Submission to CESCR - International Covenant on Economic, Social and Cultural Rights 76 Session (09 Sep. 2024 - 27 Sep. 2024) - Malawi

An assessment of the impact of gaps in global governance on children's rights in Malawi in the context of the climate emergency

Contents

Summary

This submission focuses on the gaps in global governance which negatively impacts policies and resources in Malawi and therefore economic and social rights, especially the rights of the child. The main gaps in global governance which affect policies are those promoting austerity, while the main gaps which affect resources include tax abuse, massive debt services, and inadequate climate finance. If the gaps which impact resources were closed, government revenue would almost double, and this would significantly improve the government's ability to meet its obligations for children's rights. As a result, ten percent of children who currently do not drink clean water would have access, two-thirds of children of primary school age who are out of school would attend school, and one-third of children of lower-secondary school age who are out of school would attend school. There would be an additional 10,688 teachers, and 15% of children aged less than five years who currently do not survive would have the right to life. Closing the global economic governance gaps would curtail the need for austerity policies that negatively affect children's rights.
We support the adoption of the Framework Convention on tax at the United Nations and call for an overhaul of debt architecture with a UN-led debt workout mechanism. We urge that all climate finance to Malawi be in the form of grants, with prioritisation of adaptation. This will reduce the costs of recurrent disasters due to extreme weather events, which diverts scarce resources from children.

Introduction

1. The undersigned organizations welcome the opportunity to input to the 76th session of the CESCR – the International Covenant on Economic, Social and Cultural Rights. We provide input regarding the impact of the gap in global governance on economic, social, and cultural rights for the session on Malawi to be heard on Wednesday 18th and Thursday 19 September 2024.

2. Framework for this submission

To assess the impact of gaps in global governance on the policies and resources of the government of Malawi which affect environmental, economic, social, and cultural rights, we employed the OPERA framework (Outcomes, Policies, Resources and Assessment) [1] [2], to study the impact of the gaps in global governance on policies and resources in Malawi and provide an assessment and recommendations.

3. The International Order.

Every government is the duty bearer of its citizens' rights and plays a pivotal role. However, as stated in the Universal Declaration of Human Rights (UDHR) (art.28) [3].

"Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized"

The ability of all governments to meet their obligations is influenced by the international order and is therefore influenced by gaps in the global climate and economic governance architecture. This was highlighted in the Addis Ababa Action Agenda adopted at the Third International Conference on Financing for Development (para. 9)[4]

"National development efforts need to be supported by an enabling international economic environment, including coherent and mutually supporting world trade, monetary and financial systems and strengthened and enhanced global economic governance"

4.The climate crisis is a child rights crisis.

We highlight that children living in low-income households in low- and middle-income countries are the most acutely vulnerable to the impact of climate emergencies, and the Committee on the Rights of the Child has identified climate change as a major risk to child health [5]. The impacts of climate change on children include extreme weather, such as heat waves and flooding, air pollution (indoor and outdoor), an increase in vector-borne disease, water scarcity, and food insecurity. Children are more vulnerable to the impact of climate change for multiple reasons. They are less able to protect themselves from immediate danger and are thus more susceptible to injury and death during floods and other extreme weather events. In heatwaves, their higher body surface area-to-mass ratio means that they are less able to regulate their temperature. They spend more time outdoors, are more active, and are less aware of risks, which leads to the potential for longer exposure to extreme temperatures. Young children are unable to articulate their thermal and hydration needs. In areas of water scarcity, they are less able to access clean water, and the consumption of polluted water has a greater impact, as it is more likely to result in gastroenteritis, which increases the risk of malnutrition. Breathing polluted air increases the risk of lower respiratory infections and may result in lifelong respiratory damage. Disruptions and displacements amplify these vulnerabilities significantly. Their education may be disrupted due to the destruction of infrastructure, use of schools for internally displaced communities and indirectly when

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[1] The OPERA Framework https://www.cesr.org/opera-framework/

[2] Survival rights for children: What are the national and global barriers?

[3] Universal Declaration of Human Rights

[4] United Nations General Assembly. 2015. "Addis Ababa Action Agenda of the Third International Conference on Financing for Development (Addis Ababa Action Agenda) A/RES/69/313." https://sustainabledevelopment.un.org/content/documents/2051AAAA_Outcome.pdf

[5] CRC/C/GC/15: General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24)* (para. 50)

there is migration due to climate change[6]. It is believed that education reduces vulnerability directly, as it improves problem-solving skills and risk perception, and indirectly increases the chances of employment and economic and social capital, especially critical for girls. UNICEF has stated that children are much more resilient to climate change if they have access to clean water, and safe sanitation, and are well-educated and well-nourished [7].

OUTCOMES – social, economic and environmental

5. A snapshot of economic and social rights outcomes critical for child health.
Using World Bank data, we provide an overview of economic and social rights outcomes, for a comprehensive review of human rights outcomes, refer to the report submitted by Malawi[8].
The GDP per capita is $549 constant 2015 US$ (2023), and 70% of the population lives on less than $2.15 per day (2019). 28% of the population do not use basic drinking water (2022) and 50% do not use basic sanitation (2022). 86% do not have access to electricity (2022). The number of deaths under five is 40 per 1000 live births (2022), and the maternal mortality rate is 381 per 100,000 live births (2020). In 2020, six percent of children of primary school age were out of school, 11% of children of lower secondary school age were out of school, and 34% of children of upper secondary school age were out of school. The school completion rates were 49%, 23%, and 15.5% for each of the three school levels, respectively [9].

6. Climate change in Malawi
The impact of climate change has been exacerbated by the devastating rate of deforestation and biodiversity loss, resulting in frequent floods, with 19 significant floods occurring over the past five decades. The most recent were Tropical Cyclone Chedza in 2015, Tropical Cyclone Idai in 2019, Tropical Storm Ana and Tropical Cyclone Gombe in 2022, and Tropical Cyclone Freddy in 2023. The Government of Malawi carried out a post-disaster needs assessment in 2015, 2019, and 2023, and we summarised these three reports to help grasp the scale of the impact of climate change in the country. For example, in 2015 the cost of the recovery from Cyclone Chedza came to almost half of all government revenue. To appreciate the devastation to the different sectors, productive (agriculture, education, industry, and trade), infrastructure (transportation, energy, water and sanitation, and the environment), and social (health, education, and housing), the full reports need to be reviewed.

Table 1. Post Disaster Needs Assessments on three floods in Malawi

Name	Year	Affected	Displaced	Killed	Schools impacted	Costs of recovery in millions	% of government revenue
Cyclone Chedza[10]	2015	1,100,000	230,000	106	446 (PS)	$494	45%
Cyclone Idai [11]	2019	975,000	86,976	60	407	$370.5	26%
Cyclone Freddy [12]	2023	1,350,000	659,278	676	550 (PS) 74 (SS)	$506	30%

PS – Primary Schools, SS – secondary Schools

[6] Analytical study on the relationship between climate change and the full and effective enjoyment of the rights of the child Report of the Office of the United Nations High Commissioner for Human Rights
[7] The Climate Crisis is a Childs Rights Crisis - UNICEF
[8] Initial Report submitted by Malawi under articles 16 and 17 of the Covenant E/C.12/MWI/1
[9] UNESCO UIS data https://uis.unesco.org/sites/default/files/country-profile/Malawi_SDG4-Profile.pdf
[10] Government of Malawi 2015 Floods Post Disaster Needs Assessment Report
[11] Government of Malawi 2019 Floods Post Disaster Needs Assessment Report
[12] Government of Malawi 2023 Tropical Cyclone Freddy Post-Disaster Needs Assessment 2023

There are significant issues with indoor air pollution in Malawi owing to low access to clean and safe cooking fuels. In 2016, only 2.5% of the population had access to clean fuels for cooking. Fuel poverty means that people use biomass fuels such as wood, charcoal, and crop residues for cooking, heating, and lighting. In 2019, 4,452 children under five years of age (17% of under-five deaths) died due to indoor air pollution.

Droughts, changing precipitation patterns, and high temperatures can cause crop failure and increase undernutrition, poverty, and migration. This is particularly relevant to Malawi, as agriculture is the backbone of its economy at both household and national levels. Signs of chronic undernutrition include stunting. In 2020, 40.9% of children under five were stunted. Economic shocks due to climate change threaten to increase malnutrition, which has other health implications, including a weakened immune system, delayed growth, and altered brain development. Adults who were malnourished in childhood are more likely to experience insulin resistance, diabetes, hypertension, and dyslipidaemia, thus driving a non-communicable disease epidemic. Additionally, undernutrition in early life is associated with lower-paid jobs and reduced working capacity in manual jobs [13].

POLICIES – the impact of gaps in global governance on the Government of Malawi's policies

7. Austerity

Financial crises can be caused by many factors, both external and internal, and the absence of a system to resolve debt distress in a human rights-centred way has worsened the problem. Since the 1980s, the IMF has introduced lending programs which aim to bring about structural change by promoting an overhaul of borrowing country policies, including liberalising trade, promoting foreign investment, and selling natural resources and state-owned enterprises (SOEs). Austerity policies are considered desirable as it frees up money to repay debts and replenish international reserves with the primary aim of maintaining a balanced budget[14]. However, there is a consensus that debt restructuring, and structural adjustment packages have adverse human rights impacts [15] and drive income inequality [16].

After reviewing the policy advice in IMF country reports, including Article IV consultations (regular surveillance), and lending arrangements between January 2020 and April 2022, researchers identified commonly used austerity measures [17]. The austerity measures recommended in Malawi were

- to cut or cap the public sector wage bill
- to strengthen consumption taxes, such as Value Added Taxes (VAT)
- to increase fees for services

[13] Hannah, Eilish, Rachel Etter-Phoya, Marisol Lopez, Stephen Hall, and Bernadette O'Hare, 'Impact of Higher-Income Countries on Child Health in Lower-Income Countries from a Climate Change Perspective. A Case Study of the UK and Malawi', PLOS Global Public Health, 4/1 (2024), e0002721

[14] A Thousand Cuts Kentikelenis A and Stubbs T

[15] Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights A/HRC/37/54

[16] The effects of debt restructurings on income inequality in the developing world https://journals.sagepub.com/doi/10.1177/13540661211001425

[17] Commonly used austerity mechanisms - Targeting and rationalising social protection, Cutting or capping the public wage bill, Eliminating or reducing subsidies, Privatisation of public services, Reform of state-owned enterprises, Pension and social security reform, Labour flexibilization reforms, Cutting health expenditures, Increasing consumption taxes, Strengthening public private partnerships, Increasing fees for public services End Austerity: A Global Report on Budget Cuts and Harmful Social Reforms in 2022-25

Pressure on countries to reduce their fiscal deficits is a major factor in the constraints on increasing public spending, including public sector wage bills. Recent ActionAid research reviewed 37 IMF loan documents and Article IV Report policy advice published between July 2021 and January 2023, given to 10 African countries, including Malawi.
The policy steer for Malawi from the IMF regarding the fiscal deficit was to decrease it from 9.7% of GDP to 5.0% of GDP, and to decrease the public sector wage bill from 6.4 to 5.7% of GDP. Containing the public sector wage bill was a major concern and restraining the growth of the wage bill was a key part of the deficit reduction strategy. The wage bill will be restrained with a hiring freeze (excluding frontline staff in health and education)[18].

Special Drawing Rights
In 2021, the IMF issued US$650 billion in Special Drawing Rights (SDRs), to help countries respond to the Covid crisis. Most of these funds went to high- and middle-income countries based on the IMF's quota system. This was a one-off payment, and not an ongoing or predictable source of funding. In Malawi these SDRs were used to repay external debts[19].

Between 1979 -2020, 269 IMF binding conditions were in place in Malawi [20].

RESOURCES – the impact of gaps in global governance on Government of Malawi's resources

8. Revenue losses due to gaps in global governance and rights.
While States are obliged to allocate the maximum available resources to realising economic, social, and cultural rights, there are significant revenue losses caused by gaps in global governance, which impede many governments from meeting these obligations. Government revenue is the link between global rule shapers[21], governments and people, acting via multiple paths [22] . Its pivotal role, if underpinned by a strong citizen-state relationship (representation), is key to addressing inequalities, appropriate regulation and the repricing of harmful products and sectors[23]. **Revenue losses through illicit financial flows, debt repayment services, and inadequate climate mitigation and finance weaken each pathway.**

9. Illicit financial flows
Illicit financial flows— "financial flows that are illicit in origin, transfer, or use, and that cross borders"— are facilitated by jurisdictions which are often dubbed as tax havens[24]. Tax havens play an outsized role in the global economy and negatively impact government revenue in other countries, weakening public

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[18] Fifty Years of Failure: The IMF, Debt and Austerity in Africa
[19] See 18
[20] IMF Monitor
[21] The global rule makers that shape the international economic and social environment, include multinational corporations, the International Monetary Fund, World Bank Group, Bretton Woods Institutions (BWI), and the Organisation for Economic Cooperation and Development (OECD), and are generally based in high-income countries.
[22] Tax Justice and human rights: The 4 Rs and the realization of rights https://taxjustice.net/reports/tax-justice-human-rights-the-4-rs-and-the-realisation-of-rights/
[23] Cobham, Alex, Fariya Mohiuddin and Liz Nelson, 'Global Tax Justice and Human Rights', in *Human Rights and Economic Inequalities.*, Globalization and Human Rights, p. V, First (Cambridge, 2021) <https://doi.org/10.1017/9781009006545>.
[24] High Level Panel on illicit financial flows from Africa. Illicit financial flows: 2015.

services and driving domestic inequality[25]. Governments in tax havens have established policies, including very low effective tax rates for non-residents and sometimes a legal and regulatory framework that provides financial secrecy to attract individuals and multinational enterprises to register profits in their jurisdiction.

The importance of tackling illicit financial flows to increase the fiscal space for self-financed sustainable development was highlighted in the report of the High-Level Panel on Illicit Financial Flows from Africa, chaired by Thabo Mbeki. The Mbeki report states that commercial practices, including tax avoidance are the primary drivers of illicit financial flows from the continent, followed by criminal activity and corruption. Tax avoidance is the practice of minimising tax bills by taking advantage of loopholes or interpreting a tax code in an unintended way. By contrast, tax evasion is the hiding of wealth in tax havens to intentionally defraud revenue authorities and pay less tax than they should,[26]. Both tax evasion and avoidance have the same harmful effects and undermine the government's ability to finance development and human rights, as acknowledged in the Sustainable Development Goals (SDGs) agenda. Target 16.4 of the 16th SDG aims to reduce illicit financial flows significantly[27].

Enablers of global corporate tax abuse are listed in the Corporate Tax Haven Index, where after an evaluation of each jurisdiction's tax and financial systems, jurisdictions which make the largest contributions to an international order which undermines rights in Malawi can be identified [28]. The jurisdictions most complicit in helping individuals to hide their finances from the rule of law can be seen in the Financial Secrecy Index [29] , contributing to an international order which undermines rights in Malawi. The impact of illicit financial flows on child rights in Malawi has been estimated [30] and the domestic actions which the Government of Malawi could take to mitigate the gaps in global governance and protect itself against illicit financial flows, have been comprehensively analysed and summarised[31].

10. Estimates of illicit financial flows from Malawi

The State of Tax Justice (SOTJ) 2023 report[32], estimates the impact of foregone revenue from tax abuse in Malawi. The SOTJ analysed OECD data from 2018 and found that Malawi lost USD 28 million to tax avoidance by multinational corporations, which was 2.19% of government revenue that year. Losses from tax evasion by private individuals were USD 5 million, or 0.39% of government revenue. These losses contribute to the buildup of unsustainable debt.

11. Debt service

The current debt wave is the largest and fastest growing, driven by the response of northern governments to the 2008 financial crisis, when large quantities of public money was pumped into banks to boost their economies, resulting in low interest rates. The private credit sector, seeking better returns on investments than those available in the global north, bought bonds from low-income and middle-income countries. Further exacerbating the situation was a reduction in the volume of concessional loans from bilateral creditors, which pushed governments to seek commercial loans. In the African region, debt service is onerous because it is often owed to external lenders and in foreign currency, usually the US

[25] Tax avoidance and tax evasion
[26] See 28
[27] The United Nations Sustainable Development Goals
[28] Corporate Tax Haven Index - 2021 Results
[29] Financial Secrecy Index 2022
[30] Etter-Phoya, Rachel, Chisomo Manthalu, Frank Kalizinje, Farai Chigaru, Bernadetta Mazimbe, Ajib Phiri, and others, 'Financing Child Rights in Malawi', BMC Public Health, 23/1 (2023), 2255
[31] Table 2 The recommendations of the FACTI panel and the current policies in Malawi
[32] TJN Malawi https://taxjustice.net/country-profiles/malawi/

dollar (70%), and African countries pay higher interest rates than other parts of the world [33]. Commercial debt has proven to be an issue due to a lack of restructuring options, highly complex bonds, and investment structures, and a lack of transparency regarding due diligence checks to ensure that the debt is sustainable, resulting in the creation of high-risk loans. Climate vulnerability increases interest rates, making it more difficult to invest in adaptation and driving the volume of debt. When a country's external debt payments exceed >15% of its government's revenue, governments reduce public spending, thus compromising their ability to provide public services[34].

In Malawi, prior to the pandemic, 82% of the external debt was owed to low-interest multilateral lenders, including the IMF and World Bank (average interest rate of 0.8%). 9% was owed to China (average interest rate of 1.6%) and a similar amount to other governments (average interest rate of 1.6%) [35]. During the pandemic, the Government of Malawi had to take out loans to fund imports. This resulted in 62% of external scheduled debt payments being owed to Afrexim Bank, the Trade Development Bank, and an additional 13% being owed to foreign private banks. Afrexim Bank is a profit-making bank owned by African governments, the African Development Bank (62%), and private investors (38%). The Trade Development Bank is also profit-making and is owned by governments (2/3) and private investors (1/3). Christian Aid and Debt Justice estimate the interest rates of Afrexim Bank, the Tade Development Bank, and foreign private banks to be 9% with very short maturities, resulting in 74% of the debt service due to 2023/2024 being paid to commercial lenders. The Government of Malawi is trying to reschedule its debt, but no agreement has yet been reached [36].

12. Estimates of debt service in Malawi

Debt Justice UK's dataset (collated from the World Bank and IMF sources) estimates that between 2022-2024 Malawi will pay, an average 26.7% of government revenue servicing debt [37]

13. Climate mitigation

It is recognised as a principle of international environmental law, that there is collective responsibility for the climate emergency, however not all are equally responsible, and states have common but differentiated responsibilities [38]. However, there is no agreed definition of what load of the global burden of climate mitigation should be carried by each country and *"this ambiguity undermines the ability of domestic climate change litigation to bring about emissions reductions which are collectively capable of meeting the goal of the Paris Agreement"* [39]*. One* approach is to rate country pledges on emissions and climate finance and assess the combined effect on global warming and consistency with the Paris Agreement if all governments were to put forward nationally determined contributions (NDCs) with the same level of ambition. This shows that the pledges and climate finance in most countries are insufficient [40]. Ambiguity and lack of ambition at the global level directly and negatively impact children in Malawi (para.4), resulting in the Government of Malawi diverting scarce resources which could be used to meet its obligations to recover after extreme weather events (para 6).

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[33] Mo Ibrahim Foundation. Mo Ibrahim Foundation. 2024. Public debt in Africa: structure is the primary issue, not volume. Available from: https://mo.ibrahim.foundation/news/2023/public-debt-africa-structure-primary-issue-not-volume

[34] Debt Justice https://debtjustice.org.uk/

[35] Debt Justice UK https://data.debtjustice.org.uk/

[36] Between Life and Debt Christian Aid and Debt Justice

[37] Total debt service is the sum of principal repayments and interest actually paid in currency, goods, or services on long-term debt, interest paid on short-term debt, and repayments (repurchases and charges) to the IMF. Data are in current U.S. dollars.

[38] United Nations The Paris Agreement

[39] Gerry Liston Enhancing the efficacy of climate change litigation: how to resolve the 'fair share question' in the context of international human rights law

[40] Climate Action Tracker

14. Climate finance gaps
Regarding the climate emergency, the priority in low-income countries is climate finance [41] for adaptation. However, current flows to Africa constitute only a fraction of these needs. Climate finance to Africa in 2020 was $30 billion, which is 11% of the $277 billion needed every year to implement the Nationally Determined Contributions and meet the 2030 goals. Mitigation accounted for 49% (USD 14.6 billion) of climate finance, followed by 39% (USD 11.4 billion) for adaptation, and 12% (USD 3.5 billion) for dual benefits. 57% of finance for mitigation was in the form of loans, and 46% of finance for adaptation was in the form of grants.

15. Climate finance needs in Malawi
The climate finance needs of Malawi have been estimated to be $1.34 billion annually [42], but in 2020, the country received $458 million (61% was oriented to adaptation and 34% to mitigation) [43]. The difference, $0.976 billion, was equivalent to 64% of the government revenue in 2020.

ASSESSMENT – the impact of gaps in global governance on human rights including children's rights

16. Potential if global governance gaps are closed.
If the Government of Malawi had additional revenue equivalent to that forgone for debt service, tax abuse, and climate finance gaps, government revenue would almost double (Table 2).

Table 2. Foregone revenues as % government revenue

Losses which could be curtailed with an enabling global governance				Total
Losses from tax abuse by multinational companies	Losses from tax evasion by private individuals	Debt service (2022-2024)	Climate finance needs	
2.19%	0.39%	26.7%	64%	93.28%

17. The potential for human rights if global governance gaps are closed.
To assess the impact on human rights if the Government of Malawi had additional revenue equivalent to these losses because of gaps in global governance, we use the Government Revenue and Development Estimations (GRADE)[44]. The research underpinning GRADE modelled the effect of government revenue and governance on human rights and provides realistic translations of the potential of additional revenue in any given country. We projected the increase in government revenue as a percentage over 10 years because it takes time for an increase in revenue to improve government effectiveness, and we present the increase for one year, 2020 (Table 3).

[41] Climate finance needs refer to the conditional part of the cost, that is, to the part of the investment that a country is not able to finance with its resources and for which it requires support. Mitigation finance: resources directed to activities: • contributing to reducing or avoiding GHG emissions, including gases regulated by the Montreal Protocol; or • maintaining or enhancing GHG sinks and reservoirs. Adaptation finance: resources directed to activities aimed at reducing the vulnerability of human or natural systems to the impacts of climate change and climate-related risks, by maintaining or increasing adaptive capacity and resilience. Dual benefits finance: resources directed to activities contributing to both "climate change mitigation" and "climate change adaptation" and meeting the respective criteria for each category.
[42] Landscape of Climate Finance in Africa: Interactive Data Tools
[43] Climate Policy Tracker Malawi
[44] GRADE https://medicine.st-andrews.ac.uk/grade/

Table 3. Additional people who would access their rights in the absence of debt service, tax abuse and if the Government of Malawi had additional revenue to meet their climate finance needs

	Number	As a percentage of those without this right
People drinking clean water	574,758	9.90%
People using basic sanitation	405,982	2.85%
Additional children in primary school	184,568	63.37%
Additional children in lower secondary school	137,395	34.82%
Additional children in upper secondary school	52,769	10.86%
Additional teachers (data only available for primary school teachers)	10,688	
Child survival	4,120	14.70%
Maternal survival	319	13.03%

18. The impact of additional revenue on human rights

The Office for the High Commissioner on Human Rights stated that good governance and human rights are inextricably linked, and it has been empirically demonstrated that additional revenue improves governance [45]. We demonstrate the impact of additional revenue of this magnitude on governance in Malawi. The GRADE uses the Worldwide Governance Indicators which are measured on a scale of -2.5 to +2.5, with higher values corresponding to better governance. Changes in these indicators are generally very small. We present the difference between the indicators with and without the additional revenue which the Government of Malawi would have if the gaps in global governance were closed, in 2020. These indicators would significantly improve (Table 4).

Table 4. Change in governance indicators if the Government of Malawi had additional revenue equivalent to the losses due to gaps in global governance

World Governance Indicators in 2020 in Malawi	Without additional revenue	With additional revenue	Improvement in governance indicators with additional revenue
Corruption	-0.3712	-0.28165	0.089547
Government effectiveness	-0.7972	-0.70042	0.096781
Political stability	-0.1116	-0.05146	0.060143
Regulatory quality	-0.7695	-0.67427	0.095229
Rule of law	-0.2692	-0.20132	0.067876

[45] A Model to Explain the Impact of Government Revenue on the Quality of Governance and the SDGs

RECOMMENDATIONS for closing the gaps in global governance

POLICIES

19. The austerity policies outlined (para 7) will further erode children's rights in Malawi and will have the greatest impact on those in the poorest households, who depend on public services for access to their right to education, determinants of health and health services. Consumption taxes generally constitute a larger proportion of the disposable income of low-income families, and any increase in these taxes needs to carefully consider the impact on the most vulnerable.

Austerity policies erode the pivotal role of governments in meeting their human rights obligations via several pathways. They curtail the government's ability to address inequalities (cutting or capping public sector wage bills, increasing fees for services, and consumption taxes). Austerity undermines the citizen-state relationship (representation) by reducing government effectiveness, impeding a government's ability to provide public services, and reducing regulatory quality, which decreases the chances of appropriate regulation and the repricing of harmful products and sectors.

REVENUE

Revenue, if underpinned by a strong citizen-state relationship (representation), is key to addressing inequalities, appropriate regulations and the repricing of harmful products and sectors[46]. Revenue losses through illicit financial flows, debt repayment services, and inadequate climate finance weaken each pathway.

20. Illicit Financial flows
The impact of revenue losses due to illicit financial flows was recognised by the Human Rights Council, in their resolution (voted on and adopted on 31st March 2022) on the Effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights particularly economic social and cultural rights *(A/HRC/RES/49/15)*[47] which states that

"Illicit financial flows, including tax evasion by high-net-worth individuals, commercial tax evasion through trade mis invoicing and tax avoidance by transnational corporations contribute to the build-up of unsustainable debt as governments lacking domestic revenue may resort to external borrowing"

Furthermore, nations have ratified the UNCRC and have obligations to children globally. For example, the Committee on the Rights of the Child Review of Netherland in 2022 requested that the country - [48]

'Conduct independent and participatory impact assessments of its tax and financial policies to ensure that they do not contribute to tax abuse by national companies operating outside the State party that lead to a

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[46] Cobham, Alex, Fariya Mohiuddin and Liz Nelson, 'Global Tax Justice and Human Rights', in *Human Rights and Economic Inequalities.*, Globalization and Human Rights, p. V, First (Cambridge, 2021) <https://doi.org/10.1017/9781009006545>.

[47] FOR -Argentina, Benin, Bolivia (Plurinational State of), Cameroon, China, Côte d'Ivoire, Cuba, Eritrea, Gabon, Gambia, Honduras, India, Indonesia, Kazakhstan, Libya, Malawi, Malaysia, Mauritania, Namibia, Nepal, Pakistan, Qatar, Russian Federation, Senegal, Somalia, Sudan, United Arab Emirates, Uzbekistan, Venezuela (Bolivarian Republic of)
AGAINST - Brazil, Finland, France, Germany, Japan, Lithuania, Luxembourg, Montenegro, Netherlands, Poland, Republic of Korea, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America

[48] Committee on the Rights of the Child. Concluding observations on the combined fifth and sixth periodic reports of the Netherlands. 2022. doi:10.1007/BF03174582

negative impact on the availability of resources for the realisation of children's rights in the countries in which they are operating' (para 9c).

In 2020, a similar request was made to Ireland by the UNCRC [49].

The international community, with a particular onus on those governments responsible for most abuse[50], are complicit in enabling tax abuse and are duty bearers for the ensuing human and child rights abuses by eroding government revenue and undermining governance. All countries are obliged to take urgent action, including steps to improve tax transparency and review double tax agreements which may impede access to rights in lower-income countries. To address this gap in global governance a resolution for the promotion of inclusive and effective tax cooperation at the UN was passed in December 2023[51], despite 48 countries voting against it [52], but which initiated a process that should culminate with the adoption of a Framework Convention on tax at the United Nations.

We urge all countries to support efforts for international taxes to be determined and decided upon through the UN. This is in line with the 16th SDG, which aims to significantly reduce all forms of illicit financial flows. According to the recommendations of the FACTI panel, Malawi, and indeed all countries, can continue to mitigate the impact of the gaps in the international tax architecture, that have emerged and been engineered over the last century, to better secure the future of the children by their actions to tackle illicit financial flows domestically [53].

21. Debt service

The impact of revenue losses due to debt service was also recognised by the Human Rights Council, in their resolution on the Effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights particularly economic social and cultural rights (*A/HRC/RES/49/15*) which states that

"The debt burden faced by the most indebted developing countries is unsustainable …and debt servicing has severely constrained their capacity to promote social development, provide basic services to create the conditions for the realisation of economic, social and cultural rights"

Restructuring debt is usually associated with reduced government spending supported by the IMF, credit rating agencies (which downgrade sovereign ratings with the attendant effects of high cost of capital), multinational corporations, and wealthy constituents to increase the chances of repayment. These policies increase inequality[54] [55].

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[49] United Nations Committee on the Rights of the Child. List of issues prior to submission of the combined fifth and sixth reports of Ireland. 2020. https://tbinternet.ohchr.org/Treaties/CRC/Shared Documents/IRL/CRC_C_IRL_QPR_5-6_43616_E.pdf

[50] The countries which create the most vulnerabilities to tax abuse—Luxembourg, the United Kingdom and dependencies, the Netherlands and Switzerland

[51] https://financing.desa.un.org/sites/default/files/2024-01/A.RES_.78.230_English.pdf

[52] Voting record on the resolution for inclusive and effective tax cooperation at the UN https://www.un.org/en/ga/second/78/docs/voting/L18-Rev1-Tax_cooperation.pdf

[53] Financing Child Rights in Malawi - Table 2 The recommendations of the FACTI panel and the current policies in Malawi

[54] The effects of debt restructurings on income inequality in the developing world https://doi.org/10.1177/13540661211001425

[55] Debt restructuring under the G20 Common Framework and Alternative Policy Solutions https://afrodad.org/sites/default/files/publications/Afrodad-Debt-Restructuring-270320243.pdf

In view of the impact of debt service on human rights in Malawi and the significant impacts of climate change, we urge an automatic debt standstill; and we support the call of thirty-five organisations which demand a complete overhaul of the debt architecture with an UN-led debt workout mechanism [56].

22. Debt transparency

Loans are granted to all citizens in a country, and transparency is a fundamental right, as it is the citizens who repay the loans. Following the debt scandal in Mozambique, in 2019 private lenders through the Institute of International Finance committed to publicly disclose details loan by loan; however, banks have largely reneged on this commitment. Further, the G7 countries have committed to similar transparency, including disclosing the interest rate of repayments, but the level of transparency has been suboptimal.

We support the call for a single registry with full information on external loans made to all governments, including private lenders, mandated by legislation in major finance hubs, such as New York and the UK. We support the call on the World Bank to make information disclosed by debtor countries available publicly[57].

23. Climate Finance

60% of climate finance goes to 10 African countries, and 40% goes to the remaining 45. Malawi is one of the 45 countries, and climate finance needs to be scaled up urgently and dramatically. Table 1 shows the massive costs of recovery from the three floods, which diverts scarce Government of Malawi resources from meeting its obligations to ensure that all have economic, social, and cultural human rights.

We urge that all Climate Finance to Malawi be in the form of grants, with prioritisation of adaptation to reduce these recurrent costs. We support the call for climate finance to be paid by wealthy countries using grants through the UNFCCC mechanism[58].

We thank the Committee for its work and are available to provide further information as needed.

Sincerely,

The Government Revenue and Development Estimations (GRADE) team at the Universities of St Andrews and Leicester[59]

The Centre for Economic and Social Rights (CESR) [60]

[56] Debt Demands & Debunking Distractions for Climate Action https://www.eurodad.org/debt_demands_and_debunking_distractions_for_climate_action

[57] Hidden Billions: The Secrecy of Bank Loans to Governments

[58] See 48

[59] GRADE

[60] Centre for Economic and Social Rights