LEGAL

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Fiscal Law Design Considerations in Addressing Gender Inequalities: COVID-19 and Beyond[1]

The COVID-19 crisis has exacerbated gender inequalities in various areas including the labor market, the health sector, and the education system, prompting many countries to introduce fiscal policy measures with the goal of addressing the impact of the pandemic. This note focuses on the role of fiscal legal frameworks—both tax and public financial management (PFM)—in supporting fiscal policies and PFM tools that promote gender equality, both in the crisis and toward the recovery.

I. INTRODUCTION

The pandemic crisis has brought the role of fiscal policies in promoting gender equality to the fore. Women were disproportionately affected by the economic and social consequences of the pandemic[2]—either directly, because women are overrepresented in those economic sectors most adversely affected by the crisis (for instance, the services sector) or indirectly, as lockdowns led to loss of female labor participation as responsibility for home schooling, childcare, and general household chores generally fell on women.

In response, several countries have adopted legislation providing lifeline tax and public spending measures that were often limited in scope and time. While these were crucial during the most acute phase of the crisis, the COVID-19 recovery provides an opportunity for countries to ensure that their fiscal policies are sustainably rooted in gender equality—aimed at achieving equality of opportunities as well as outcomes.[3] This note

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[2] See IMF (2022b).

[3] The concept of "gender equality of outcomes" is a function of the policy objective pursued and its gender impact in a particular area. For instance, if the policy objective is to have equal representation in boards, gender equality of outcomes is achieved through such representation. If the policy objective is to incentivize tax savings through the tax system, and the

discusses the legal and institutional considerations countries should take into account when designing gender fiscal policies in the context of their pandemic response and beyond.

II. THE BROADER LEGAL FRAMEWORK FOR GENDER EQUALITY

The legal framework underpinning gender equality is multi-layered. It comprises general foundational principles of equality and non-discrimination, embedded in international conventions, countries' constitutions, and (primary and secondary) legislation.

- **International conventions.** In addition to international conventions guaranteeing equality more generally, such as the Universal Declaration of Human Rights, several international conventions specifically target gender discrimination, such as the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).[4] The international commitment to gender equality was further cemented through the 1995 Beijing Declaration.[5] Both the Millennium Development Goals and the subsequent 2015 Sustainable Development Goals established gender equality and women's empowerment as a stand-alone goal, as well as gender-sensitive targets within other goals.

- **Constitutional provisions on equality and non-discrimination.** Most countries' constitutions prohibit discrimination, with many also including a specific reference to the prohibition of discrimination on gender grounds (for instance, *Germany, India, Italy, and Tunisia*). While there is usually no specific reference to fiscal measures, constitutional obligations are generally binding across all state actions and government policies, thus including tax and PFM frameworks. Some constitutions incorporate gender equality as a budgetary principle (*Austria, Kenya*), require implementation of policies promoting gender equality and to enact laws necessary to achieve it (*Ecuador, Morocco, Uganda*) create public entities responsible for promoting or coordinating gender equality policies (*Kenya)* or mandate the government to allocate spending on certain gender-related advancements in areas such as health, education, and workplace practices (*Bolivia)*.

- **Legislation**. Countries' laws and regulations often prohibit gender-based discrimination generally or in particular policy areas (for example, labor market).[6] In addition, they promote, enforce and monitor gender equality (for example, regarding violence against women, employment and economic benefits, marriage and

resulting tax benefit is found to accrue predominantly to men, then there is no gender equality of outcomes. This does not mean that, at an individual level, each person (whether male or female) should receive the same tax benefit, but rather that, as a group, one gender should not be systemically disadvantaged.

[4] CEDAW is considered as the main international standard devoted exclusively to women's rights (ratified by 189 states). Although the Convention does not explicitly mention fiscal frameworks, the obligation to prohibit discrimination against women and to ensure substantive equality applies to all government policies, thus including taxation and spending. International conventions recognize that ensuring equality may also require positive policy action: see UN Human Rights Committee, General Comment No 18 on Non-Discrimination: "…the principle of equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination…".

[5] The 1995 Beijing Declaration and Platform for Action included for the first time a budgetary commitment by signatories to allocate sufficient resources to carrying out gender impact analyses, and to meeting social needs including those of women.

[6] For example, the United Kingdom's Equality Act 2010 includes a general ban on gender discrimination, while Egypt's and Morocco's labor legislation explicitly prohibit gender-based wage discrimination. For a more comprehensive analysis of the legal impediments to gender equality in different areas of law—beyond tax and PFM law—see IMF (2022b).

family)[7]. Other legal measures supportive of fiscal policies that promote gender equality include laws that support the collection and maintenance of gender-disaggregated data; so-called equality laws encompassing multiple areas of social, political, and economic life (for instance, public contracts, quotas for women in civil service management positions, etc.); and laws promoting access to information.[8]

The legislation delineates roles and responsibilities of public entities in upholding gender equality and promotes their coordination. While the executive branch of government is generally responsible for administering and promoting gender equality policies, parliamentary oversight (including through specialized committees in the budget review and approval process) can provide independent review of such policies. The judiciary, in turn, may be called on to review the application of laws and policies to individuals and corporations, and provide appropriate recourse where gender inequalities are identified in defiance of legal norms.[9] Supreme audit institutions (SAIs) may include gender issues in their audits of government policies, either as part of their regular assessments or in targeted reviews.[10] The legal framework defines the responsibilities of different actors, for example by establishing who leads the design of gender-related policies (for example, ministry of finance, ministry of women's affairs, or other specialized agency) and the role of spending ministries. Fiscal—tax and PFM—legal frameworks and institutions thus support fiscal policies that promote gender equality. The remainder of this note focuses on their role, both in the context of the COVID-19 pandemic and toward a sustainable recovery.

III. LEGAL UNDERPINNINGS FOR GENDER-BASED BUDGETING AND PFM TOOLS

Gender budgeting legal frameworks can help address the disproportionate impact of the pandemic on women and girls. Gender budgeting—an approach to government budgeting that uses fiscal policy (tax and spending measures) and PFM tools to promote girls' and women's development and address the negative macroeconomic outcomes caused by gender gaps and inequalities—has gained prominence in the response to the pandemic.[11] In particular, gender budgeting can help governments understand where inequalities lie and how, and to what extent, women are being impacted in different areas (for example, labor market, health, education). It can also inform the design and implementation of fiscal measures aimed at mitigating the adverse effect of the pandemic on women and girls and assist them to get back in the workforce, providing an economic lift to the countries during the recovery phase. Finally, gender budgeting also provides tools for regular monitoring and evaluation of the impact of gender-related policy measures. Gender budgeting legal frameworks—consisting of the overarching PFM legislation, PFM tools, and obligations related to gender

[7] See the SDG Global Indicator Platform 5.1.1 on legal frameworks promoting, enforcing, and monitoring gender equality in four areas: (1) overarching laws and public life, including equal rights for holding public office, quotas for woman in national parliaments, citizenship rights; (2) violence against women, including domestic violence, criminalization of such conducts; (3) employment and economic benefits, including equal remuneration, industry work restrictions, maternity and parental leave; and 4) marriage and family, including minimum age of marriage, equal rights for household head, etc.

[8] In Morocco, Law 31-13 makes information systematically accessible to women and guarantees access, in a timely manner and by all possible means, to information relating to political participation at the level of the parliament, local authorities, and political parties.

[9] See, for example, the Greek Council of State decision 1215/2017, which declared the obligation for married couples to file jointly through the husband unconstitutional.

[10] See, for instance, the Austrian Court of Audit's review of the gender impact of the country's employment tax policies. https://www.rechnungshof.gv.at/rh/home/home_2/Gender_Aspects_in_Income_Tax_Law_with_a_Focus_on_Earnings.html

[11] IMF/UNDP/UN Women (2021e).

budgeting implementation and tax and sectoral legal instruments regarding expenditure policies—can provide countries with the foundations enabling these gender-related fiscal measures.[12]

A. COVID-19 crisis responses

In response to the COVID-19 crisis, some countries adopted temporary gender-related expenditure measures through ad hoc legal authorization. Countries enacted laws and executive decrees to:

- **Create cash transfer programs dedicated exclusively to women***.* Brazil doubled its emergency cash transfers to informal workers who are single mothers.[13] Argentina[14] and Ecuador[15] authorized a one-off payment for loss or serious decrease in income and for informal employees with income below the minimum salary, largely benefiting women.
- **Expand social benefits or temporarily waive conditionalities for existing benefits.** Chile[16] allowed female domestic workers to be paid through a "compensation account", while Russia expanded its maternity leave subsidies. Some countries such as Italy and the Philippines temporarily waived conditionalities in relation to existing social programs (such as requirements to bring children to regular health checkups or ensure their school enrolment), thus reducing women's care responsibilities and exposure risks during the crisis.[17]
- **Create special funds with the mandate to mitigate the impact of COVID-19 on women.** Colombia[18] created an autonomous fund to promote, finance, and support women's entrepreneurship.

In other countries, pre-existing legal frameworks provided for gender budgeting tools, which helped hardwire the gender perspective into the design of fiscal packages during the crisis. Such legal frameworks—in some cases embedded in the country's constitution—have allowed or required the incorporation of a systematic gender perspective in budgetary decisions throughout the budgetary process. For example:

- *Canada* enacted in 2018 the Gender Budgeting Act, requiring that the principle of gender equality be promoted in the federal budget and that gender and diversity be considered in taxation and resource allocation decisions, including with respect to direct spending. It also requires that information on the impact of government decisions on gender be made available to the public, enhancing transparency and accountability. In response to COVID-19, all Ministerial proposals contained a Gender-Based Analysis plus (GBA+) assessment, required by the legislation. Overall, 77 percent of the measures taken during the crisis were gender-balanced, and 18% were directed specifically to women. Such measures included entrepreneurship programs for women, support to shelters for women and sexual assault centers, and increases in child benefit allowances.

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[12] See also IMF (2021f).

[13] Law 13.982 and decree 10.412.

[14] Decree 31/2020.

[15] Decree no 1022.

[16] Law no 21227.

[17] While in the case of Italy the waiver was implemented as part of a broader stimulus package (Decreto di Rilancio of May 19, 2020), in the Philippines it was granted by resolution of the director of the Department of Social Development and Welfare based on a force majeure provision in the Implementing Rules and Regulations of Republic Act (RA) 11310 which introduced the Pantawid Pamilyang Pilipino Program (4Ps).

[18] Decree 810 of 2020.

- In *Iceland,* the 2016 Public Finance Act provides a robust framework for gender budgeting. It mandates that the Minister of Finance, in consultation with the ministry responsible for gender equality, leads the formulation of a gender budgeting program to be incorporated in the drafting of the budget bill. Further, the Act mandates that the budget bill clearly outlines its impact on gender equality targets. During the pandemic, line ministries were instructed to estimate the number of jobs and gender ratio created by their proposed investment measures, with the ministry of finance providing its own estimation and ensuring consistency on proposals. An overall Gender Impact Assessment was introduced for the first time as part of the budget bill, with regard to social and labor market measures.[19]

- In *Mexico*, the 2012 Federal Budget Framework Law (FBL) requires that all institutional budget proposals detail the measures that promote gender equality, the eradication of violence against women or any other form of gender discrimination. Further, the FBL requires that performance evaluation systems incorporate specific indicators that allow evaluating the gender impact of budget programs. As mandated by law, during the crisis, the 2021 annual budget law included an annex detailing the resources allocated to budget programs targeted to promote gender equality including the responsible units for their execution.[20] Another key component of Mexico's framework is an additional parliamentary oversight procedure. A working group headed by the Speaker of the lower house assesses the governmental measures taken during the COVID-19 pandemic on a weekly basis, to ensure that these are designed and implemented in a gender-responsive way.

- In *Rwanda*, the Organic Law on State Finances and Property declares "gender balance" as a fundamental principle in the use of public funds. It also requires that during the budget preparation process, the budget framework paper, approved by Cabinet and submitted to Parliament, includes a gender budget statement. All ministries, departments, and agencies must submit annual implementation reports. In line with this framework, the 2020/2021 Gender Budget Statement identified gender priorities, including for agriculture, health, infrastructure, trade, and industry.[21] Rwanda's Constitution also established the Gender Monitoring Office in 2003 to monitor the compliance of gender-related commitments across public, private, and nongovernmental institutions.

- At the *local level*, several countries have also a legal mandate for gender budgeting which reinforced the adoption of gender-responsive fiscal measures during the pandemic (Austria, Germany, Norway, Argentina, Italy,[22] and Spain[23]).

In addition, the legal framework supported the scrutiny of gender-related policy measures and promoted accountability, mostly through two mechanisms:

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[19] For more detail see OECD Virtual Workshop on Gender Budgeting and the COVID-19 Crisis, case of Iceland. https://es.slideshare.net/secret/4e2YdcxslUbaxA

[20] See https://www.finanzaspublicas.hacienda.gob.mx/work/models/Finanzas_Publicas/docs/congreso/infotrim/2021/it/04afp/itanfp09_202101.xlsx

[21] See Gender mainstreaming in the FY 202/2021 budget at https://www.unicef.org/esa/media/7291/file/UNICEF-Rwanda-Understanding-2020-2021-National-Budget.pdf

[22] Italian municipalities and provinces have developed "gender audits" (gender budget documents) to support the implementation of local and regional gender equality policies. In 2009 Tuscany passed a regional law (L.R. 16/2009) making gender budgeting part of the budget approval process.

[23] See Jubeto, Aguilera, and Cirujano (2018).

- **Parliamentary scrutiny of COVID-19 support packages.** Parliament's oversight role helped to assess whether women's and girls' specific needs were being addressed and gender equality promoted. In most jurisdictions, parliaments exercised this scrutiny throughout the budget process, such as in the revisions of medium-term expenditure frameworks, the approval of annual and supplementary budgets and during the review of budget execution reports. For example, under both the Canadian Gender Budgeting Act and the Korean National Finance Act, budgetary plans and reports submitted during the pandemic by the executive to the legislature laid out the impact of the budget on gender equality.[24] In Austria, the Parliamentary Budget Office analyzed gender budgeting and gender equality and provided disaggregated gender data to enable the Parliament to adequately debate gender issues.[25] In Canada and Iceland, parliamentary committees were established to deal specifically with their COVID-19 responses and worked with ministries to review the impact of proposed fiscal measures on gender equality.
- **Gender-related audits by SAIs.** Gender audits can help determine the degree of government compliance with national legislation related to gender equality, examine the gender impact of government programs, and make recommendations on the design and implementation of policy measures. If broadly formulated, the legal mandate of SAIs would grant appropriate powers and tools to plan, define and undertake a gender audit. In Austria, guidelines for the Austrian Court of Audit recommend that performance audits include gender equality considerations such as impact analysis or the relevance of gender objectives.

B. PFM law considerations going forward

Beyond the crisis, the legal framework can support the implementation of gender budgeting tools and their enforceability. Gender measures taken during the COVID-19 pandemic by countries with ex ante and comprehensive gender budgeting legal frameworks will bear effects beyond the crisis. These frameworks can help governments introduce and institutionalize gender budgeting elements in their fiscal policymaking. Without binding legislation, and absent strong political commitment and social movement mobilization,[26] governments may easily disregard gender budgeting efforts in times of crisis.[27] While the breadth and scope of gender budgeting practices varies widely across countries, legal frameworks would generally support the implementation of an extensive toolkit, which includes ex ante gender impact assessments, gender budget statements, budget circulars, budget planning and programming tools, budget execution rules, and reporting and audit requirements to ensure greater accountability. Law can also support efforts to strengthen gender-disaggregated statistics to enable sound identification and assessment of gender-related policies and help remove potential gender biases from policies, regulations, and budgets.

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[24] Examples include in Canada, Annex 4 titled Gender, Diversity, and Quality of Life Statement of the 2021 Budget proposal. Such assessments include the COVID-19 "influence map."

[25] See official page of the gender assessments published by the Austrian Parliamentary Budget Office at Wirkungsorientierung und Gleichstellung (parlament.gv.at).

[26] For instance, Argentina, while not having a comprehensive gender budgeting legislation, increased in 2021 its budget dedicated to closing inequality gaps to 12.5 percent of the total budget envelope.

[27] See Polzer, Nolte, and Seiwald (2021).

IV. TAX LAW DESIGN CONSIDERATIONS FOR IMPROVING GENDER EQUALITY

A. COVID-19 crisis responses

A number of countries have responded to the COVID-19 crisis by introducing tax law measures that could be considered gender sensitive, mostly of a targeted, temporary, and sector-based nature. [28] While these measures were usually designed in a general way not explicitly addressing women, they were introduced on the expectation that they would have a positive impact on gender equality, given women's overrepresentation in the targeted sectors (see Box 1).[29]

> **BOX 1**
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> **Selected Gender-Sensitive COVID-19-Related Tax Measures**
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> *China* has rolled out targeted incentives, including cutting value-added tax (VAT), other consumption taxes, and corporate and individual income taxes and waiving employers' payments to social insurance to some sectors where women are overrepresented, such as hairdressing and laundry.[30] The *Democratic Republic of the Congo* has taken a range of tax measures that are likely to benefit economic sectors where women are overrepresented as well as low-income women. Measures include a suspension of VAT on the import and sale of basic necessities or mass consumption products, for a period of three months, likely to benefit low-income women who are generally responsible for meeting basic household needs, as well as a three-month suspension of the payment of some local taxes on agricultural products.[31] Other approaches include a moratorium on tax for small and medium enterprises (SMEs) and the self-employed (Argentina, Chile, Italy, Peru, South Africa, Spain)[32] and various tax relief measures to sectors where women are overrepresented (Aruba, Costa Rica, Côte d'Ivoire), such as the tourism and food industry, including in the informal sector (Benin, Burkina Faso).[33]

The following legal design issues emerge when designing gender-sensitive tax measures including in the context of the COVID-19 crisis:

- **The choice of legal instruments.** Depending on the choice of measure, countries have introduced tax measures in response to COVID-19 through primary or secondary law instruments (laws and/or regulations), either as stand-alone measures or as part of omnibus crisis bills. Some measures have also

[28] *Gender-responsive measures* are designed to remove gender-differentiated effects and systemic barriers by directly and explicitly targeting a particular gender. *Gender-sensitive measures*, on the other hand, are not explicitly targeted at a particular gender, but are designed to have a positive impact on women's economic security, for instance because they target sectors in which women are overrepresented.

[29] See IMF/UNDP/UN Women (2021e). According to the UNDP Tracker, these country measures are characterized as targeting women's economic security, when combined with factual information on women's representation in the specific targeted sectors. For an overview of COVID-19 policy responses see also International Monetary Fund, Policy Responses to COVID-19, Policy Tracker and The World Bank, Tracker of Subsidies and State Aid to Mitigate COVID-19 Effects.

[30] http://www.chinatax.gov.cn/eng/c101269/c5147432/content.html

[31] This measure is likely to benefit women, 72 percent of whom work in agriculture compared to 58 percent of men. See UNDP COVID-19 Global Gender Response Tracker, Sub-Saharan Africa Factsheet.

[32] OECD (2020a).

[33] See indicatively Italy: Legge 24 aprile 2020, n. 27; Spain: Real Decreto-ley 7/2020; South Africa: Act No. 13 of 2020 and Act No. 14 of 2020; Chile: Ley núm. 21.256/2020; Peru: Decreto Legislativo No. 1463; Costa Rica: Ley N°9830 del 19 de Marzo de 2020; Côte d'Ivoire: Ordonnance n°2020-357 du 08 avril 2020.

been introduced through administrative actions (such as administrative guidelines), aiming to achieve greater flexibility and swifter dissemination of information to taxpayers.[34]

- **Sectoral measures or specifically targeted measures.** Several countries introduced sectoral measures to further protect households and/or small businesses. Examples of these include tax benefits or incentives for sectors where women are overrepresented (such as healthcare, education, and other services sectors) (Chad, Chile, Kazakhstan).[35] Other countries introduced measures designed to provide immediate tax relief and/or assist women to remain in the workforce. For instance, providing or increasing childcare allowances (Canada), or maintaining the possibility to offset childcare costs through tax credits even if parents had to reduce their working hours (United Kingdom).

- **Temporary or more permanent measures.** Tax measures aimed at restoring fiscal space for crisis recovery have in some countries been temporary, while others have taken more permanent measures. For instance, contributions on personal or corporate income or taxes on wealth have been introduced as one-off measures (Argentina) or as a new and more permanent feature of the tax system (Bolivia). Given that these types of measures can be targeted to those with high incomes or wealth—that is, those with the greatest ability to pay—hence increasing the redistributive impact of tax systems, they can be expected to positively impact on gender equality to the extent that women are overrepresented in the lower-income brackets.

Regardless of the type of measure, providing timely, easily accessible, and tailored taxpayer guidance is important. Providing legal certainty is even more important in times of crisis, when taxpayers—as well as tax administrations—must rapidly adjust to changing economic and social circumstances. The United Kingdom, for instance, has issued various guidelines on COVID-19 related tax measures, including working from home tax relief claims (linked to the increase of household expenses) and childcare allowance claims.

B. Tax law design considerations beyond COVID-19

The economic recovery from COVID-19 provides an opportunity for countries to ensure greater gender equality in tax law design. While most countries' tax laws are designed in a gender-neutral[36] way without explicitly differentiating based on gender,[37] they may still impact on gender equality because of underlying socioeconomic differences between men and women. Faced with such implicit gender biases, introducing or maintaining gender neutral tax laws may not be sufficient to remove gender-differentiated effects and positive policy action may be required—whether in the form of gender responsive or gender sensitive measures. A better understanding of how current tax rules impact genders differently is a necessary first step as tax law reform is

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[34] See IMF (2021b).

[35] *Chad* has reduced by 50 percent the presumptive tax for 2020 for SMEs. *Chile* has introduced new tax measures to stimulate the economy and boost the liquidity of SMEs, including a temporary reduction of the corporate income tax rate and allowing for instantaneous investment depreciation. *Kazakhstan* extended tax concessions for vulnerable individuals and businesses. See UK Aid and Oxford Policy Management (2020).

[36] According to the UNICEF Gender Equality Glossary of Terms and Concepts, *gender neutral* is anything—a concept, an entity, a style of language—that is unassociated with either the male or female gender. The nature of systemic and embedded or internalized bias is such that, unfortunately often, what is perceived to be gender neutral is in fact gender blind.

[37] According to the World Bank report, *Women, Business, and the Law* (2016), 16 out of 173 countries had tax systems that directly favor men. A range of discriminatory tax laws have persisted in many countries (such as an explicit or implicit tax deduction or credit to the male head of household) along with legal barriers restricting women's ability to work.

one possible response, among other policies, to address implicit gender biases. Therefore, when (re)designing tax laws governments should consider the following strategies to ensure gender equality:

- **Identify existing gender biases in the tax system.** A “gender balance in tax” legal diagnostic of existing laws and procedures would be a useful first step in designing more gender-effective reforms.[38] The objective would be to identify explicit and implicit gender biases in a country’s substantive tax laws and tax procedures, against the background of its legal, social, and cultural environment, supported by gender disaggregated data to the extent available. The diagnostic can then inform the choice of appropriate policy measures—including whether those should involve tax, spending, other structural measures, or a combination of those—and inform their legal design in support of the country’s domestic and international commitments to gender equality.

- **Ensure effectiveness of gender equality tax policies through tax law design.** While the specific policy mix will vary according to countries’ circumstances and policy objectives, where tax measures are involved law reform is likely to be required. This would generally be the case, for instance, if the objective is to increase tax progressivity; move from family-unit to individual-unit taxation, for instance to eliminate tax-induced work disincentives for secondary (predominantly female) earners including social security disincentives to spousal work; design a broad-based, low-rate VAT, with appropriately targeted exemptions or reduced VAT rates.[39] More generally, tax reforms can help to secure additional revenues for public financing of services and infrastructure to help address gender inequalities.[40]

- **Address tax biases arising from other policies.** Implicit and explicit biases arising from the tax system may also exacerbate gender biases arising from other policies or circumstances. For instance, the tax system may broaden the “pension gap” if pension savings are tax favored, if that tax benefit mostly accrues to men earning higher salaries. The “pension gap” is further widened if the country’s statutory retirement age for women is lower than for men.[41] Addressing such biases may therefore require reforms beyond the tax system to labor legislation and/or social protection frameworks to encourage women’s labor force participation and pay equality, including in retirement.

- **Taxpayer communication and education can be particularly important for empowering women.** Gender-responsive and gender sensitive tax reforms should be communicated clearly with information carefully adapted to the target audience. This includes information on tax procedural obligations that are often noted as a disincentive for women to engage in business activities. For example, in *Rwanda* it has been noted that the understanding of tax procedures and tax liabilities is limited for some taxpayers including businesswomen.[42] The complexity of tax procedures such as the use of multiple tax forms which are not always available in all official languages, may increase tax compliance burdens on women entrepreneurs in particular. This is principally due to lower levels of education, resulting in some women taxpayers having to rely on help from a third person to complete tax obligations. Countries should also

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[38] See for example similar exercises in academic literature: The Australian National University (2017).

[39] On specific tax policy considerations to address gender gaps see IMF (2022a) and IMF/UNDP/UN Women (2021e).

[40] Tax financing of specific initiatives is different from standard revenue earmarking through legislation, which usually causes excessive budgetary inflexibility and inefficiencies.

[41] The “pension gap” refers to women typically living on lower income in retirement than men, at least partly driven by the gender pay gap; see OECD (2021).

[42] See Rwanda Private Sector Federation (2019) p. 28.

consider drafting laws and regulations in gender neutral language, to better communicate the scope and application of tax provisions.[43]

V. WOMEN'S PARTICIPATION IN THE DECISION-MAKING PROCESSES IN RESPONDING TO COVID-19

The gender lens for fiscal policy formulation is buttressed by ensuring women's participation in decision-making structures. International conventions[44] have stressed the importance of a gender balance in political and public sector high-level decision making not only as a matter of a constitutional right to equal access to, and equal opportunities in, political and public life, but also to ensure more transparent, inclusive, and responsive decision-making processes. In some countries, constitutions and laws have included gender quotas to increase women's representation in public office, for example in parliament. Despite these efforts, women remain largely underrepresented at most levels of government, especially in ministerial and other executive bodies, and little progress has been made in increasing their representation in legislative bodies.[45]

While governance arrangements for responding to COVID-19 have varied widely across countries depending on their political and institutional set-up, the creation of task forces was a common feature. A total of 225 task forces were created in 137 countries to act as advisory bodies to political organs or with some degree of decision making.[46] The legal basis was also wide-ranging; some were created by law, laying out their composition, powers and functions,[47] while others were created by secondary legislation.[48] Some had a multisectoral scope (37 percent), while others focused on specific areas, such as public health (44 percent) or the economy (12 percent). The most common objectives and functions allocated to these task forces included the coordination and collaboration among key stakeholders in responding to the crisis; the collection, provision, and dissemination of essential information; the creation of a forum for discussing the impact of the pandemic in different policy areas; and the formulation of recommendations for fiscal support in favor of households, businesses, and vulnerable groups (including women).[49]

[43] See UN Women Guidelines for Gender-Inclusive Language, where examples are provided for the English language.

[44] The UN Sustainable Development Goal 5, and its Security Council Resolution 1325; the Convention on the Elimination of All Forms of Discrimination Against Women; the G7 Whistler Declaration on Gender Equality and the Empowerment of Women and Girls in Humanitarian Action.

[45] See UN Women Facts and Figures: Women's leadership and political participation, reporting that: in the Legislative branch, only 25 per cent of all national parliamentarians are women; in the Executive branch, historically only 22 countries had women as head of the State or government,119 countries have never had a woman leader, only 21 per cent of government ministers were women, with only 14 countries having achieved 50 per cent or more women in cabinets; and at the local government level, out of 133 countries only two countries have reached 50 per cent, and an additional 18 countries have more than 40 percent.

[46] UN Women UNDP Global Gender Policy Tracker, April 2021.

[47] For example, Bolivia's Parliament enacted the Sanitary Emergency Law No. 1359 which established the National Strategic Council for Health Emergencies as a temporary (while the state of emergency is in force) multidisciplinary consultative and decision-making body, in charge of the inter-institutional articulation and coordination of the public policies (https://www.lexivox.org/norms/BO-L-N1359.xhtml). Ireland's Parliament approved the creation of the Special Committee on Covid-19 Response which oversees and provides national direction, guidance, and support on the development and implementation of a strategy to contain COVID-19 in Ireland (https://data.oireachtas.ie/ie/oireachtas/debateRecord/dail/2020-05-06/debate/mul@/main.pdf)

[48] In Argentina the Emergency Operating Committee was created via Presidential Decree N° 260/2020, adopted on March 17, 2020. This Committee is integrated by six line ministers (Interior, Health, Economy, Labor and Social Security and International Relations) and coordinated by the Chief of the Cabinet of Ministers (https://www.boletinoficial.gob.ar/detalleAviso/primera/226914/20200318).

[49] https://www.lexivox.org/norms/BO-L-N1359.xhtml.

Overall, women were largely underrepresented in these task forces. The average percentage of female representation in these task forces was only 24 percent. 84 percent of the task forces have a majority of men and only 7 percent a majority of women,[50] while 4 percent have gender parity.[51] Moreover, 12 percent of the task forces had no female representation at all.[52] When data are disaggregated between the type of task force, women participation also varies greatly. Women are better represented in advisory-type task forces (33 percent) than in decision-making task forces (24 percent). Women leadership data on the task forces is gloomier; only 19 percent of task forces are led by women, and 5 percent are co-led. It is generally accepted that a more balanced gender composition in decision-making structures would more accurately not only reflect the configuration of society but also help integrate the gender equality dimension in government policymaking. In particular, this can help to ensure that the hardship borne by women during the pandemic crisis is accurately identified and their sacrifices and needs are adequately compensated and addressed.

VI. GOING FORWARD: THE ROLE OF FISCAL LAW AND INSTITUTIONS IN ADDRESSING GENDER INEQUALITY

Robust PFM legal frameworks can support the design, implementation and monitoring of gender fiscal policies. Law reform can help introduce and institutionalize gender budgeting practices, possibly through a gradual implementation. While recognizing the broad differences in gender budgeting practices across countries, PFM legal frameworks could (1) introduce gender equality as one of the principles of the budgetary system, (2) require the preparation of gender budget statements and/or ex-ante gender impact assessments, (3) require the inclusion of instructions on gender classification and tracking in budget circulars (or similar instruments) for budget preparation, (4) require the use of gender performance-based indicators for budget execution, (5) require that in-year and end-year budget execution reports incorporate gender-related information, (6) require ex post gender impact assessments, 7) strengthen the legal mandate of SAIs to conduct gender-related audits, and (8) strengthen enforcement mechanisms such as sanctions—a phase of gender budgeting often overlooked.[53] While legislation cannot, in itself, ensure successful reform, it is clearly an important element for determining effective outcomes in implementation and enforceability. If instead countries rely on high-level political commitments rather than binding laws, the risk is that—absent a robust institutional framework and other prerequisites—the gender perspective will be disregarded, particularly in times of crisis.

Legal considerations also help policymakers to address implicit gender biases in the tax system. While explicit gender biases should generally be addressed by removing discriminatory tax laws, addressing implicit gender biases arising from, or exacerbated by, the tax system may require a more calibrated policy response. Understanding the gender impact of current tax rules is an important first step in this respect. A gender balance in tax legal diagnostic can usefully complement gender budgeting tools not only in the response to a crisis, but also on a permanent basis to achieve equality of opportunities and outcomes. More generally, improving tax capacity to raise additional revenues can help to reduce gender inequalities by generating additional financing for public spending on services and infrastructure needed to address such inequalities.

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[50] Albania, Andorra, Argentina, Belize, Canada, Chile, Dominican Republic, Estonia, Finland, Iceland, Ireland, Lesotho, The Netherlands, New Zealand, Poland, Portugal, South Africa, and Venezuela.

[51] Jamaica, Jersey, and Saint Lucia.

[52] See COVID-19 Global Gender Response Tracker and women task force participation.

[53] This list is based on the common gender budgeting practices and legal provisions inventoried by IMF (2021f).

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