Article

Human Rights and Taxation: Between Rights and Duties





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KEYWORDS:

Human rights; taxpayers' rights; taxing power; human dignity.

ABSTRACT:

This paper examines the relationship between human rights and taxation from the perspective of taxpayers' rights, through a narrative review of legal literature. Its central thesis is that State taxing power, although legitimate and necessary to finance public goods, is subject to substantive and procedural limits derived from human dignity and fundamental rights. The study analyzes tensions between taxing power and rights to property, liberty, privacy, and procedural guarantees, emphasizing problems arising during tax audits, assessment procedures, and tax litigation. Human dignity is presented as an axial criterion and doctrinal foundation for evaluating the legitimacy and proportionality of fiscal interventions. The paper also identifies a structural imbalance between the powers of tax administrations and the limited safeguards available to taxpayers. It proposes understanding taxpayers as persons subject to tax duties and holders of human rights, within a cooperative relationship with tax administrations based on legality, transparency, participation, and effective judicial protection.

PALABRAS CLAVES:

Derechos humanos; derechos de los contribuyentes; potestad tributaria; dignidad humana.

RESUMEN:

Este artículo analiza la relación entre los derechos humanos y la tributación desde la perspectiva de los derechos de los contribuyentes, mediante una revisión narrativa de la literatura especializada. Su tesis central sostiene que la potestad tributaria estatal, aunque legítima y necesaria para financiar bienes y servicios públicos, encuentra límites sustantivos y procesales derivados de la dignidad humana y de los derechos fundamentales. El estudio examina las tensiones entre poder tributario y derechos de propiedad, libertad, privacidad y garantías procesales, destacando especialmente los problemas surgidos durante la fiscalización, determinación y litigación tributarias. La dignidad humana aparece como criterio axial y fundamento dogmático para evaluar la legitimidad y proporcionalidad de las intervenciones fiscales. Asimismo, se identifica un desequilibrio estructural entre las amplias potestades de las administraciones tributarias y las garantías de los contribuyentes. Finalmente, se propone comprender al contribuyente simultáneamente como sujeto obligado y titular de derechos humanos.

MOTS CLES :

Droits humains ; droits des contribuables ; pouvoir d'imposition ; dignité humaine.

RESUME :

Cet article examine les relations entre droits humains et fiscalité sous l'angle des droits des contribuables, au moyen d'une revue narrative de la littérature juridique. Sa thèse centrale est que le pouvoir d'imposition de l'État, bien que légitime et nécessaire au financement des biens publics, est soumis à des limites de fond et de procédure découlant de la dignité humaine et des droits fondamentaux. L'étude analyse les tensions entre le pouvoir fiscal et les droits de propriété, de liberté et de respect de la vie privée, ainsi que les garanties procédurales, en mettant l'accent sur les problèmes rencontrés lors des contrôles fiscaux, des procédures de détermination de l'impôt et des contentieux fiscaux. La dignité humaine est présentée comme un critère central et un fondement doctrinal permettant d'évaluer la légitimité et la proportionnalité des interventions fiscales. L'article relève également un déséquilibre structurel entre les pouvoirs des administrations fiscales et les garanties limitées dont disposent les contribuables. Il propose de considérer les contribuables à la fois comme des personnes soumises à des obligations fiscales et comme des titulaires de droits humains, dans le cadre d'une relation de coopération avec les administrations fiscales fondée sur la légalité, la transparence, la participation et une protection juridictionnelle effective.

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1 INTRODUCTION

This paper is a narrative review of legal scholarship on taxpayers' rights as human rights rather than an examination of case law. Although there is extensive literature linking human rights and taxation, almost all of it concerns the duty to contribute to the public purse so that States can meet social expenditure and give effect to economic and social rights in fulfilment of an international obligation.

In our view, this literature links the duty to contribute to public expenditure, which is, of course, discharged through taxation.

This paper takes a different perspective: it seeks to investigate the content of the tax legal relationship and the influence of international human rights law upon it. It does not seek to examine the justification for the duty to contribute, since the literature today accepts, in most parts of the world, that all residents of a country must be subject to minimum public burdens agreed upon through transparent democratic procedures.

This paper therefore focuses on a topic that is complementary to, or perhaps different from, the preceding one, which has occupied almost all the attention of the literature. We consider this an area that requires further attention.

In our literature review, we identified several authors and relevant issues and sought to organize them around what we consider to be common themes. There are, of course, many other ways to address this subject (e.g., Kofler et al., 2011; Kokott & Pistone, 2022; Attard & Pinto de Albuquerque, 2023), but space constraints prevent us from addressing other approaches.

2 TENSIONS BETWEEN TAXING POWER AND HUMAN RIGHTS

Saxena and Pal (2022) argue that taxpayers' rights are now a key issue in a system genuinely founded on freedom.

There is a legal tension between taxing power—that is, the State's power to impose taxes—and fundamental rights or human rights. This is immediately apparent in the case of property rights and the freedom to conduct business, since tax levies remove wealth and limit access to the capital needed to run enterprises. This is characteristic of the stage at which taxes are established, although, as we will show, it is not confined to that stage (Billardi, 2018).

Restrictions on taxpayers' rights may arise during audits, administrative tax assessments, or administrative and judicial proceedings through which taxpayers seek to resolve disputes with tax administrations. This is particularly so given the possibility of measures such as precautionary attachments or prohibitions on transactions involving property—in general, interim measures at various stages of tax proceedings. At these stages, several fundamental and human rights are at stake, including the inviolability of private and family life, the home and correspondence, as well as procedural rights. Since tax liabilities and related amounts (adjustments, interest, and penalties) are also determined through these procedures, State action in these areas also affects property rights and the human freedoms that wealth makes possible, such as freedom of enterprise or access to personal well-being through family life, education, housing, and healthcare.

What is striking about taxation is that friction between State interests and taxpayers' rights arises in the practical application of audit and inspection powers (Vasylieva, 2021).

3 HUMAN DIGNITY AS AN AXIAL CRITERION OF THE TAX LEGAL RELATIONSHIP

Neto and Bonomi (2023, p. 5) explain that human dignity is inherent in every person and constitutes the foundation on which human rights are built. In other words, it underpins the recognition of persons as free and equal rights-holders who deserve respect.

Human-rights discourse dialectically connects and harmonizes values such as equality and freedom, and the rule of law and human dignity. Dignity functions as a criterion and conceptual framework within the legal system for assessing the quality and validity of State intervention in relation to individual rights, including, of course, taxpayers' rights.

With regard to individuals' duties—in this case, the duty to contribute—the State may help protect human dignity by providing for economic and social rights, but only if State activity is justified by the efficiency and fairness of social expenditure. However, that same fundamental value, human dignity, together with human rights, also protects taxpayers; accordingly, the duty to contribute is constrained by these normative foundations. One must bear in mind the basic legal principle that human beings must be treated as ends, not merely as means. As Ilic-Popov (2020) argues, the State must not regard taxpayers as mere instruments for generating public revenue. Taxpayers must not be used as means to finance everything that the political community institutionally decides to undertake. Dignity is an end in itself, expressed through absolute respect, and must not be made conditional on the performance of any duty (Deak, 2011, p. 537).

Within this conceptual framework, taxes should be regarded as a highly limited and exceptional imposition on individuals. This understanding remains possible even where human duties, including the duty to pay taxes, are recognized within the framework of international human-rights instruments (Andrés-Aucejo et al., 2022a, 2022b, 2023a, 2023b, 2023c, 2024a, 2024b; Mirkay, 2026; Owens et al., 2021, 2023a, 2023b, 2024).

As Ilic-Popov (2020, p. 4) puts it, "everyone is entitled to human dignity in all circumstances, including when acting as a taxpayer," and the State must respect and protect that right. A taxpayer's human dignity is reflected not only in the abstract determination of the tax burden established by substantive tax laws (for example, rules governing the tax base and rate), but also in every other aspect of the taxpayer's legal relationship with the State, represented by tax agencies, including administrative and judicial proceedings. Taxpayers cannot be deprived of their human rights in these settings; in all cases, they must be provided with a simple and effective remedy to protect their rights (Article 13 of the European Convention on Human Rights; Article 25 of the American Convention on Human Rights).

In Chile and before the Inter-American Court of Human Rights, it has been understood that persons involved in tax litigation are protected by the judicial guarantees in Articles 8 and 25 of the American Convention on Human Rights. This represents a broad interpretation of Article 8 (Masbernat & Ramos-Fuentes, 2019; Masbernat, 2024). By contrast, in *Ferrazzini v. Italy* (2001), the European Court of Human Rights excluded tax disputes from the scope of Article 6 of the European Convention on Human Rights, which guarantees everyone a fair and public hearing before an independent and impartial tribunal in the determination of civil rights and obligations or of any criminal charge. This means that, by an authority's decision, a category of persons—taxpayers—could be excluded from the recognition of basic human rights understood to predate and stand above the State. Nevertheless, the European Court has held that tax surcharges or penalties imposed under generally applicable rules for deterrent and punitive purposes, rather than merely compensatory ones, are criminal in nature for Convention purposes. Dabner (2016) raises questions about the human rights at stake when tax agencies use broad information-gathering and access powers affecting taxpayers already involved in litigation.

Baker (2001), however, considers that the European Court of Human Rights has increasingly insisted that tax proceedings respect the fundamental guarantees of a fair trial and privacy. The Court has examined information-gathering powers, the right to remain silent, and the need for prior judicial authorization for intrusive searches, thereby imposing procedural limits on the State.

As noted above, the human right to property (Article 21 of the American Convention on Human Rights; Article 1 of Protocol No. 1 to the European Convention on Human Rights) is in tension with taxation. Tax policies adopted by the legislature may not undermine the essence of property protection. The European Court of Human Rights recognises a broad margin of appreciation for States in tax matters, but requires any interference with possessions by tax administrations to have a legal basis and strike a fair balance between the general interest and the protection of the individual taxpayer. This is illustrated by *N.K.M. v. Hungary, Gáll v. Hungary*, and *R.Sz. v. Hungary*, all decided in 2013 (Quintas Seara, 2014). In those cases, the Court considered retroactive and highly burdensome taxation on severance pay to be an interference that had to satisfy legality, public-interest, and proportionality requirements; the last of these requirements was not met.

Endresen (2016) addresses retroactivity in tax legislation and explains that, according to the European Court of Human Rights' case law, retroactive taxation is not per se incompatible with Article 1 of Protocol No. 1. However, it cannot be justified solely by revenue needs; other arguments are required, such as combating tax avoidance or remedying technical defects, provided that the measures are not confiscatory and do not impose an unreasonable burden.

Ultimately, State sovereignty or State action—the terms commonly used by tax-law scholars, although we consider the category of public taxing powers more appropriate—is subject to substantive and procedural limits.

4 HUMAN DIGNITY AS A DOCTRINAL FOUNDATION OF TAXPAYER'S RIGHTS

For Deak (2011), human dignity functions as a structuring value for assessing the legitimacy of State intervention, including taxation, rather than as a single subjective right. It operates as a framework within which citizens' and companies' specific rights and obligations, as well as particular techniques of State intervention, are assessed. Dignity is conceived as an end in itself, grounded in the intrinsic worth and autonomy of the person, and cannot be made conditional on the fulfilment of duties or on an individual's way of life. In taxation, this framework has concrete doctrinal consequences. Dignity is linked to distributive justice, and taxation is justified only by values such as efficiency or equity. Efficiency-based justifications concern the benefits provided by public goods and the institutional arrangements that enable individuals to exercise property rights and participate in economic activity; equity-based justifications express the sacrifice each member of society should bear. In these circumstances, the duty to contribute is limited by the protection of dignity, which sets a substantive boundary on the extent to which tax burdens may redistribute resources or correct inequalities.

Following De Schutter et al. (2021), we can argue that this conceptual structure provides a doctrinal basis for subjecting tax rules to proportionality analysis in the light of human dignity, rather than treating them as value-neutral instruments. Human dignity is also presented as the fundamental concept underpinning international human-rights law, described as sociopolitical claims grounded in inherent dignity and the resulting obligations of governments to uphold it. These claims have progressively been codified in national, regional, and international instruments, generating a coherent body of principles. From this perspective, human-rights norms provide a set of binding standards that protect fundamental freedoms as substantive values while also demarcating the legitimate limits of States' taxing prerogatives.

At the constitutional level in Western countries, including Europe, dignity should be regarded as part of taxpayers' legal status and of the structure of the power relationships developed by the State. The State must be accountable to citizens, and the affirmation and protection of human rights are among its primary duties. Judicial protection of citizens' rights and legitimate interests, including those of taxpayers, is guaranteed through access to courts to challenge acts or omissions of public authorities (Nychyporenko, 2017). National courts are increasingly willing to interpret tax legislation in ways that ensure access to justice and prevent disproportionate measures against taxpayers, thereby moderating the claims of public authorities (Baker, 2001).

Taxpayers' rights and safeguards (that is, remedies for protecting those rights) flow from human dignity as a fundamental normative value. They constitute substantive principles of tax justice that operate as reasonable limits on taxing powers, regardless of whether they are expressly recognized in constitutional texts, precisely because they are human rights. These principles also legitimize taxation and shape the substantive content of tax rules. Fiscal measures that depart excessively from them violate human rights—for example, where they disregard actual ability to pay or create marked inequality—and must be open to remedies or constitutional protection proceedings for the protection of those rights (Duran Muñoz, 2017). European human-rights case law appears to reinforce these views: the European Court of Human Rights has subjected certain retroactive tax measures, cumulative penalties, and other excessive fiscal burdens to proportionality review and fair-trial scrutiny. In doing so, it has brought ordinary tax measures within the scope of rights protection and shown that dignity-based limits can be implemented through procedural safeguards and compensation mechanisms (Grau Ruiz, 2011).

5 STRUCTURAL IMBALANCES IN RELATIONS BETWEEN THE STATE AND TAXPAYERS

Another issue highlighted in the specialist literature is the imbalance embedded in tax legal systems between taxpayers and the State. It is reflected in the asymmetry between the broad inspection, audit, and enforcement powers conferred on tax administrations and the comparatively limited safeguards protecting taxpayers' rights (Vasylieva, 2021). In our view, this feature can be observed across the major Western legal systems, as reflected in their tax codes and general tax laws. Vasylieva (2021) describes the extensive prerogatives and powers of tax agencies, such as verifying tax assessments and payments; analyzing debtors' financial circumstances; obtaining broad information and documentation from public and private entities; requiring accounting records and inventories during audits; imposing penalties; and enjoying privileged legal positions in judicial proceedings. These powers significantly limit taxpayers' effective control over their assets. Although such instruments protect public revenue, their density and intrusiveness reinforce taxpayers' subordinate position, which procedural safeguards only partially offset.

A second dimension of this imbalance can be identified, following Vasylieva (2022), in the dynamics of tax audits and enforcement and dispute resolution. This tax control is a particularly intrusive form of State oversight, subject to relatively few limits as to its grounds, duration, and measures, and may result in severe financial losses or even criminal liability for taxpayers. In practice, the forms and methods of tax control are continually refined to improve effectiveness, while the legal framework for protecting taxpayers' rights evolves more slowly, relegating rights protection to a secondary position in administrative practice.

This situation reflects a structural bias in favor of fiscal prerogatives over legal certainty and taxpayers' dignity, notwithstanding constitutional provisions formally recognizing the human person as the supreme social value and requiring the State to affirm and guarantee human rights (Ukraine and other countries, of course), including through judicial protection of taxpayers' legitimate interests in their dealings with the State (Nychyporenko, 2017).

Greggi (2017, p. 17) complements this picture through the Italian experience under a Taxpayer Bill of Rights (Statuto dei diritti del contribuente, Ley Nº 212/2000). The author illustrates how rights may be undermined when breaches of procedural safeguards during inspections are treated merely as irregularities, without invalidating the resulting evidence, in the name of administrative efficiency. Courts, the author reports, have upheld reassessments even where inspections failed to comply with legal requirements, prioritizing the preservation of tax revenue over effective sanctions for rights violations. This has produced what has been described as an "*interpretatio abrogans*" of taxpayer safeguards.

6 TAXING POWER, FISCAL SOVEREIGNTY, AND TAXPAYERS' INDIVIDUAL RIGHTS

A common argument in tax-law scholarship is that the State's power to impose taxes derives from the exercise of sovereignty. On this view, fiscal sovereignty takes concrete form in powers to impose, administer, and enforce taxes, which profoundly affect citizens' rights; national constitutional frameworks seek to balance these effects through legality and proportionality requirements (Vasylieva, 2021). In the context of this study, the issue concerns the limits of that power in relation to taxpayers' human rights. In our view, the same limits that apply to every human being should apply here, and the same arguments should therefore be considered.

In *Shchokin v. Ukraine (2010)*, the European Court of Human Rights held that domestic tax legislation must be clear and consistent and provide adequate protection against arbitrary interference. Where legal instruments are manifestly inconsistent and permit divergent interpretations of important tax matters, the requirement that the law meet a sufficient standard of quality under the European Convention on Human Rights is not satisfied (Vasylieva, 2021). This decision is grounded in the fundamental principle of the rule of law (Endresen, 2017). More recently, Perrou (2022) has discussed these issues, noting that the European Court has stressed the importance of procedural safeguards in the application of tax law and that recipients of information orders should have access to relevant material or sufficient time to comply without being penalized.

Following the reflections of De Schutter, Lusiani, and Chaparro (2021), international human-rights law may be understood as a meta-agreement that conditions the legitimacy of the State, including in tax policy, on the realization of human rights and the protection of inherent dignity. Once again, dignity serves as a framework value for assessing specific rights and State interventions (Deak, 2000).

Problems concerning respect for taxpayers' human rights across jurisdictions are more similar than an observer might expect. Sawyer (2000) notes that, although various legal rules support taxpayers' legal position—including legislation on access to official information, privacy protection, and the Ombudsman mechanism—taxpayers lack adequate constitutional protection. Christians (2016), for her part, explains that in the United States the creation and subsequent strengthening of the National Taxpayer Advocate, together with efforts to codify a Taxpayer Bill of Rights, seek to counter the risk that tax administrations will adopt arbitrary enforcement practices undermining fairness, trust, and voluntary compliance. Book (2018) likewise expresses concern about taxpayer rights in the United States despite the adoption of a bill of rights. Dabner (2016) highlights the limitations of indicative taxpayer bills of rights that lack legal force and considers whether human-rights instruments could provide stronger protection against an excessively authoritarian administration.

7 THE LEGAL STATUS OF THE CONCEPT OF THE TAXPAYER

Deak (2011) points out that any conceptual analysis of the taxpayer must begin by recognizing that tax relationships lie at the intersection of public authority and individual

dignity. This should serve as a framework for assessing specific rights and obligations and particular forms of State intervention. Within this framework, the taxpayer is not merely a person subject to tax obligations, but a holder of a legal status shaped by dignity as a doctrinal reference point: a rights-holder, not merely a debtor (Vasylieva, 2021).

According to Saxena and Pal (2022), under this broader legal perspective, taxpayers' rights are increasingly framed as human rights, and tax compliance is reconceived as being grounded in education and cooperation rather than mere repression. Taxpayers should be treated as persons endowed with individual dignity and placed at the center of the constitutional allocation of rights and obligations, in a firm but genuine cooperative relationship with the tax administration. In this sense, human rights substantively inform the ideal of fair taxation by mediating between the effective enjoyment of fundamental rights in conditions of freedom and dignity and the adequate financing of essential public services. Formally, they guarantee taxpayers' participatory and defensive position in administrative and judicial proceedings. This dual substantive and formal influence redefines the taxpayer's conceptual status as a rights-bearing participant in an institutional system, rather than a passive object of extraction.

From Kleemans's perspective (2000), national systems for the legal protection of taxpayers should be linked to the European Convention on Human Rights. At the supranational level, international human-rights law provides an additional layer to taxpayers' legal status. Human-rights standards are described as sociopolitical claims grounded in inherent dignity and progressively codified into a coherent body of binding principles. These standards help define the legitimate limits of the State's taxing prerogatives and condition State sovereignty, including fiscal sovereignty, on the realization of the human rights of individuals and communities. In this configuration, taxpayers are beneficiaries of global protection standards, and their rights may operate both as constraints on domestic tax legislation and as criteria for evaluating international tax rules. Comparative scholarship also suggests concrete procedural safeguards as minimum legal protections to curb administrative abuse and strengthen taxpayers' ability to defend themselves, including prior notice of audits, exclusion of unlawfully obtained information from tax proceedings, and access to the taxpayer's own file.

In the context of the Inter-American Court of Human Rights' case law, these conclusions cannot be drawn directly from judgments in tax cases, but they can be derived from the principles of international human rights law (Masbernat & Ramos-Fuentes, 2019; Masbernat, 2002).

8 THE TAXPAYER AS A HOLDER OF RIGHTS AND A PERSON SUBJECT TO DUTIES

Conceiving of the taxpayer simultaneously as a holder of rights and a person subject to duties requires grounding both aspects in human dignity. Dignity is described as a basic legal value inherent in every human being, not conditional on the fulfilment of obligations or adherence to a particular lifestyle. It serves as a framework for assessing specific rights, obligations, and techniques of State intervention, including taxation, and no tax obligation can extinguish it (Deák, 2011).

Tax legislation should recognize taxing powers and taxpayers' rights in a balanced relationship of interests, rather than one of inequality and subordination, as this area of law is often configured (Vasylieva, 2021).

Taxpayers enjoy human rights, and this must be reflected in their relations with tax agencies and States, even though, comparatively, the consideration of taxpayers' rights as such remains a relatively new field. The tax legal relationship must move away from a model of power and subjection, in which compliance is achieved mainly through repression, towards

one in which compliance is based on education and cooperation. Under this model, taxpayers must be treated as individuals with dignity, at the center of the allocation of rights and obligations, engaged in a cooperative, albeit tension-filled, relationship with the tax administration (Üyümez & Bişgin, 2016; Saxena & Pal, 2022).

In this cooperative framework, the duty to contribute is not denied; rather, it is normatively structured through rights. Human rights provide the substantive foundation for a conception of fair taxation that balances the effective enjoyment of fundamental rights under conditions of freedom and dignity with the adequate financing of essential public services. They also formally guarantee taxpayers' participatory and defensive position in administrative and judicial proceedings concerning tax obligations, transforming them from passive objects of wealth extraction into procedural subjects capable of asserting human rights.

This perspective may tentatively suggest that the legality and transparency of public expenditure take on renewed importance: public spending not only legitimizes the duty to contribute but also limits it, since taxes should be used for appropriate public goods that effectively realize human rights. This point is emphasized in comparative scholarship on the limits of taxation and the constitutional nature of budgetary law (Morón Pérez, 2026).

9 CONCLUSIONS

This narrative review set out to examine a dimension of the relationship between human rights and taxation that the literature has largely overlooked. Most scholarship approaches taxation from the revenue side, as the instrument through which States finance economic, social and cultural rights. Shifting the focus to the internal content of the tax legal relationship shows that the decisive question is not whether States may tax, which is broadly accepted, but how they may do so in a manner consistent with the dignity of the persons they tax.

First, human dignity emerges as the axial criterion of that relationship. Because dignity is inherent in every person and cannot be made conditional on the fulfilment of duties, no tax obligation can extinguish it, and the taxpayer may never be reduced to a mere instrument for generating public revenue. Dignity therefore operates as a structuring value that justifies subjecting tax rules and administrative measures to proportionality review, rather than treating them as value-neutral technical instruments.

Second, the friction between taxing power and fundamental rights is not confined to the legislative stage at which taxes are enacted. It intensifies in the practical application of the law: during audits, assessments, interim measures and litigation, where privacy, the inviolability of the home and correspondence, property and procedural guarantees are simultaneously at stake. Across the major Western legal systems, the powers of tax administrations are refined faster than the safeguards that should counterbalance them. The Italian experience, in which procedural breaches were downgraded to mere irregularities, shows how formally recognized rights can be emptied of content through an *interpretatio abrogans*.

Third, the international protection of taxpayers remains uneven. The European Court of Human Rights, after excluding tax disputes from the civil limb of Article 6 in *Ferrazzini v. Italy*, has nonetheless extended protection through the criminal limb for punitive surcharges, through Article 1 of Protocol No. 1, and through demands for legal quality and proportionality. The Inter-American system and Chilean courts, by reading Articles 8 and 25 of the American Convention broadly, offer in our view a more coherent foundation: a category of persons cannot be deprived of basic judicial guarantees merely because the subject matter of the dispute is fiscal.

Fourth, taxpayer bills of rights, ombudsman institutions and similar mechanisms are valuable but insufficient where they lack binding force. Anchoring taxpayers' rights in international

human rights law provides binding standards that limit the State's taxing prerogatives irrespective of their express recognition in national constitutions, and that may also serve as criteria for evaluating international tax rules.

Finally, the taxpayer must be understood simultaneously as a person subject to duties and as a holder of human rights. This dual status does not weaken the duty to contribute; it structures it normatively. A cooperative model, based on legality, transparency, participation and effective judicial protection, is more consistent with dignity and arguably more conducive to voluntary compliance than one based on power and subjection. The legality and transparency of public expenditure thereby acquire renewed significance, both legitimizing and limiting the duty to contribute. Future research should move from doctrine to practice, examining empirically how domestic tax courts apply these standards and whether minimum safeguards, such as prior notice of audits, the exclusion of unlawfully obtained evidence and access to one's own file, are effectively guaranteed.

10 REFERENCES

Andrés-Aucejo, E. (2024a). "Educación fiscal" y "Tax compliance"; mejorados por Inteligencia Artificial como mecanismos de naturaleza holística integrantes de la Convención tributaria de Naciones Unidas: sobre cooperación tributaria internacional eficaz e inclusiva y de sus protocolos de desarrollo. *Revista De Educación Y Derecho*, (30). https://doi.org/10.1344/REYD2024.30.47753.

Andres-Aucejo, E. (2024b). The new UN TAX CONVENTION ON INTERNATIONAL COOPERATION IN TAX MATTERS as an essential pillar of a new GLOBAL TAX ORDER designed through a NEW INTERNATIONAL TAX ORGANIZATION. Review of International and European Economic Law, 3(5). Retrieved from https://www.rieel.com/index.php/rieel/article/view/89

Andres-Aucejo, E. (2024c). The United Nations last trends on International Tax Cooperation: a new UN Tax Convention and a new International Tax Organization. *Review of International and European Economic Law*, *3*(5). Retrieved from https://rieel.com/index.php/rieel/article/view/92

Andrés-Aucejo, E. et alter (2023c). - Eva ANDRÉS-AUCEJO (main author), OWENS, J. (Director), et alter. The universal institutionalization of International Tax Cooperation under United Nations orbit in the new architectural design of a Global Tax Legal Order inspired by International Tax Cooperation, human rights and global tax governance. Published by UNITED NATIONS.org Andrés-Aucejo, Eva and Owens, Jeffrey_Input Tax Report.pdf (un.org)

Andrés-Aucejo, E., (2024e) Towards a Holistic UN Tax Convention (And Protocols), including Human, Economic, Social, Environmental and Cultural Rights: The "Substantive Issues" with Special Mention to Tax Education and Tax Compliance enhanced with Artificial Intelligence, www.rieel.com, Vol. 3, N. 6 (2024). Retrieved from https://www.rieel.com/index.php/rieel/article/view/110

Andrés-Aucejo, E., & Masbernat, P. (2023a). Constituciones y sistemas tributarios comparados. *Revista De Educación Y Derecho*, (27). https://doi.org/10.1344/REYD2023.27.42496

Andres-Aucejo, E., Akamba, M. ., Nicoli, M. ., & Owens, J. (2023b). Toward a "Global Tax Legal Order" based on international tax cooperation, human rights and global tax governance for global sustainability, under United Nations centripetal force. UN Tax policy proposals (GLOVTAXORDER¬-UNTAXPOLICY). Review of International and European Economic Law, 2(3). Retrieved from https://www.rieel.com/index.php/rieel/article/view/36

Andres-Aucejo, E., Akamba, M. ., Nicoli, M. ., & Owens, J. . (2022a). General Agreement on International Tax Cooperation, Trade and Global Tax Governance: A Proposal (Part I). *Review of International and European Economic Law*, *1*(1), 5–22. Retrieved from https://www.rieel.com/index.php/rieel/article/view/3

Andres-Aucejo, E., Akamba, M., Nicoli, M., & Owens, J. (2022b). General Agreement on International Tax Cooperation, Trade and Global Tax Governance: A Proposal: (Part I & II). *Review of International and European Economic Law*, *1*(2), 7–38. Retrieved from https://www.rieel.com/index.php/rieel/article/view/28

Andrés-Aucejo, E., Remiro Brotons, A., Nicoli, M. (2024d). Holistic International Tax Cooperation. Tax education and Tax Compliance. Ethics. Artificial intelligence. Technology. ADR. The 4th International Conference on Financing for Development: Towards a new Global Tax Order based on International tax Cooperation and Global Tax Governance - The new UN Tax Convention. www.rieel.com, Vol. 3 No. 6 (2024). Editorial. Retrieved from https://www.rieel.com/index.php/rieel/article/view/97

Attard, R. & Pinto de Albuquerque, P. (2023), Taxation at the European Court of Human Rights, Kluwer Law International, Nederland.

Baker, P. (2001). Should Article 6 ECHR (civil) apply to tax proceedings? *Intertax, 29*(6), 205–211. https://doi.org/10.54648/339667

Billardi, C. (2018), *Los Derechos del Hombre y su tutela jurídica en el Derecho Tributario y Financiero.* Ad Hoc, Buenos Aires.

Book, L. (2018). Giving Taxpayer Rights a Seat at the Table. *Temp. L. Rev.*, *91*, 759.

Christians, A. (2016). Taxpayer Rights in the United States (October 14, 2016). "Derecho Tributario y Derechos Humanos/tax Law and Human Rights", in *Derecho Tributario Y Derechos Humanos/tax Law And Human Rights,* César Alejandro Ruiz Jiménez, ed. Disponible en SSRN: https://ssrn.com/abstract=2809750

Dabner, J. (2016). "Resolving Australian Tax Controversies: Does the Tax Jurisprudence under the European Convention on Human Rights Suggest a Better Way." Australian Tax Forum 31(2): 213-256.

De Schutter, O., Lusiani, N. J., & Chaparro, S. (2021). Re-righting the international tax rules: operationalising human rights in the struggle to tax multinational companies. *Human Rights and Economic Policy Reform*, 124-152.

Deak, D. (2000). Right to Right Tax Laws. *Intertax*, *28*(3).

Deak, D. (2011). Pioneering decision of the Constitutional Court of Hungary to invoke the protection of human dignity in tax matters. *Intertax*, *39*(11).

Duran Muñoz, G. D. J. (2017). Los Derechos Humanos de los contribuyentes en el Sistema Jurídico Mexicano. *Letras jurídicas: Revista de los Investigadores del Instituto de Investigaciones Jurídicas UV*, (36), 57-75.

Endresen, C. (2017). Taxation and the European convention for the protection of human rights: Substantive issues. *Intertax*, *45*, 508.

Grau Ruiz, M. A. (2011). Decisions of the ECHR affecting domestic laws in the financial and tax field. *LESIJ-Lex ET Scientia International Journal*, *18*(1), 9-17.

Greggi, M. (2017). Human Rights and Taxation in Italy. *Itax Papers on Taxation*.

Ilic-Popov, G. (2020). Dignity as a Taxpayer Right. *Iustinianus Primus L. Rev.*, *11*, 1.

Kleemans, N. (2000). Congress Review: The relationship between the national systems of legal protection of the taxpayer and the European Convention on Human Rights. *EC Tax Review*, *9*(1).

Kofler, G., Maduro, M. P., & Pistone, P. (Eds.). (2011). *Human rights and taxation in Europe and the world*. IBFD, Amsterdam.

Kokott, J., and Pistone, P. (2022) *Taxpayers in international law: international minimum standards for the protection of taxpayers' rights*. Bloomsbury Publishing, UK.

Masbernat, P. (2002). Garantías constitucionales del contribuyente: crítica al enfoque de la doctrina nacional. *Ius et Praxis*, *8*(2), 299-357. https://dx.doi.org/10.4067/S0718-00122002000200010

Masbernat, P. (2024), Human Rights in Tax Litigation Before Chilean Courts (Los derechos humanos en litigios tributarios ante los tribunales chilenos) (January 02, 2024). Disponible en SSRN: https://ssrn.com/abstract=4866947 or http://dx.doi.org/10.2139/ssrn.4866947

Masbernat, P., & Ramos-Fuentes, G. (2019). Asuntos tributarios en la jurisprudencia de la Corte Interamericana de Derechos Humanos. *Díkaion*, 28(2), 404–439. https://0713o1djb-y-https-doi-org.itmsp.museknowledge.com/10.5294/dika.2019.28.2.8

Mirkay, N. A. (2026). Infusing Tax Policymaking with Economic Dignity. *University of Hawai'i Richardson School of Law Research Paper*.

Morón Pérez, M. (2026). La limitación de efectos de las sentencias que declaran la inconstitucionalidad de normas tributarias en el ordenamiento español a la luz del derecho comparado, europeo y el convenio europeo de derechos humanos, Crónica Tributaria. Nº198/2026: 121-160.

Neto, L. G., & Bonomi, L. S. (2023). The human dignity as a connection between human rights and tax law. *Global Journal of Human-Social Science*, 1–10. https://doi.org/10.34257/gjhssfvol23is3pg1

Nychyporenko, O.B. (2017). Theoretical and legal principles of ensuring rights and legitimate interests of taxpayers. *Scientific Works of the IAPM*, (Наукові праці, МАУП), Issue 52(1), pp. 124–132, UDC 346.9

Owens, J. (Dirs.), Andrés-Aucejo, E. (Main author), Wolfgang, K., et al. (2023a, February). The universal institutionalization of international tax cooperation under the United Nations orbit: Towards a global tax legal order inspired by international tax cooperation, human rights, and global tax governance. United Nations Tax Report. https://financing.desa.un.org/sites/default/files/2023-03/Andrés-Aucejo,%20Eva%20and%20Owens,%20Jeffrey_Input%20Tax%20Report.pdf

Owens, J., Andrés, E., Remiro Brotons, A., Nicoli, M., Fernández Pons, X., & Byrnes, W. (2024). Reference Terms Project of the UNITED NATIONS Tax Convention on International Cooperation in Tax Matters. *Review of International and European Economic Law*, *3*(5), 5.1–5.20. Retrieved from https://rieel.com/index.php/rieel/article/view/84

Owens, J., Andrés-Aucejo, E. ., & Remiro Brotons, A. (2023b). A new Global Tax Legal Order . *Review of International and European Economic Law*, *2*(3). Retrieved from https://www.rieel.com/index.php/rieel/article/view/57

Owens, J., Andrés-Aucejo, E., Nicoli, M., Sen, J., Olesti-Rayo, R., Lopez-Rodriguez, J., & Pinto-Nogueira, J. (Dirs..). (2021). *Global tax governance: Taxation on digital economy, transfer pricing, and litigation in tax matters (MAPs + ADR) policies for global sustainability.* Thomson Reuters.

Perrou, Katerina (2022), Observatory on the Protection of Taxpayers' Rights, IBFD, Amsterdam.

Polenchuk, M. (2022). Taxpayer protection standard in international tax disputes. *Law Enforcement Review*. https://doi.org/10.52468/2542-1514.2022.6(2).106-119.

Quintas Seara, A. (2014). The protection of taxpayers' property rights in light of the recent ECtHR jurisprudence: Anything new on the horizon, or just more of the same? *Intertax, 42*(4), 218–233. https://doi.org/10.54648/taxi2014026

Sawyer, A. (2000). A Comparison of New Zealand Taxpayers' Rights with Selected Civil Law and Common Law Countries - Have New Zealand Taxpayers Been 'Short-Changed'? *Vanderbilt Journal of Transnational Law, 32*, 1345.

Saxena, S., & Pal, R. (2022). Taxpayers Rights as Human Rights-A Critical Analysis. *Part 1 Indian J. Integrated Rsch. L.*, *2*, 1.

Üyümez, M. E., & Bişgin, A. (2016). A comparative analysis of taxpayer rights in Turkey and the USA. *Mecmua Uluslararası Sosyal Bilimler Dergisi*, *2*, 66-75.

Vasylieva, I. (2021). Balancing the interests of taxpayers and tax authorities as the method of minimizing tax disputes. *Baltic Journal of Economic Studies*, *7*(5), 41-48.

Vasylieva, I. (2022). Guarantee of protection of rights and interests of taxpayers in tax disputes. *Baltic Journal of Economic Studies*, *8*(2), 36-43.