity of demand for food," *American Journal of Public Health*, vol. 100, No. 2 (2010), p. 220.

discussed is that they could penalize the poorest segment of the population, who spend proportionally more of their incomes on food and often are pushed into adopting unhealthy diets. But that concern can be met by using the public revenue from the tax to make healthy foods more affordable, for it is relative prices that must change. The poor are penalized for being poor, both because HFSS foods and soft drinks are cheap and because healthy diets are expensive.[4]" (A/HRC/19/59, para. 39).

The Special Rapporteur also explores how current food systems fail to provide easy access to adequate diets, noting that "[t]he world is paying an exorbitant price for the failure to consider health impacts in designing food systems, and a change of course must be taken as a matter of urgency. In OECD countries in particular, where farm subsidies remain at high levels, the current system is one in which taxpayers pay three times for a system that is a recipe for unhealthy lives. Taxpayers pay for misguided subsidies that encourage the agrifood industry to sell heavily processed foods at the expense of making fruits and vegetables available at lower prices; they pay for the marketing efforts of the same industry to sell unhealthy foods, which are deducted from taxable profits; and they pay for health-care systems for which non-communicable diseases today represent an unsustainable burden." (A/HRC/19/59, para. 48).

The Special Rapporteur concludes that "[c]ombating the different faces of malnutrition requires adopting a life-course approach guaranteeing the right to adequate diets for all, and reforming agricultural and food policies, including taxation, in order to reshape food systems for the promotion of sustainable diets" (A/HRC/19/59, para. 49). In particular, "States, in accordance with their obligation to respect, protect and fulfil the right to adequate food for all, should: (…) Impose taxes on soft drinks (sodas), and on HFSS foods, in order to subsidize access to fruits and vegetables and educational campaigns on healthy diets." (A/HRC/19/59, para. 50).

Tax evasion and tax incentives for foreign investors

During official country visits, the Special Rapporteur has analysed in detail specific challenges related to taxation policies in different countries and regions. In his end-of-mission statement, concluding his visit to Malawi from 12 to 22 July 2013, the Special Rapporteur highlighted two challenges related to tax policies affecting the country's ability to take steps to the maximum of its available resources to progressively achieve the full realization of the right to adequate food:

"A first issue concerns measures to reduce illicit financial flows and tax evasion. It is estimated that Malawi has lost over 10 per cent of GDP to illicit outflows over the period 1980-2009. This impacts its ability to realize the right to food. Recognizing that "illicit capital flight undermines the capacity of State Parties to implement the African Charter on Human and Peoples' Rights and to attain the Millennium Development Goals," the African Commission on Human and Peoples' Rights has recently called upon States parties to the African Charter on Human and Peoples' Rights "to examine their national tax laws and policies towards preventing illicit capital flight in Africa." As mining develops, Malawi can simply not afford business-as-usual. The Special Rapporteur urges the Government of Malawi to swiftly implement the concrete recommendations suggested by the African Development Bank and Global Financial Integrity, including joining the Extractive Industries Transparency Initiative (EITI), and adopting legislation transforming EITI voluntary requirements in legal requirements, as done in Liberia and Nigeria for a number of years.

[4] In the United States, a pilot study funded under the 2008 Food, Conservation, and Energy Act ("Farm Bill") showed that a 10 per cent reduction in the price of fruits and vegetables would increase purchases by 7.0 per cent and 5.8 per cent, respectively.

Second, the Special Rapporteur notes that Malawi offers a great range of tax incentives to domestic and foreign companies. Mining companies are exempt from customs duty, excise duty, VAT on mining machinery, plant and equipment. They can also sign special deals on the rate of royalty owed to the government. Companies operating in Export Processing Zones pay no corporate tax, no withholding tax on dividends, no VAT and no duty on capital equipment, machinery and raw materials. … The Special Rapporteur is convinced that, unless combined with a comprehensive enhancement and optimization of tax revenue in Malawi, current macroeconomic reforms may not have substantive positive impacts on the realization of the right to food."[5]

Impact of regressive taxation systems

In the context of his visit to Brazil from 12 to 18 October 2009, the Special Rapporteur observed: "The tax structure in Brazil remains highly regressive. Tax rates are high for goods and services and low for income and property, bringing about very inequitable outcomes. According to one estimate, families with an income amounting to less than two minimum wages pay an average of 46 per cent of their income in indirect taxes, while families earning over 30 times the minimum wage pay around 16 per cent in indirect taxes.[6] A recent report by the Tax Services[7] confirms the very low levels of property taxes. In particular, the rural territorial tax collected, in 2008, a mere R$ 416 million (US$ 239 million) nationwide.[8] As a percentage of GDP, this amounts to 0.01 per cent and, as a percentage of total taxation, the tax accounts for only 0.04 per cent. Given the very high level of land concentration and the large incomes generated by the agricultural sector, this is highly regressive. In contrast, taxes on goods and services, as well as social contributions to pensions and social security accounted for the lion's share of Government income: over 70 per cent in 2008. The Special Rapporteur concludes that, while the social programmes developed under the "Zero Hunger" strategy are impressive in scope, they are essentially funded by the very persons whom they seek to benefit, as the regressive system of taxation seriously limits the redistributive impact of the programmes. Only by introducing a tax reform that would reverse the current situation could Brazil claim to be seeking to realize the right to adequate food by taking steps to the maximum of its available resources.[9]" (A/HRC/13/33/Add.6, para. 36).

Taxation and agrarian reform

Concerning his visit to Brazil, the Special Rapporteur also highlighted tax policies as one of the obstacles to the implementation of agrarian reforms. As he observed, one of the factors delaying land redistribution is "the extremely low tax rate on rural property, which provides no disincentive to landowners who acquire or occupy land but do not realize its social function" (A/HRC/13/33/Add.6, para. 42).

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[5] Statement available at :
http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13567&LangID=E

[6] See M.H. Zockun (ed.), "Simplificando o Brasil: Proposta de reforma na relação econômica do governo com o setor privado", discussion paper of the Fundação Instituto de Pesquisa Econômica, (São Paulo, University of São Paulo, 2007), p. 19.

[7] Tax Services, *Carga Tributária no Brasil – 2008: Análise por Tributo e Bases de Incidência*, Estudos Tributários No. 21, (Brasilia, Ministry of Finance, 2009), p. 8.

[8] Note that, compared to the income of the agricultural sector and the concentration of land discussed below, this sum is particularly minuscule: income in 2006 amounted to R$ 122 billion, while the tax accounted for R$ 304 million, i.e. 0.25 per cent.

[9] E. Salvador, "Quem financia e qual o destino dos recursos da seguridade social no Brasil?", *Observatório da Cidadania 2007*, pp. 81–90. See also Social Watch International, *Social Watch Annual Report 2008: Rights is the answer* (Montevideo, Third World Institute, 2008), pp. 102–103.

Impact of low level of taxation

Reporting on his visit to Guatemala from 3 to 5 September 2009 (A/HRC/13/33/Add.4), the Special Rapporteur encouraged a structural reform of the country's taxation system as one of five priority recommendations to the Government. In particular, the Rapporteur regretted that, despite efforts to advance the discussion on tax reform, "the level of taxation of incomes remains among the lowest in the region. In 2009, taxes represented 9.8 per cent of GDP. This is still a long way below the 12.5 per cent stipulated in the 1996 Peace Agreements." (para. 84). The Special Rapporteur concluded: "The low level of taxes on incomes is a major obstacle to the ability of Guatemala to fulfil its obligations under the International Covenant on Economic, Social and Cultural Rights. A structural reform of the taxation system, including changes to the Solidarity Tax and increasing the income tax on the highest revenues, will be essential if Guatemala is to deploy the "maximum of available resources" to the realization of the right to food" (para. 87(e)).

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Olivier De Schutter was appointed the UN Special Rapporteur on the right to food in March 2008 by the United Nations Human Rights Council. He is independent from any government or organization, and he reports to the Human Rights Council and to the General Assembly. All reports are available on http://www.ohchr.org/EN/Issues/Food/Pages/FoodIndex.aspxon. See www.srfood.org for a thematic classification of all reports and statements of the Special Rapporteur. The Special Rapporteur can be contacted at srfood@ohchr.org

17.10.2013