

WHAT'S TAX GOT TO DO WITH IT

A RESOURCE GUIDE ON TAX AND HUMAN RIGHTS

AMNESTY
INTERNATIONAL



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Glossary

Country-by-country reporting (CBCR)	Tax reporting by multinationals on a country-by-country basis
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Estate tax	A levy on the estate (money and property) of a person who has died
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Excise duty	The duty on manufactured goods that are levied at the moment of manufacture rather than at sale
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Fiscal policy	The use of government spending and tax policies to influence economic conditions. Fiscal policies include both laws and policies related to taxation, trade, investments and spending on public goods and services such as health, education, housing and social protection.
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GDP	Gross Domestic Product, the total economic output of a country
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IFFs	Illicit financial flows – flows that are illicit in origin, transfer or use, that reflect an exchange of value and that cross country borders. Not all IFFs are considered illegal in some jurisdictions.
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Marginal rate	The rate of tax paid on the higher part of a person's or organization's income in a particular period. The marginal tax rate increases as income rises. As income rises, the highest amount earned will fall into a higher tax bracket. The marginal tax rate is thus typically higher than the effective tax rate, which is the average tax rate individuals or organizations pay on all of their income.
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Secrecy jurisdiction	Places which emphasize secrecy including by not requiring the real owner of the company to be registered
Separate entity principle	A principle in company law where companies, which are related, are treated separately such as for tax purposes
Stamp duty	A tax governments place on legal documents, usually in the transfer of assets or property
Tax avoidance	The deliberate use of legal loopholes to minimize one's tax liabilities
Tax evasion	Non-payment of legally owed tax (and therefore a criminal activity not to pay)
Tax haven	A jurisdiction that levies little or no tax often in order to encourage people (companies and individuals) to establish themselves there
UN Tax Convention	Currently a proposal for a framework convention on international tax cooperation
Withholding taxes	A tax deducted at source

INTRODUCTION

“Taxation is a key tool when tackling inequality and for generating the resources necessary for poverty reduction and the realisation of human rights, and can also be used to foster stronger governance, accountability and participation in public affairs.”

UN Special Rapporteur on Extreme Poverty and Human Rights¹

Governments use tax revenue to ensure sustainable funding for social programmes, and for public investments to promote equitable growth and development. Taxation is thus an essential element of a government's ability to implement its policies and programmes. Tax matters for human rights because taxes are one of the key ways resources are raised to realize human rights.

This guide is intended for researchers and campaigners within Amnesty International and for anyone who may want to better understand the link between taxation and human rights, and to carry out and/or support research, advocacy and campaigning for an equitable tax system nationally and internationally, to enable states to fulfil their human rights obligations.

1 UN Special Rapporteur on Extreme Poverty and Human Rights (UN Special Rapporteur on poverty), Report: *Taxation and Human Rights*, 22 May 2014, UN Doc. A/HRC/26/28, p. 1.

The guide is divided into four sections:

SECTION

1

Section 1 begins by providing an explanation on taxation, outlining the range of taxes paid by individuals and companies, highlighting what are often understood as “good” approaches to developing tax policy, and then explaining how a human rights framework can be used to evaluate and guide tax policy.

SECTION

2

Section 2 then highlights key issues in relation to international aspects of taxation – notably how tax is avoided and evaded by the movement of finance between countries – and what a number of states and campaigners are proposing in order to prevent this loss of resources.

SECTION

3

Section 3 illustrates a number of key current debates and how they relate to a number of thematic issues, including technology, climate justice, racial justice and gender justice.

SECTION

4

Section 4 provides further guidance on how to evaluate tax policies with a human rights lens, and gives suggestions on what information to look for, who to work with and what opportunities to consider in campaigning and advocacy.

SECTION 1

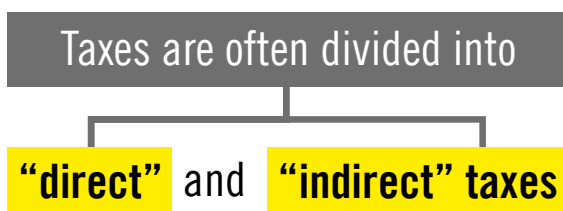
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TAXATION – THE BASICS

Almost everyone pays some form of tax through what they earn, own or spend. And everyone is affected by decisions about how taxation is applied – decisions regarding what is taxed, how much, who pays it and what the resources are then spent on, impact our day-to-day lives, including access to essential goods and services.

Taxes are compulsory payments to governments (local, state/provincial, and central) by companies and individuals, to enable governments to carry out their activities and provide people with essential services and amenities. Broadly speaking, taxes can be placed on:

1. The money you make (income both as an individual or as a company)
2. The money or assets you own (wealth such as savings or property, which has the ability to generate more money)
3. The money you spend (consumption)
4. Specific activities or the effects of your activities (such as environmental taxes that are levied to protect the environment, such as a tax on the production of plastic bags)
5. The trade in goods and services (customs and excise duties)



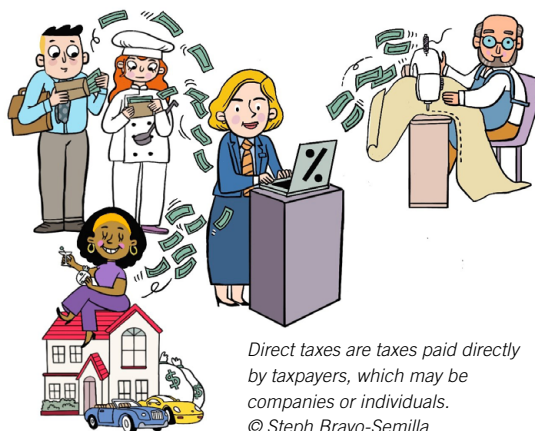
DIRECT TAXES

Direct taxes are taxes that can be levied directly on an individual (as personal income tax, PIT) or on a company (as corporate income tax, CIT). For individuals this is applied usually at a graduated rate as a percentage of their salaries and is often called PAYE (pay as you earn), or as a percentage of their consultancy fees, as

withholding tax. For companies, this is applied as a percentage of their profits.

Other direct taxes can include royalties (for example, taxes on the gross profit of a business such as mining) and wealth taxes. Wealth taxes is a loose term which can include:

1. Direct taxation at a specific and graduated percentage on the total wealth of different tiers of High Net Worth Individuals (HNWIs).
2. Property taxes based on the market value of land and/or buildings. These can include Capital Gains Tax and stamp duty on the transfer of property or land rates.
3. Inheritance taxes on the estate of a person upon their death, either in the form of recipient-based taxes (that is as a form of income), or taxes on the estate of the deceased (that is the value of the estate).
4. Capital Gains Tax on the increase in value of an asset upon transfer. It generally covers land and buildings, other valuable assets such as paintings as well as shares/stock, among others. It is usually calculated by deducting the cost of acquisition from the selling price and taxing the difference (namely the profit made since purchase).



Direct taxes are taxes paid directly by taxpayers, which may be companies or individuals.
© Steph Bravo-Semilla

Recently, there have also been calls for one-off taxes on wealth called solidarity taxes to address high levels of inequality.² One-off taxes on the wealth of companies are called “windfall taxes” to address gross profits, which are also unexpected profits of companies. Generally speaking, direct taxes are often seen as “progressive” as those who earn or own more usually pay more (though not necessarily at a higher rate).

INDIRECT TAXES



Indirect taxes are generally collected on the sale of goods and services and include sales tax, Value Added Tax (VAT) and excise duty. © Steph Bravo-Semilla

Indirect taxes are taxes that are levied on goods and services and include sales tax, Value Added Tax (VAT) and excise duty. VAT is applied to most goods you buy at a shop and to most services you use, hence, why it is considered a “consumption tax”.

Excise duties, sometimes described as “sin taxes”, are taxes on specific goods and services of which the government would like to discourage consumption, or non-essential items from which the government would like to generate more revenue. This includes taxes on tobacco products, alcohol, luxury goods and gambling. The implementation of excise taxes is a form of repricing/regulation (as per the “4 + Rs of Taxation” below).

2 See, for example, Oxfam, “Oxfam media brief: The case for windfall taxes”, 9 September 2022, <https://www.oxfam.org/en/research/oxfam-media-brief-case-windfall-taxes>; Oxfam, *Survival of the Richest: How We Must Tax the Super-Rich Now to Fight Inequality*, 16 January 2023, <https://www.oxfam.org/en/research/survival-richest>; and Oxfam, “Corporation windfall profits rocket to \$1 trillion a year”, 6 July 2023, <https://www.oxfam.org.uk/media/press-releases/corporation-windfall-profits-rocket-to-1-trillion-a-year>

Generally speaking, indirect taxes are often seen as “regressive” as the amount of tax paid is not linked to income or the ability to pay and can therefore disproportionately impact lower-income people more. However, when assessing whether a tax is regressive or progressive, it also matters what the taxes are spent on (see section on equality and non-discrimination in Tax and Human Rights and Section Two on How to Start Research, Advocacy and Campaigning on Tax Justice).

SUB-NATIONAL TAXES

Domestic taxes can be applied at the national and sub-national levels (that is both at central and decentralized levels). Local authorities may collect taxes instead of, or in addition to, the national government. These may be earmarked for the provision of specific services by the local government or may contribute to the national budget. The national government may also transfer centrally collected resources to sub-national levels.

OTHER FORMS OF STATE REVENUE

Of course, taxation is not the only way that states generate resources to carry out their activities. They also raise revenue through a range of other fiscal policies,³ including trade (customs) tariffs, loans (debt), grants (aid), income from government businesses/state-owned enterprises (SOEs) and so on.

All fiscal policies affect the ability of states to generate sufficient resources to effectively realize human rights. For example, if states must spend significant portions of their budgets on debt repayments, they may not be able to allocate sufficient resources for social sectors such as health, education or social protection, which are key for realizing specific human rights. Similarly, if states do not have enough taxpayers because of poor economic conditions, for example, they may also be unable to generate sufficient revenues.

In the same way that domestic fiscal policies may hamper the realization of human rights, aid and loans can too if they are not human rights-consistent. In some instances, grants and aid may be conditional on certain things, such as demands that governments ‘rationalize’ expenditures by making potentially

3 In other words, the policy of government on the level of tax, debt and expenditure.

harmful changes, such as reducing the size of the civil service or privatizing public services.⁴ Similarly, loans and investments often come with conditions. International Monetary Fund (IMF) loans, for example, often include conditions for trade liberalization, privatization of state-owned enterprises, reductions of social spending or reductions in the wage bill and salaries of civil servants.⁵ All these specifications and conditions could potentially hamper a state's ability to realize rights and generate revenue in the long term.

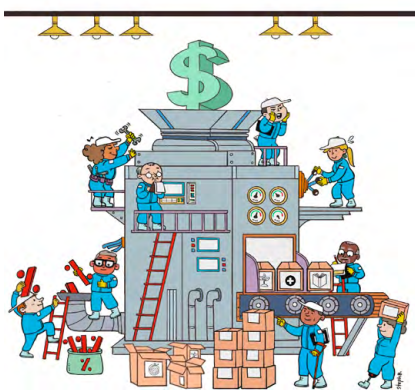
TAX, WHAT IS IT GOOD FOR?

Properly used in line with a state's human rights obligations, taxation serves a number of beneficial social purposes. Economists often refer to the "4 Rs of Taxation" (related to the purposes of taxation). And also, increasingly a potential fifth.

THE FOUR (+) RS OR BENEFITS OF TAXATION

Resource mobilization

All rights cost money and require public and fiscal policies to support and adequately fund them. Taxes generate most of the revenue that states can use to guarantee and promote the rights of their populations.⁶ Because they



Taxes are one way of generating revenue to pay for public services like schools, hospitals, housing, and social protection. © Steph Bravo-Semilla

- 4 Oxfam, *The Gendered Impact of IMF Policies in MENA: The Case of Egypt, Jordan and Tunisia*, October 2019, <https://policy-practice.oxfam.org/resources/the-gendered-impact-of-imf-policies-in-mena-the-case-of-egypt-jordan-and-tunisi-620878>
- 5 ActionAid International, "Time is up - IMF and World Bank must end colonial rule, says ActionAid", 22 April 2024, <https://actionaid.org/news/2024/time-imf-and-world-bank-must-end-colonial-rule-says-actionaid>
- 6 Vito Tanzi and Howell Zee, "Tax policy for developing countries", March 2001, International Monetary Fund (IMF), Economic Issues No. 27, <https://www.imf.org/external/pubs/ft/issues/issues27>

largely determine the overall “size of the pie”, fiscal policies are an indispensable part of the equation for determining, in accordance with the relevant international legal obligations, whether states have taken steps to ensure the maximum available resources to realize human rights. Fiscal policies include both laws and policies related to taxation, trade, investments and spending on public goods and services such as health, education, housing and social protection.

Regulation or repricing

Tax policies can be used to incentivize or disincentivize a broad array of economic, social, cultural, political, religious, artistic, and other types of behaviour or conduct (otherwise known as externalities). For example, taxes on pollution-generating activities can reduce them. Similarly, increasing taxes on cigarettes, alcohol and gambling can also reduce their consumption and the related social costs.

Redistribution

State budgets determine where resources will be generated and how they will be spent and in turn how resources will be redistributed. A government's priorities therefore can either reduce or increase inequalities among different demographics such as older persons or younger people including different income groups within a country (to assess whether a tax system is fair, including how much it redistributes resources, see Section Four).



Like in the Robin Hood tale, to lessen inequality wealth must be redistributed. This can be done by taxing individuals according to their wealth and income, and then using the tax to provide public services for all. © Steph Bravo-Semilla

Representation

The nature of the relationship between the government and the governed is reflected in and influenced by fiscal policy. In terms of design and implementation, taxes can either reinforce or undermine the state's accountability



Taxation is also a way of greater representation and demands greater accountability from the government on the way taxes are collected and spent. © Steph Bravo-Semilla

to the public including in the way a state spends its resources, the robustness of its institutions and in effect, its legitimacy. This is the essence of the social contract – the relationship between citizens and state where citizens' views and needs are reflected in the way taxes are collected as well as in the way that they are spent.

And a fifth...

Reparation

The action of making amends for a wrong that has been done to people, often historically, by providing payment or other assistance to those who have been wronged. Reparation is an ongoing conversation and point of advocacy in several spheres including in the tax, debt and climate justice movements.



Taxes can be used to redress harms, including historical injustices such as forced land acquisitions. © Steph Bravo-Semilla

WHAT MAKES A “GOOD” TAX SYSTEM?

There are many ways a tax system can be considered good from a human rights, governance, or public policy perspective. Some generally agreed conditions which relate to human rights include: fairness, adequacy or sufficiency, simplicity, transparency, and administrative ease.⁷

1. **Fairness, or equity** means that everybody should pay their fair share of taxes – either they pay similar amounts for similar financial situations, or they pay at least the same proportion of income in taxes as those who are less well-off. In some cases, people do not pay any income taxes at all because they are below the income threshold for taxation. How those revenues are spent also determines whether or not the taxes collected are fair and/or promote equity.
2. **Adequacy or sufficiency** means that taxes must generate enough resources/revenue to address at the very least the essential needs of society and/or the demand for public services. As taxes are only one form of revenue generation for the resource basket, their adequacy can be assessed in the context of other sources as well as compared with other countries of the same income level.
3. **Simplicity** means that taxpayers should be able to file their taxes with ease. The more complex a tax system, the higher the cost of compliance as taxpayers may need to hire an accountant to assist them and the revenue agency itself might have to provide a lot of support to taxpayers to file correctly. And the more complicated the system, the greater the likelihood of tax evasion/avoidance.
4. **Transparency** means that taxpayers can easily find information about the tax system including who (legal persons, company or individuals) is required to pay, what exemptions are allowed, how tax money is used or not being used, and so on. In the case of companies receiving exemptions, there should be transparency on which exemptions they are benefiting from, for how long and why.

7 Ursula Hicks, *Public Finance* (1947), 3rd edition, 1968, Cambridge Economic Handbooks.

5. **Administrative** ease means that the tax system is neither too complicated nor costly for tax administrators. The rules should be well known and fairly simple. The state can tell if taxes are paid on time and correctly, and the state can conduct audits in a fair and efficient manner. The cost of collecting a tax should be very small in relation to the amount collected. The simplicity idea refers to the ease for taxpayers to pay taxes whereas administrative ease refers to the ease for tax administrators to ensure taxes are collected.

PRINCIPLES OF PUBLIC FINANCE

Public finance is the term used for different government activities including the ways in which a government and its different entities generate revenue or resources and how it is spent. It covers taxation, expenditure and debt policies, among others. There are also principles of public finance which align well with human rights principles and have been used as arguments in strategic litigation to promote due process in the way tax policies are made - such as in the case of Tax Justice Network Africa v Kenya Revenue Authority where a tax policy on a double taxation agreement had not gone through parliament review.⁸ These principles include:

- a. Resources should be spent on appropriate objectives, as per budget plans, law and policy and in a timely manner.
- b. Transparency and accountability – information on resource generation and spending including accounting should be publicly and easily available to all (even those without access to technology).
- c. Certainty and predictability – new rules should be well designed (including being put through technical and legislative approval) and include meaningful public participation.

8 See the Case on TJNA v KRA in the case study examples in Section Four, and Nick Shaxson, “TJN Africa takes Kenya government to court over Mauritius treaty”, 13 October 2014, Tax Justice Network, <https://taxjustice.net/2014/10/13/tjn-africa-takes-kenya-government-court-mauritius-treaty>

- d. Recurrent versus development (or capital) expenditure – there should be a defined ratio of development to recurrent expenditure in law or policy which should be adhered to.⁹
- f. Equitable spending including intergenerational equity – both taxation and spending should be used to promote equitable development between national and sub-national locations, between generations, between income groups, and so on.
- g. Efficiency – related to the ideas of a tax system being administratively easy and simple, tax systems should not cost more to administer than they collect.

Of course, these are not the only ways that can be used to evaluate a tax system. It is critical to also use human rights standards and principles.

WHAT IS THE LINK BETWEEN TAXATION AND HUMAN RIGHTS?

There is a clear link between the human rights obligations of states and their taxation policies. At its simplest this can be seen by the fact that taxation is the primary source of funding in most countries to finance the provision of essential goods and services such as the schools, hospitals, police and judicial systems that are necessary to uphold human rights.

Like other government policies, state policies on taxation can be analysed through a human rights framework. For example, Article 2.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) states that “[e]ach State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the

9 IMF, Guidelines for Public Expenditure Management, <https://www.imf.org/external/pubs/ft/expend/guide3.htm>, (accessed on 1 June 2024), “Section 3: Budget Preparation”.

adoption of legislative measures.”¹⁰ Furthermore, the Maastricht Guidelines on violations of economic, social and cultural rights recognize the failure of states to utilize the maximum available resources to realizing human rights as a violation of ICESCR.¹¹ The obligation to take steps to the maximum of its available resources to fulfil human rights is also enshrined in Article 4 of the Convention of the Rights of the Child and Article 4.2 of the Convention on the Rights of People with Disabilities. Available resources are generally understood as resources that governments can raise through a variety of means including taxes, revenue earned through royalties on natural resource use, profits from public sector enterprises, overseas development assistance in the form of grants and loans from bilateral and multilateral donors, and debt and deficit financing.¹²

In recent years, a range of UN experts have developed analyses on existing human rights standards and socio-economic rights, including the UN Special Rapporteur on Extreme Poverty and Human Rights,¹³ UN Special Rapporteur on the Right to Development,¹⁴ UN Independent Expert on Effects of Foreign Debt and Other Related International Financial Obligations of States of the Full Enjoyment of All Human Rights, Particularly Economic, Social and Cultural Rights,¹⁵ among others.

Building on this, Amnesty International has also developed its own policy on taxation and human rights. Key principles include the following:

1. States must ensure domestic taxation policies and measures are designed to generate the **maximum available resources** in order to realize human rights. This includes the principles of ensuring **progressive realization of rights**, as well as ensuring **minimum core standards** and **avoiding retrogression** that can sometimes come in times of austerity or cuts

10 International Covenant on Economic, Social and Cultural Rights (ICESCR), <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

11 Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, 22-26 January 1997, available at: http://library.umn.edu/instree/Maastrichtguidelines_.html, Guideline 15.

12 Center for Women's Global Leadership, *Maximum Available Resources & Human Rights: Analytical Report*, June 2011, <https://www.cwgl.rutgers.edu/docman/economic-and-social-rights-publications/362-maximumavailableresources-pdf/file>, p. 10.

13 UN Special Rapporteur on poverty, <https://www.ohchr.org/en/special-procedures/sr-poverty>

14 UN Special Rapporteur on the Right to Development, “The right to development and taxation”, https://www.ohchr.org/sites/default/files/Documents/Issues/RtD/InfoNote_Taxation.pdf

15 UN Independent Expert on the effects of foreign debt, <https://www.ohchr.org/en/special-procedures/ie-foreign-debt>

to budgets. This is a higher standard than simply ensuring taxes are “progressive”.¹⁶

2. States must ensure that the principles of **participation and transparency** are adhered to throughout the taxation process and fiscal processes in general. Transparency, accountability and public participation include ensuring that all forms of fiscal policies in the public interest are published (such as double taxation agreements, free trade agreements, loan contracts and so on), that human rights impact assessments are undertaken and published, and that meaningful public participation is enabled including through legislative approval and auditing processes.

Enabling this internationally may also include sharing information between revenue authorities (known as automatic exchange of information), requiring multinational corporations (MNCs) to report on their profits on a country-by-country basis (CBCR) and promoting beneficial ownership – making companies publish information on the real person who owns, controls or ultimately benefits from a company in order to promote the accountability of corporates.

3. All states’ decisions and measures on taxation must be subject to effective means of **accountability**. This is closely related to the principle of participation and transparency, a principle of public finance and related to the 4+ Rs of Taxation.
4. States must ensure taxation is collected in a way that respects and advances **equality and non-discrimination**. Achieving equality and non-discrimination includes ensuring both taxation and spending do not further disadvantage those who are already marginalized including through inadequate revenue generation that results in inadequate spending on

16 See further explanations concerning these principles: Office of the High Commissioner for Human Rights (OHCHR), Economic, Social and Cultural Rights, <https://www.ohchr.org/en/human-rights/economic-social-cultural-rights>; Amnesty International, Human Rights for Human Dignity: A Primer on Economic, Social and Cultural Rights - Second Edition (Index: POL 30/001/2014), 28 July 2014, <https://www.amnesty.org/en/documents/pol34/001/2014/en/>

social services. It also includes ensuring that social spending is oriented to promote substantive equality and to address multiple and intersectional forms of discrimination.

5. States must respect their **international cooperation and assistance and extraterritorial obligations**. This means seeking to promote tax cooperation, eliminate harmful tax competition, combat tax evasion and tax avoidance, and avoid policies that prevent other states from maximizing their own tax revenue. This also means that states should consider the extraterritorial effect of their policies to ensure that they do not affect the ability of other states to generate their maximum available resources (see this August 2023 submission to the UN Human Rights Council's Universal Periodic Review (UPR) on how Mauritius is breaching its extraterritorial obligations for international cooperation and assistance by deliberately undermining the abilities of states to generate their maximum available resources including through harmful tax competition and double taxation agreements among other mechanisms.¹⁷
6. Corporate actors should ensure that they respect their **human rights responsibilities in regard to all of their business practices** concerning taxation. Corporate accountability is elaborated on in the UN Guiding Principles on Business and Human Rights.¹⁸ Tax research has found that maintaining companies and multiple subsidiaries of companies in secrecy and low-tax jurisdictions, if not tax havens, allows those who benefit from the company to obscure the real person behind the corporate veil and to minimize tax liabilities, in both cases to avoid or evade taxation.¹⁹

17 Amnesty International, *Depriving Resources Needed for the Realization of Human Rights: Submission to the 45th Session of the UPR Working Group* (Index: AFR 39/7073/2023), 1 August 2023, <https://www.amnesty.org/en/documents/afr39/7073/2023/en>

18 UN Office of the High Commissioner for Human Rights (OHCHR), *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (UN Guiding Principles), 2011, UN Doc. HR/PUB/11/04.

19 Mark Bou Mansour, "Names of companies behind \$870bn tax abuses kept from public by global tax body", 10 November 2023, Tax Justice Network, <https://taxjustice.net/press/names-of-companies-behind-870bn-tax-abuses-kept-from-public-by-global-tax-body>

As highlighted by the Tax Justice Network (TJN), the lion's share of global tax losses can be attributed to cross-border corporate tax abuse. "Multinational companies are responsible for around a third of global economic output, half of world exports and nearly a quarter of global employment. Their tax abuse is a first-order global economic issue, depriving governments of tax revenues, increasing inequalities between and within countries, and undermining smaller and domestic businesses that generate the majority of employment."²⁰

According to TJN, "OECD countries and their dependencies are responsible for most global corporate tax abuse: 70 per cent in this case, costing the world USD 219 billion in lost corporate tax a year. When including tax losses to offshore wealth tax evasion, OECD countries and their dependencies are responsible for 78 per cent of all tax losses suffered by countries around the world, costing countries about USD 374 billion in lost tax every year". Among the OECD countries only four are responsible for the bulk of corporate tax abuse: the United Kingdom, the Netherlands, Luxembourg and Switzerland, with the UK and its network of Overseas Territories and Crown Dependencies responsible for 27% of all corporate tax losses, "making the UK the world's greatest enabler of global corporate tax abuse".

7. States must ensure that their **taxation policies and measures contribute to addressing the climate crisis in a human rights-consistent manner.** This has a number of different dimensions, for example ensuring that polluters pay for environmental harms, incentivizing green technologies and renewable energy sources, influencing individual and corporate behaviour with regard to greenhouse gas emissions, and compensating for harms. Taxation policies designed to address the climate crisis must equally consider the impact on people affected by such measures (see more in the Tax and Climate Justice section).

20 Tax Justice Network, *State of Tax Justice 2023*, 25 July 2023, <https://taxjustice.net/reports/the-state-of-tax-justice-2023>, p. 27.

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INTERNATIONAL TAXATION AND ILLICIT FINANCIAL FLOWS

Taxation is a global affair, and how money moves between countries plays a huge role in impacting how much revenue is generated through taxes – and who benefits. The tax liabilities of both individuals and companies will be determined by their residence and the taxation laws of the countries with which they associate (whether as citizens, residents, or from where they derive their income).

There are multiple ways that companies (and individuals) avoid or evade taxes by moving money across borders – sometimes legally, sometimes not. Tax avoidance and evasion and their impact on revenue is a key reason why the global tax justice movement, including Amnesty International, sees better global regulation of taxation as an essential objective. Government action to prevent avoidance and evasion is needed in a number of key areas including, **transfer pricing, double taxation agreements, tax havens, tax competition and illicit financial flows (IFFs).**



Transfer Pricing is the pricing for goods and services between companies under common control to reduce their tax liabilities. © Steph Bravo-Semilla

TRANSFER PRICING AND DOUBLE TAXATION AGREEMENTS AS A FORM OF TAX AVOIDANCE

Companies that operate across several countries – often called multinational companies (MNCs), multinational enterprises (MNEs) or transnational companies (TNCs) – are typically treated in accordance with the “arm’s length principle” for the purpose of deciding how much tax should be paid in each country. This means that subsidiaries within an MNC treat each other as separate entities (based on the “separate entity principle”).

This principle was developed in 1933 and proposed by the League of Nations, following the increasing number of countries that had introduced income taxes in the late 19th and early 20th centuries. It aimed to address concerns that trade could be limited if companies had to pay the same tax multiple times in different jurisdictions.²¹

However, with globalization, communications and technological developments, the arms-length principle has become less and less appropriate²² and MNCs have used this principle to undertake what is known as “transfer pricing” – that is setting of prices within subsidiaries as if they were being made between two unrelated parties when this is not the case (see the Company A, B, C example below). Often this is done to minimize their tax liabilities, for example by:

1. Shifting profits to low-tax countries,²³ and
2. Transferring intangible assets such as a patent, trademark, brand, or copyright²⁴ to subsidiaries in low-tax countries where double taxation treaties (DTTs) or agreements (DTAs) that protect the company in question from paying tax outside of the low tax country to where they have transferred the intangible asset.²⁵

21 Britannica Money, Income Tax, <https://www.britannica.com/money/income-tax> (accessed on June 13, 2024).

22 Stefan Greil, “The arm’s length principle in the 21st century - A literature overview”, 2021, Journal of Tax Administration, Volume 6, Number 2, <http://jota.website/index.php/JoTA/article/view/277/206>

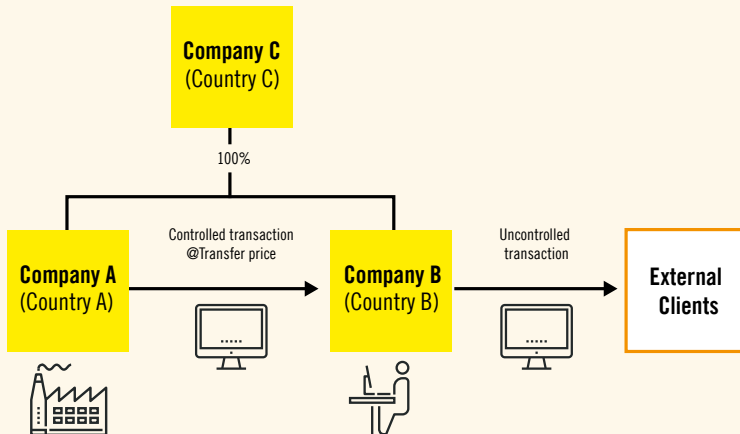
23 Thornton Matheson and others, “Formulary apportionment in theory and practice”, in Ruud de Mooij and others (editors), *Corporate Income Taxes under Pressure Why Reform Is Needed and How It Could Be Designed*, 2021, Chapter 14, <https://doi.org/10.5089/9781513511771.071>

24 An asset that is not physical in nature, such as a patent, brand, trademark, or copyright.

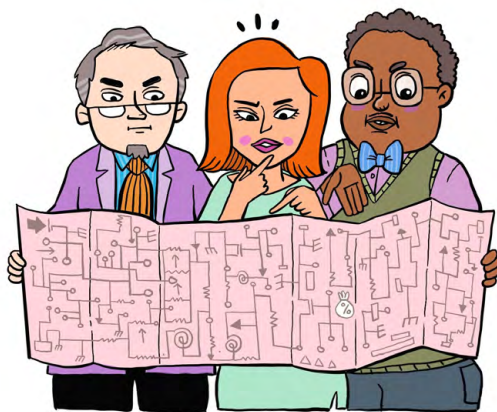
25 Stefan Greil, “The arm’s length principle in the 21st century - A literature overview”, 2021 (previously cited).

For example, Company C may own two subsidiaries, Companies A and B, which are located in different countries as seen in figure 1, which are in double taxation agreements with each other. They can control (controlled transaction) how they interact with each other financially. They may claim, for example, to have management staff or consultants in Company B managing activities in Company A. This may be true, but the actual cost of these management staff or consultants may be misreported. The company owners may increase the management costs of Company B to balance the accounting books of Companies A and C (often to make the day-to-day running costs appear higher than they really are). But the market cost (uncontrolled transaction) - what external clients pay for – may be less than reported. Transfer pricing often happens between company subsidiaries based in both high- and low-tax jurisdictions so that the company owners may inflate costs in higher-tax jurisdictions and increase profits in lower-tax jurisdictions thus ensuring a minimal tax burden.

Figure 1: Example Diagram for Transfer Pricing



This form of tax avoidance deliberately makes use of legal loopholes to minimize tax liabilities. Improved international tax cooperation such as through a UN Tax Convention would help to prevent this and similar practices of tax avoidance.²⁶



Tax avoidance: Companies or individuals deliberately minimizing their tax liabilities by making use of legal loopholes. © Steph Bravo-Semilla

Worldwide revenue losses through transfer pricing have been estimated to be between 4% – 10% of total corporate income tax revenue, amounting to between USD 100 – USD 240 billion.²⁷ Figure 2 shows the percentage of profits shifted to tax havens relative to corporate tax revenue lost, and how that has grown dramatically over the last 50 years.²⁸

Profit Shifting to Tax Havens

Shifting profits to tax havens reduce companies' tax liabilities at the expense of states' ability to raise revenues including for essential social spending. The Organisation of Economic Co-operation and Development (OECD) describes this as “base erosion and profit shifting” (BEPS) and has been seeking to develop policies to reduce BEPS.²⁹ OECD's BEPS Project aims to address tax planning strategies that exploit gaps and mismatches in tax rules to make profits

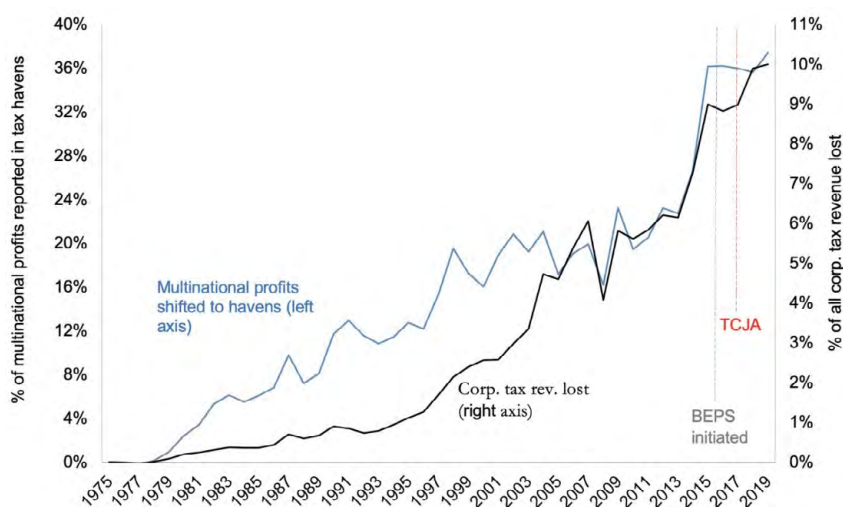
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- 26 Amnesty International, *Promotion of Inclusive and Effective Tax Cooperation at the United Nations: Submission to the UN Secretary General, 78th General Assembly Session* (Index: IOR 40/6565/2023), 17 March 2023, <https://www.amnesty.org/en/documents/ior40/6565/2023/en>
 - 27 Organisation of Economic Co-operation and Development (OECD), BEPS Inclusive Framework on Base Erosion and Profit Shifting, <https://www.oecd.org/tax/beps> (accessed on June 13, 2024), “International collaboration to end tax avoidance”.
 - 28 Ludvig Wier and Gabriel Zucman, “New global estimates on profits in tax havens suggest the tax loss continues to rise”, 4 December 2022, CEPR, <https://cepr.org/voxeu/columns/new-global-estimates-profits-tax-havens-suggest-tax-loss-continues-rise>
 - 29 OECD, BEPS Inclusive Framework on Base Erosion and Profit Shifting, <https://www.oecd.org/tax/beps/about/> (accessed on June 13, 2024), “What is BEPS?”

“disappear” for tax purposes or to shift profits to locations where there is little or no real activity, but the taxes are low, resulting in little or no overall corporate tax being paid.

The BEPS project does this through what is called the Inclusive Framework. The Inclusive Framework has developed rules as follows:

1. Pillar 1 seeks to allocate taxing rights more equitably between countries where subsidiaries of MNCs operate.
2. Pillar 2 which requires a minimum global corporate income tax of 15% for MNCs to address the issue of profit shifting to low-tax jurisdictions.³⁰

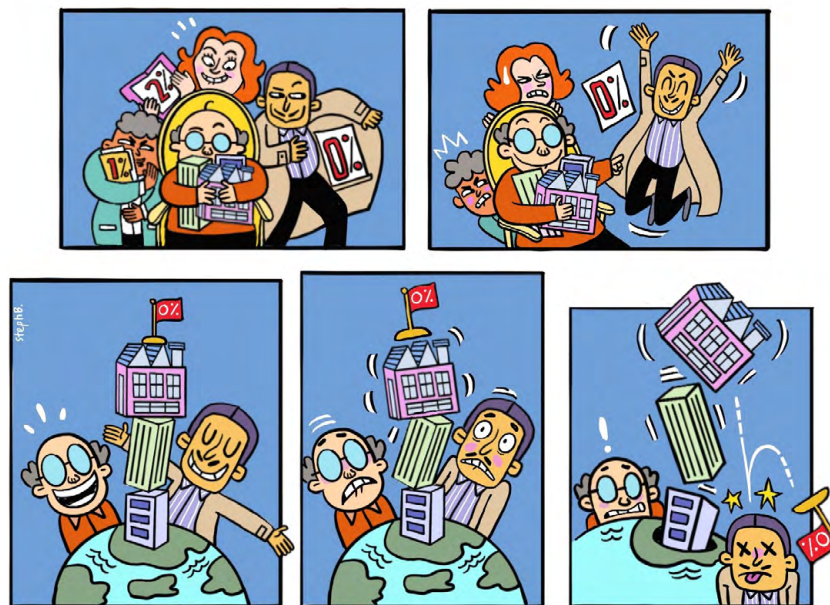
Figure 2: Profit Shifting by Multinational Enterprises to Tax Havens



Source: Ludvig Wier and Gabriel Zucman, December 2022

30 OECD, *Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy: Frequently Asked Questions*, July 2022, <https://www.oecd.org/tax/beps/faqs-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-july-2022.pdf>

TAX COMPETITION AND THE RACE TO THE BOTTOM



Race to the bottom refers to the competition between countries, which will lower their tax rates to attract foreign direct investment. This competition may ultimately result in countries having increasingly less revenue for public spending. © Steph Bravo-Semilla

Because governments believe it may boost their economy, many countries compete with each other by offering reduced tax rates relative to other countries, particularly their neighbours. This is known as tax competition and it can have a “race to the bottom” effect, eroding the tax bases of countries. Tax competition can also include other incentives such as deregulation, or removal of government controls, and other beneficial conditions to attract MNEs. So while it may appear to promote investment, it may do so at the cost of countries’ revenues.

As Oxfam noted in its report, *A Dangerous Global Race to the Bottom on Corporate Tax*: “[o]ver the last few decades, figures show that the tax contributions of large corporations are diminishing as governments compete in a race to the bottom on corporate taxation. Over the last 30 years, net profits posted by the world’s largest companies more than tripled in real terms, from USD 2 trillion in 1980 to USD 7.2 trillion by 2013. This increase has not been matched by a rising trend in corporate income tax contributions, partially because of tax havens. Ending the corporate tax race to the bottom and protecting corporate tax revenues is particularly important to developing countries. In poor countries, corporate tax revenues as a proportion of total tax revenues are twice as important as they are for rich countries... Developing countries lose... as a result of corporate tax avoidance schemes... an amount more than enough to provide an education for all of the 124 million children currently out of school, and to pay for health interventions that could save the lives of six million children.”³¹

Table 1: A Comparison of VAT and Excise Duty Rates Within the East African Community

Taxation of mobile money	TELECOM SERVICES	
	Telephone services/Electronic communications	
	VAT	Excise duty
Burundi	18%	0% (18% mobile telephone tax via megabits)
DRC	16%	10%
Kenya	16%	20%
Rwanda	18%	10%
Tanzania	18%	17%
Uganda	18%	12%
South Sudan	18%	15%

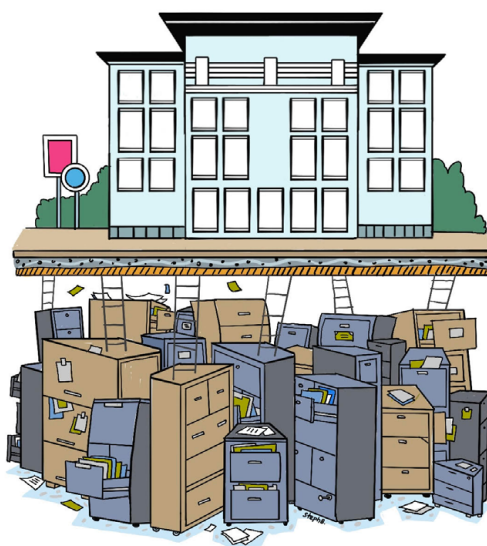
Source: International Centre for Tax & Development, September 2022

31 Oxfam, *Tax Battles: The Dangerous Global Race to the Bottom on Corporate Tax*, 12 December 2016, <https://policy-practice.oxfam.org/resources/tax-battles-the-dangerous-global-race-to-the-bottom-on-corporate-tax-620159>

To address this, there have been agreements developed at regional economic community (REC) level to standardize tax rates across a region. In the EAC for example, there have been attempts to harmonize VAT on telecommunications services/electronic communications as seen in table 1 where VAT is mostly harmonized whereas excise duty remains varied (and not harmonized).³² This lack of harmonization can bring about tax competition.

TAX HAVENS AND SECRECY JURISDICTIONS

There are countries and territories that offer incentives such as nominal to zero tax rates, and/or tax secrecy, as a way of attracting foreign direct investment (FDI). Sometimes this is driven by limited alternative opportunities to attract FDI in other ways. The establishment of such “tax havens” or “secrecy jurisdictions” is attractive for both companies and individuals wishing to avoid or evade taxation by setting up companies in these jurisdictions – as was revealed by the Panama, Paradise and Pandora papers, and other leaks.³³



Tax havens and secrecy jurisdictions: Countries and territories that offer nominal to zero tax rates, and/or tax secrecy, as a way of attracting companies/business to establish themselves there. © Steph Bravo-Semilla

32 Hannelore Niesten, “Mobile-money taxation in East Africa: Harmonisation or laissez-faire?”, 8 September 2022, International Centre for Tax & Development, <https://www.ictd.ac/blog/mobile-money-taxation-east-africa-harmonisation>

33 See International Consortium of Investigative Journalists, Investigations, <https://www.icij.org/investigations/> for details about these and others including the Swiss, Luxembourg and Mauritius leaks.

There are numerous countries and territories operating in this way, and organizations such as the Tax Justice Network have developed indexes ranking them in terms of their financial secrecy and by how much they function as tax havens, as part of efforts to regulate them.³⁴

Tax havens and secrecy are being addressed in various ways including by promoting the exchange of information between revenue authorities, promoting tax reporting by multinationals on a country-by-country basis, and promoting beneficial ownership (BO), among others.

ILLCIT FINANCIAL FLOWS (IFFS)

As seen in figure 3 below, both legal and illegal activities can produce illicit financial flows (IFFs).³⁵ There are also activities especially within tax and commercial practices which may be legal in some countries but illegal in other countries which may also be considered IFFs.

Tax abuse is one type of IFF. Taxes which are not paid because of either tax avoidance (minimizing one's tax liabilities using legal loopholes) or by tax evasion (outright not paying them) are collectively known as illicit financial flows (IFFs). IFFs can exceed what countries are able to generate from taxes.

Global Financial Integrity (GFI) estimates that between 2009 and 2018 developing countries lost USD 1.6 trillion through IFFs.³⁶ The UN Convention on Trade and Development (UNCTAD) estimates that Africa alone loses USD 88 billion annually to IFFs. UNCTAD's Economic Development in Africa Report 2020 says stopping IFFs could almost halve the annual financing gap of USD 200 billion that the continent faces to achieve the Sustainable Development Goals.³⁷

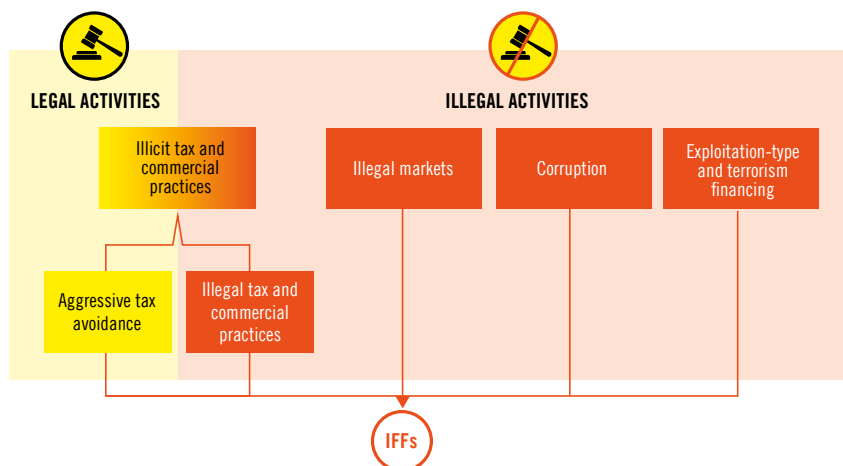
34 Tax Justice Network, Indexes & tools, <https://taxjustice.net/indexes-tools/>, "The financial secrecy index".

35 UN Office on Drugs and Crime, *Conceptual Framework for the Statistical Measurement of Illicit Financial Flows*, October 2020, https://unctad.org/system/files/official-document/IFF_Conceptual_Framework_EN.pdf, p. 13.

36 Global Financial Integrity, *Trade-Related Illicit Financial Flows in 134 Developing Countries: 2009-2018*, 16 December 2021, <https://gointegrity.org/report/trade-related-illicit-financial-flows-in-134-developing-countries-2009-2018>

37 Africa Renewal, "Africa could gain \$89 billion annually by curbing illicit financial flows", 6 October 2020, UN E-Magazine, <https://www.un.org/africarenewal/web-features/africa-could-gain-89-billion-annually-curbing-illicit-financial-flows>

Figure 3: Categories of Activities that May Generate IFFs



Source: UNODC and UNCTAD, December 2023

The UN wide definition of Illicit Financial Flows (IFFs) are flows that are illicit in origin, transfer or use, that reflect an exchange of value and that cross-country borders.³⁸

IFFs have generally been categorized in three forms: commercial, criminal and corruption, which are explained more below:

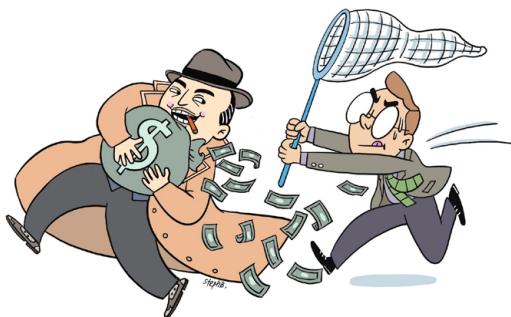
1. Commercial forms of IFFs

These comprise the legal loopholes described above to minimize one's tax liabilities including transfer pricing, treaty shopping (looking to establish a company subsidiary in a country which has a double taxation treaty with the country of the parent company) among others discussed above. These comprise the majority of IFFs. In Africa, this is estimated to comprise 65% of all IFFs. Trade mispricing, mis-invoicing, or the under-reporting of the value and/or volume of trade in goods are not criminalized in many jurisdictions.

38 UN Trade and Development (UNCTAD), Illicit Financial Flows, <https://unctad.org/statistics/illicit-financial-flows> (accessed on June 14, 2024).

2. Criminal forms of IFFs

These include tax evasion and the associated criminal earnings and/or movements of money including money laundering, proceeds of crime or abuse of power, and human and drug trafficking.



Tax evasion is an outright non-payment of taxes, which is a criminal offence. © Steph Bravo-Semilla

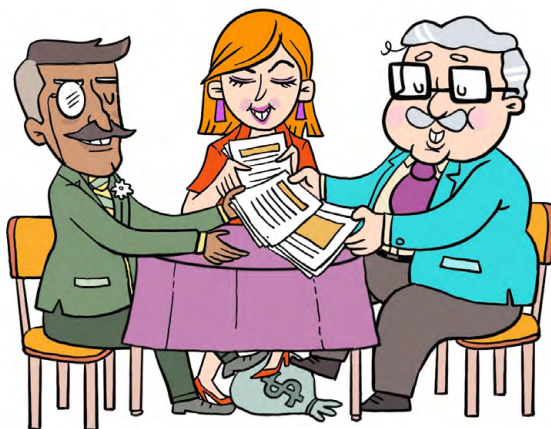
Some examples of illicit financial flows might include:³⁹

1. A drug cartel using trade-based money laundering techniques to mix legal money from the sale of used cars with illegal money from drug sales.
2. An importer using trade mis-invoicing to evade customs duties, Value Added Tax, or income taxes.
3. A corrupt public official using an anonymous shell company to transfer dirty money to a bank account in another country.
4. A human trafficker carrying a briefcase of cash across the border and depositing it in a foreign bank.
5. A member of a terrorist organization wiring money from one region to an operative in another.

39 Global Financial Integrity, Illicit Financial Flows, <https://gfintegrity.org/issue/illicit-financial-flows/> (accessed on June 14, 2024).

3. Corrupt forms of IFFs

These can include bribery, embezzlement, abuse of functions, trading in influence, and illicit enrichment and other forms of corruption as defined by the UN Convention against Corruption.⁴⁰ In relation to tax, this can include the granting of tax incentives without due process. These can be within trade and tax agreements and other fiscal policies such as loan contracts, production-sharing contracts within the extractive industries, and other contracts with the government for goods and services.



Tax and corruption: Among others, these can include bribery, embezzlement, abuse of functions, and illicit enrichment.

© Steph Bravo-Semilla

Many states and organizations focus only on illegal financial flows as opposed to all illicit flows, even if they use the term “illicit financial flows”. Tax justice activists therefore have been calling for the recognition of the commercial forms of IFFs, and not just the criminal, in order to promote greater enforcement of policies to prevent them. The UN Office on Drugs and Crime (UNODC), for example, has developed a measurement framework and methodologies to estimate illicit financial flows.⁴¹

40 UN Convention Against Corruption, <https://www.unodc.org/corruption/en/uncac/learn-about-uncac.html>

41 UN Office on Drugs and Crime, Illicit Financial Flows (IFFs), <https://www.unodc.org/unodc/es/data-and-analysis/iff.html> (accessed on June 14, 2024).

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TAXATION AND OTHER THEMATIC ISSUES

Taxation and broader fiscal policy have a bearing on a number of thematic issues relevant to advocates in the human rights movement. Below we explore a few key examples: gender equality, the climate crisis, the growth of the technology sector, debt justice and racial justice.



© Steph Bravo-Semilla

REALITY

In reality, different people have different and intersectional needs and abilities to access public goods.

EQUALITY

In equality, everyone gets the same public goods or services regardless of how that might impact an individual.

EQUITY

In Equity, people may get public goods and services relative to their needs.

JUSTICE

In Justice, systemic and structural barriers are removed so that everyone can access public goods and services relative to their needs.

TAX AND GENDER JUSTICE

To understand the impact of tax on gender justice, it is important to assess both the direct and indirect effects of taxes when implemented. For example, reducing or eliminating gender specific taxes such as taxes on menstrual products have a progressive effect as they would promote access to necessary products which would otherwise be unaffordable for many. Understanding the link between tax and gender justice also includes assessing how gender discrimination and inequality are affecting people's ability to earn, spend and produce. For instance, if there is a higher percentage of women than men in the informal sector, then both taxation and spending on public services and social protection should address this inequality. This means ensuring there is a threshold for income tax so that lower-income earners – many of whom comprise women, are taxed more fairly. This also means providing social protection for all, which would especially help groups more vulnerable to discrimination such as women both in the informal sector and the formal economy.⁴²

For the International Labour Organization (ILO), informal employment refers to working arrangements that are in practice or by law not subject to national labour legislation, income taxation or certain entitlements to social protection or other employment benefits (advance notice of dismissal, severance pay, paid annual or sick leave, parental leave and so on).⁴³

Equitable taxation and spending - or taxing and spending in a way that promotes equity, can ensure investments in public services in a way that would contribute towards reducing gender inequality. For example, by recognizing that paid and unpaid care work is usually borne by women and girls and introducing social protection measures that would address this imbalance, governments

42 International Labour Organization (ILO), *Building Back Better for Women : Women's Dire Position in the Informal Economy*, 15 September 2020, <https://www.ilo.org/publications/building-back-better-women-womens-dire-position-informal-economy>

43 ILO, *Frequently Asked Questions (FAQ): Social Protection for Workers in the Informal Economy*, https://webapps.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-beijing/documents/publication/wcms_761053.pdf

can ensure that every person has equal opportunities to pursue and develop their careers, education goals and participate meaningfully in public life.

An intersectional feminist approach to gender justice would require governments to carry out human rights impact assessments of proposed tax measures to prevent gender and intersectional discrimination, and also guarantee meaningful participation of all people affected, in the development of taxation policies. It would favour direct and progressive taxes, as well as use taxation instruments to address gender and intersectional discrimination embedded in all aspects of economic and social life.



The brunt of inequitable taxation and spending is often borne by women and girls including through unpaid care work. © Steph Bravo-Semilla

TAX AND CLIMATE JUSTICE

Ensuring states meet their human rights obligations in relation to taxation is central to addressing the climate crisis and to upholding the rights of people impacted by it. The taxation principles of resource mobilization, repricing, redistribution and reparation (in Section One) are particularly relevant and are consistent with climate justice principles such as “Common but Differentiated Responsibilities and Respective Capabilities” and “The Polluter Pays Principle”.⁴⁴

44 The “Common but Differentiated Responsibilities and Respective Capabilities” (CBDR-RC) and the “Polluter Pays” principles (respectively Principles 7 and 16) of the 1992 Rio Declaration on Environment and Development; also included in Article 3.1 of the UN Framework Convention on Climate Change (UNFCCC) and incorporated into the 2015 Paris Agreement, reinforce the responsibility for wealthy, high-emitting nations to provide adequate support to poorer, climate vulnerable nations to deal with the impacts of climate change that cannot be addressed through mitigation or adaptation (Paris Agreement, p. 1).

Taxes can be used to “reprice” activities, either disincentivizing environmentally hazardous activities – in this case, the emission of polluting greenhouse gases - or incentivizing greener forms of production and consumption. This may begin with governments simply stopping spending hundreds of billions of dollars subsidizing fossil fuel producers and consumers, including through tax breaks. Globally, fossil fuel subsidies were USD 7 trillion in 2022 or 7.1% of GDP of the 170 countries who subsidize fossil fuel.⁴⁵ This action by governments may then go on to include initiatives such as taxes on greenhouse gas emissions to influence behaviour, or tax incentives to stimulate growth in green technologies and renewable energy.

There are a range of taxes which have been proposed by states and civil society organizations including taxes on airline travel,⁴⁶ carbon-intensive bunker fuels used by ships, fossil fuel extraction, financial transactions⁴⁷ or a global carbon tax⁴⁸. Some of these are not new. Sweden’s 1991 carbon tax, for example, has been successful in reducing greenhouse gas emissions.⁴⁹

Such taxes can also be used to generate revenues to invest in realizing human rights, including to support people and countries most vulnerable to the impacts of climate change to adapt, to support the transition to a zero-carbon economy or to pay losses and damages – compensation to affected individuals and communities for unavoidable climate change harms, both economic and non-economic.

45 International Monetary Fund (IMF), Climate change: Fossil fuel subsidies, <https://www.imf.org/en/Topics/climate-change/energy-subsidies> (accessed on 17 June 2024), “Size of fossil fuel subsidies”.

46 Guardian, “Frequent flyers could face extra tax under plans to cut emissions”, 24 September 2019, <https://www.theguardian.com/uk-news/2019/sep/24/frequent-flyers-could-face-extra-tax-under-plans-to-cut-emissions>

47 Climate Action Network (CAN) Europe, *New Resources for Public Climate Finance and for the Loss and Damage Fund: Exploring Taxes and Levies at EU and Multilateral Level*, September 2023, <https://caneurope.org/content/uploads/2023/10/Public-sources-climate-finance-loss-and-damage.pdf>

48 Alize le Roux and Jakkie Cilliers, “Global carbon tax urgently needed to manage the climate crisis”, 30 April 2024, Institute for Security Studies, <https://issafrica.org/iss-today/global-carbon-tax-urgently-needed-to-manage-the-climate-crisis>

49 Roger Hildingsson and Åsa Knaggård, “The Swedish carbon tax: A resilient success”, in Caroline de la Porte and others (editors), *Successful Public Policy in the Nordic Countries: Cases, Lessons, Challenges*, 20 October 2022, Oxford Academic, <https://doi.org/10.1093/oso/9780192856296.003.0012>

Estimates for global climate finance needs for lower-income countries are varied, from a highly inadequate USD 100 billion annual target by 2020 agreed in 2009 under the UN Framework Convention on Climate Change (UNFCCC) to USD 5.6 trillion until 2030 or about USD 600 billion annually from the UNFCCC.⁵⁰ Global climate finance flows, however, were only at USD 640 billion as at 2020, and only reached the USD 100 billion target in 2022 - though much of this money was relabelled development aid and thus not new and additional⁵¹ - demonstrating the need for greater political will to ensure financial investments are allocated towards a just transition away from fossil fuels to renewable energy and to help people and communities adapt to climate change or to pay loss and damage, instead of contributing to the climate crisis. The redistribution of resources in this way would also recognize that the global top 1% of emitters are responsible for more emissions than the entire bottom half of the world's population.⁵²

When developing or analysing environmental tax policies, it is also essential to assess whether proposed taxes may increase social or economic inequalities. If not well designed, some environmental taxes may be “regressive” in that they disproportionately impact people on lower-incomes, such as taxes on household energy consumption. In such cases, a human rights impact analysis may call for such taxes to be redesigned, retargeted and/or for revenue raised to be used to compensate through other means such as enhanced social protection.

50 UNFCCC, Standing Committee on Finance, *First Report on the Determination of the Needs of Developing Country Parties Related to Implementing the Convention and the Paris Agreement*, 2021, <https://unfccc.int/topics/climate-finance/workstreams/needs-report>

51 Josh Gabbatiss, “Rich countries met \$100bn climate-finance goal by ‘relabeling existing aid’”, 30 May 2024, Carbon Brief, <https://www.carbonbrief.org/rich-countries-met-100bn-climate-finance-goal-by-relabeling-existing-aid>

52 Lucas Chancel and others, *Climate Inequality Report 2023: Fair Taxes for a Sustainable Future in the Global South*, 30 January 2023, World Inequality Lab Study 2023, <https://wid.world/news-article/climate-inequality-report-2023-fair-taxes-for-a-sustainable-future-in-the-global-south>

TAX JUSTICE AND TECH

Technology can be both good and bad for tax justice. It can facilitate better administration of taxation, but can also increase the opportunities for tax avoidance through engaging in profit shifting to pay less taxes, and can risk exclusion and discrimination.

As noted by the UN Independent Expert on foreign debt, “[a]dapting existing fiscal governance structures, including law and policy, to the changing nature of economic activity is being further complicated in an increasingly digitalized world.”⁵³ Indeed, a large impetus behind the Organisation for Economic Co-operation and Development Base Erosion and Profit Shifting (OECD BEPS) Project set up to reduce tax avoidance, included the difficulties associated with effectively taxing tech companies.

More broadly, technological developments have shifted the ways in which businesses operate, corporate profits are generated, and governments deliver services to people within their jurisdictions. The rise of business models which provide, or are based on, technological services – the creation of value and the generation of income without a physical presence and therefore the difficulty of being taxed – has called into question whether today’s taxation regime is fit-for-purpose in a globalized economy and technologically evolving world. This has been recognized by stakeholders in global tax policy making including the OECD,⁵⁴ developing countries especially in the global south, and civil society.⁵⁵

Technology (including digitalization, automation and Artificial Intelligence (AI), among others) will also increasingly be used to implement tax policy and administration including for increasing efficiency and the ease of tax administration, such as by identifying taxpayers and detecting tax fraud.⁵⁶ While these technologies may advance efficiency, they need to ensure that they also protect human rights. Human rights impact assessments, including ensuring

53 UN Independent Expert on the effects of foreign debt, Report: *Towards a Global Fiscal Architecture Using a Human Rights Lens*, 12 September 2022, UN Doc. A/77/169, p. 1.

54 OECD, *Tax and Digitalisation*, October 2018, oecd.org/tax/beps/tax-and-digitalisation-policy-note.pdf

55 UN Press, “Second Committee approves nine draft resolutions, including texts on International tax Cooperation, external debt, global climate, poverty eradication”, 22 November 2023, GA/EF/3597, <https://press.un.org/en/2023/gaef3597.doc.htm>

56 UN Special Rapporteur on poverty, Report: *Digital Welfare States and Human Rights*, 11 October 2019, UN Doc. A/74/493.

that there is no discriminatory formulae and outcomes, are critical to ensuring rights protection.

The use of technology in the administration of taxation and other social services can also be problematic in different ways (if there are no effective safeguards such as data protection), leading to privacy violations, discrimination in the administration of services, lack of transparency and unavailability of remedy. Requiring everyone to have a digital identity or online account or profile, for example, to file taxes can be digitally exclusive and may make it impossible for some people. The growing use of AI systems, without human intervention, to identify who benefits from tax-funded social services can also discriminate against those who are not registered and may need social services the most. For example, the Social Card law in Serbia was intended to enable a fairer and more efficient delivery of social assistance by introducing technology into the social assistance system. Its operationalization only exacerbated pre-existing gaps and further restricted people's access to social security.⁵⁷

TAX, DEBT AND RACIAL JUSTICE

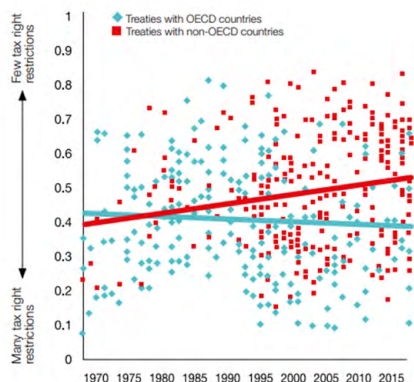
Inequalities between and within countries are often rooted in racism and historic colonial exploitation – and are perpetuated by global financial systems including those facilitating tax abuse such as unequal double taxation agreements (DTAs) and tax havens and continued exploitative and extractive agreements including in relation to mining. Many heavily-indebted lower-income countries are in this position because of these historic injustices, with the global tax system deepening inequities among countries, and access to credit and other palliative mechanisms being offered with onerous conditions. The financial set-ups of small island states like Bermuda and Barbados, as tax havens, for example, occurred at the end of colonialism to move monies away from newly independent countries to British dependencies.⁵⁸

57 Amnesty International, *Trapped by Automation: Poverty and Discrimination in Serbia's Welfare State* (Index: EUR 70/7443/2023), 4 December 2023, <https://www.amnesty.org/en/documents/EUR70/7443/2023/en>

58 Kristine Sævdal, *Tax Havens of the British Empire: Development, Policy Responses, and Decolonization, 1961-1979, 2022*, Thesis for the degree of Philosophiae Doctor, University of Bergen, Norway, <https://bora.uib.no/bora-xmloi/bitstream/handle/11250/3033912/archive.pdf?sequence=1>

Tax treaties (also known as double taxation agreements) between low-income countries and OECD countries, have been shown to limit taxing rights for low-income countries - see figure 4.⁵⁹ This means that they allocate more taxing rights or the ability to tax to OECD countries than to low-income countries and the latter therefore lose out on revenues that could have been generated from these taxes. This highlights the need for a truly inclusive and fair global tax treaty to ensure that taxing rights are more equitable between low-income and high-income countries.

Figure 4: The Allocation of Taxing Rights Between OECD and Non-OECD Countries



Source: ActionAid, February 2016

In one example, when King Leopold II of Belgium, ruled the Congo Free State as his personal colony from 1885 to 1908, he financed it through loans worth over USD120 million (at the time) before he was able to make it profitable through the export of ivory and rubber and the exploitation of the Congolese people.⁶⁰

While Belgium purchased the colony from Leopold in 1908 (it remained a colony until independence in 1960), the debts remained to be paid by the Congolese people, requiring them to pay through taxes to the government of Belgium – effectively paying for being exploited. This historical debt should also be considered in light of the money that Leopold and Belgium earned/ generated on the extraction and sale of resources from Congo – from which the Congolese people did not receive any benefit.

59 ActionAid, *Mistreated: The Tax Treaties that Are Depriving the World's Poorest Countries of Vital Revenue*, 23 February 2016, <https://actionaid.org/publications/2016/mistreated#downloads>, p. 14.

60 Joseph Blocher and others, "King Leopold's bonds and the odious debts mystery", 2020. Virginia Journal of International Law, Duke Law School Public Law & Legal Theory Series Number 2019-59, available at <https://ssrn.com/abstract=3437528>



Demands for tax and racial justice can ensure that inequalities rooted in racism and colonial exploitation are remedied. © Steph Bravo-Semilla

Taxation systems and fiscal policy measures at large can reinforce historic and ongoing inequalities and lead to further racial discrimination. However, by contrast, if used for reparative and redistributive means, they can also redress historical injustices. A global tax treaty sponsored by the UN should provide for fairer and more equitable taxation rules as well as the ability of every country to participate equally in global tax policy.

A lot of the extraction of natural resources,⁶¹ or the production and exportation of specific commodities⁶² including industrial monoculture,⁶³ at the expense of local and Indigenous farming communities or small-scale subsistence farms (including through forced evictions), the imposition of certain loan conditionalities and whether or not debt relief is granted, among other fiscal injustices, are rooted in racialized fiscal policies.

Economic policies at the national and international levels need to recognize the role of racism, colonialism and power imbalances at the root of many historical and present policies, and the need to address this when developing, reviewing and implementing policy both with respect to taxation reform and debt restructuring. International Financial Institutions (IFIs) such as the World Bank and International Monetary Fund (IMF), have great influence in global economic policy; they make use of traditional economic development theories such as industrialization, which rely disproportionately on promoting economic growth often at the expense of human rights.⁶⁴ As we undertake economic justice advocacy, one of the ways to ensure human rights realization is through the establishment of a global tax body to promote more inclusive and effective international tax cooperation where every state can meaningfully participate on an equal footing, instead of the current status quo where a small group of wealthy countries hold exclusive membership and make global decisions.

61 UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Report: *Global Extractivism and Racial Equality*, 14 May 2019, UN Doc. A/HRC/41/54.

62 Carmen Gonzalez, "Markets, monocultures, and malnutrition: Agricultural trade policy through an environmental justice lens", 2006, 14 MICH. ST. J. INT'L L. 345, <https://digitalcommons.law.seattleu.edu/faculty/569>

63 FIAN International, *Monocultures and Human Rights: Guide for Documenting Violations of the Right to Adequate Food and Housing, to Water, to Land, and Territory Related to Monocultures for Industrial Agriculture Production*, 8 June 2009, <https://www.fian.org/en/publication/article/monocultures-and-human-rights-436>

64 ActionAid International, *Fifty Years of Failure: The IMF, Debt and Austerity in Africa*, 6 October 2023, <https://actionaid.org/publications/2023/fifty-years-failure-imf-debt-and-austerity-africa#downloads>

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HOW TO START RESEARCH, ADVOCACY AND CAMPAIGNING ON TAX JUSTICE

This section is intended to provide guidance when thinking about what research, advocacy and campaigning you could do on the link between taxation and human rights.

HOW DO I ANALYSE THE TAX SYSTEM WHEN RESEARCHING PARTICULAR HUMAN RIGHTS ISSUES?

When you are looking at the realization of any right, particularly its fulfilment, there are naturally questions of resource allocation that will be asked. In this context, it would be helpful to look at the tax system and what part it plays in whether the state is using its maximum available resources. Assessments of the tax system should consider issues of gender or racial justice and assess ways in which tax systems disadvantage particular groups and communities.

When looking at economic crises and their impacts on human rights, including the introduction of austerity measures and the lack of social protection for particular groups such as women, racialized communities and others, or when looking at the human rights impact of a particular tax system on specific groups, you may wish to consider the following questions and to look at previous Amnesty International reports.⁶⁵



65 See, for example, Amnesty International, *Wrong Prescription: The Impact of Austerity Measures on the Right to Health in Spain* (Index: EUR 41/8136/2018), 24 April 2018, <https://www.amnesty.org/en/documents/eur41/8136/2018/en>; Amnesty International, *Strangled Budgets, Silenced Dissent: The Human Cost of Austerity Measures in Chad* (Index: AFR 20/8203/2018), 16 July 2018, <https://www.amnesty.org/en/documents/af20/8203/2018/en>; Amnesty International, *Resuscitation Required – The Greek Health System After a Decade of Austerity* (Index: EUR 25/2176/2020), 28 April 2020, <https://www.amnesty.org/en/documents/eur25/2176/2020/en>; Amnesty International, “We Are Near Total Breakdown”: *Protecting the Rights to Health, Food and Social Security in Sri Lanka’s Economic Crisis* (Index: ASA 37/6052/2022), 4 October 2022, <https://www.amnesty.org/en/documents/asa37/6052/2022/en>

IS THE STATE USING ITS TAX BASE TO EFFECTIVELY ENHANCE ITS MAXIMUM AVAILABLE RESOURCES?

Here you are aiming to assess whether a government is mobilizing its maximum available resources through taxation and other ways of raising revenue, in order to fulfil human rights in the country.

Indicators for this include looking at the tax-to-GDP ratio – that is what percentage of tax is being generated relative to overall economic output. You can also look at employment level, sources of revenue and how an economy is structured namely which sectors generate the most revenues.

Linked to this, you could also look at whether resources are being lost. For example, what kinds of incentives including tax exemptions exist? Who benefits from them? Are these incentives justified? Are they for set periods of time or forever? Do they undergo cost-benefit analyses and periodic reviews? Do they undergo legislative approval or are they discretionary? Are the beneficiaries and the amounts foregone published? Are any taxes ring-fenced (meaning that they are allocated for a specific purpose)?

This kind of information can be found in Income Tax Acts but also in tax, trade and investment agreements. In the extractive industry, they may be found in production sharing contracts.

You could also look at debt and how much interest and debt principal repayment (often collectively called debt service costs) comprises a country's total budget, total economic output (or GDP) or how much it compares to total tax revenue. Debt itself is not necessarily problematic provided it is sustainable. What matters is what debt is spent on, the ability of a government to repay the debt, and the extent to which – either because of loan conditions or government decisions – it limits fiscal space for spending on rights realization. Generally, debts/loans should be used for investments/development expenditure such as infrastructure, which will bring longer-term returns and benefits. This ensures that future generations will still be using or gaining from this expenditure, as well as paying it back.

WHO IS BEARING THE BURDEN OF TAX?

To evaluate whether a tax system is regressive or progressive, whether it discriminates against specific groups, and whether it supports substantive equality, it is necessary to see who pays how much tax.

One way to do that is to look at the proportion of revenues that are generated from direct versus indirect taxes, as well as whether more tax revenues are generated from companies or by individuals.

Direct taxes are generally considered progressive, meaning they promote equity by distributing income and wealth because they directly tax people (individuals and companies) more (at a graduated rate) if they have more – this is the proportional tax rate referred to in Section One.

Indirect taxes are *generally* considered to be regressive because they are applied to everyone regardless of their ability to pay. A 16% VAT on bread, for example, means that everyone buying bread will pay the same price for bread, inclusive of the 16% VAT, regardless of whether they have a high- or low-income.

If more tax revenues are generated from indirect taxes than from direct taxes, it is a good indication that the burden of taxation is likely to be falling more heavily on low-income groups.

However, it is also important to contextualize discussions around progressive versus regressive taxes. While taxes on the consumption of basic goods or services do tend to be regressive, some low-income countries may lack sufficient capacity to implement and collect more progressive but complicated taxes such as those on income or wealth and services, which apply regardless of one's ability to pay, whilst ensuring their impact on the poorest are mitigated through social protection measures or zero-rating of basic items, and at the same time developing the capacity of the tax administration.

Further, you can consider whether specific groups are either being advantaged or discriminated against. You can look at specific taxes and how they affect different groups. For example, are menstruation products, assistive devices for persons with disabilities or unprocessed foods (such as fruits and vegetables) exempted? Do specific sectors or industries which may need protection from global competition receive exemptions? These can be found in the Income Tax Acts, Excise Duty Acts, and budget speeches, among others. You can also look at environmental taxes, windfall taxes, profit taxes or tax exemptions and assess who they really benefit – the rich or disenfranchised groups? During the Great Depression in the USA in the 1930s for example there were many measures put in place to promote domestic production and employment including taxes and duties (or tariffs) on imports and subsidies.⁶⁶

WHO IS HIDING FROM PAYING TAXES?

Transparency is critical to ensuring fair policies and government accountability. It may be important to ask whether there are laws promoting transparency, accountability and public participation in the country. Is there a Right to Information law? Is there a Beneficial Ownership law (usually found within the Companies Acts, requiring the ultimate owner, controller or beneficiary of a company to reveal themselves)? Is the country genuinely cooperating with international tax cooperation measures? Such as sharing tax information with other tax administrations? Are companies reporting on the taxes they pay in a comprehensive way that can be seen country by country? Or are governments only seeing part of the picture (in terms of a MNC's global profits)? Is there a revenue authority and how is it governed? What is being published on corruption and IFFs?

66 Mario J. Crucini and James Kahn, *Tariffs and the Great Depression Revisited*, September 2003, Federal Reserve Bank of New York Staff Reports, Number 172, https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr172.pdf

WHAT ARE REVENUES BEING SPENT ON?

It is important to ask how taxes are being raised, and also how they are being spent. If taxes are being used to invest in public services such as health, education, social protection, this is likely to benefit lower-income people more. But if taxes are used to benefit the wealthy more than those with low-income (such as through tax exemptions or reduced rates for goods and services primarily consumed by the rich), then they can have a regressive effect in the way taxes are spent – even if the way taxes were collected was progressive.

It is also possible that regressive taxes such as VAT, which can impact low-income people more, can be made more progressive if the revenue raised is then spent in ways that support this group.

It is useful, therefore, to ask how much of the national budget is being spent on social sectors such as health, education or social protection, and what is capital versus recurrent expenditure. Assessing what is sufficient may be context dependent, but you can consider regionally and internationally developed benchmarks in different sectors that many states have signed up to. For example, the Incheon Declaration sets a benchmark to spend 20% of budgets (or 4-6% of GDP) on education financing,⁶⁷ states signing the Abuja Declaration committed to spend 15% of budgets on health,⁶⁸ those signing the Maputo Declaration committed to spending 10% on agriculture,⁶⁹ the Social Policy Framework for Africa called for 4.5% of budgets to be spent on social protection,⁷⁰ and the eThekweni Declaration called for 0.5% of GDP to be spent on sanitation and hygiene,⁷¹ even though research has shown that in order to

67 UNESCO, Education 2030: Incheon Declaration and Framework for Action for the Implementation of Sustainable Development Goal 4: Towards Inclusive and Equitable Quality Education and Lifelong Learning for All, 2016, <https://unesdoc.unesco.org/ark:/48223/pf0000245656>

68 African Union (AU), Abuja Declaration on HIV/Aids, Tuberculosis and Other Related Infections Diseases, April 2001, OAU/SPS/ABUJA/3, <https://au.int/sites/default/files/pages/32894-file-2001-abuja-declaration.pdf>

69 Assembly of the African Union, Declaration on Agriculture and Food Security in Africa, 10-12 July 2003, Assembly/AU/Decl. 7 (II), https://au.int/sites/default/files/decisions/9548-assembly_en_10_12_july_2003_auc_the_second_ordinary_session_0.pdf

70 African Union, Conference of Ministers in Charge of Social Development, Social Policy Framework for Africa, 27-31 October 2008, CAMSD/EXP/4(I), https://au.int/sites/default/files/documents/30218-doc-social_policy_framework_for_africa_-_final_-_18_nov_2008.pdf

71 African Minister's Council on Water (AMCOW), The eThekweni Declaration and AfricaSan Action Plan, February 2008, <https://knowledgehub.amcow-online.org/resource/the-ethekweni-declaration--and-africasan-action-plan>

achieve water sustainability, most countries must spend between 2 – 8% of their GDP on water.⁷²

Of course, just having a budget line is not enough – it is important to know if, how well and where the money is being spent – but budget figures are a useful indicator and start.

All states in a position to do so, especially high-income countries, also have obligations to provide international assistance including aid and climate finance.⁷³ In 1970, it was decided at the United Nations General Assembly (UNGA) that high-income states should allocate 0.7% of their gross national income to development assistance or aid (ODA)⁷⁴ – though only six countries have ever reached this target.⁷⁵

IS THERE ADEQUATE PUBLIC PARTICIPATION?

In a landmark case between the Tax Justice Network Africa v AG and others,⁷⁶ the High Court of Kenya decided that a double taxation treaty between Kenya and Mauritius could not stand because there was inadequate public participation including the lack of a discussion in parliament. As highlighted above in the principles of public finance, as well as in line with human rights standards, public participation, transparency and accountability are necessary elements of a fair and just tax system and policies.

72 Colin Strong and others, *Achieving Abundance: Understanding the Cost of a Sustainable Water Future*, 2020, World Resources Institute, Working paper, <https://files.wri.org/d8/s3fs-public/achieving-abundance.pdf>

73 United Nation Climate Change, Introduction to Climate Finance, <https://unfccc.int/topics/introduction-to-climate-finance> (accessed on 19 June 2024).

74 UN General Assembly (UNGA), Resolution 2626, adopted on 24 October 1970, A/RES/2626(XV)..

75 Development Initiatives, “Factsheet 0.7% aid target”, <https://devinit.org/wp-content/uploads/2013/08/Factsheet-0-7%25.pdf>

76 High Court of Kenya, *Tax Justice Network - Africa v Cabinet Secretary for National Treasury & 2 others*, Petition No. 494 of 2014, <https://kenyalaw.org/kenyalaw/cases/view/169664>

WHERE DO I FIND THE INFORMATION THAT I NEED?

(A NON-EXHAUSTIVE LIST)

GOVERNMENT SOURCES

1. In the country budget/ Ministry of Finance/ parliamentary budget office websites
2. IMF and World Bank websites: <https://www.imf.org> and <https://www.worldbank.org> – these provide a lot of details on the economic statuses of countries and regions – the Article IV report is usually the most comprehensive overview of a country and often includes additional documentation such as loan schedules and debt sustainability assessments
3. OECD: <https://www.oecd.org> – this may be used as an alternative source of data where other websites do not have enough information
4. UN websites especially agencies such UNICEF, UNDP, UNDESA, United Nations Economic Commission for Africa (UNECA), United Nations Economic Commission for Latin America and the Caribbean (UN ECLAC), Economic Commission for Asia and the Pacific (UN ESCAP), United Nations Office for Drugs and Crime (UNODC)
5. African Union: <https://au.int/>
6. African Tax Administration Forum (ATAF): <https://www.ataftax.org/> - provides a wealth of reports related to taxation in Africa
7. Collaborative African Budget Reform Initiative (CABRI): <https://www.cabri-sbo.org/en/>
8. Regional Development Banks including Asian Development Bank (ADB), African Development Bank (AfDB), European Bank for Reconstruction and Development (EBRD), Development Bank of Latin America (CAF)
9. European Union Transparency Directive

NON-GOVERNMENT SOURCES

1. Extractive Industries Transparency Initiative (EITI): <https://eiti.org/>
2. Fair Financing International: <https://www.fairfinanceinternational.org> - looks at the commitment of banks and other financial institutions to social, environmental and human rights standards
3. Fair Tax Mark: <https://fairtaxmark.net/why-get-the-fair-tax-mark> - assesses responsible tax conduct
4. Fair Tax Monitor: <https://maketaxfair.net> - assesses the fairness of country tax systems
5. Financial Transparency Coalition: <https://financialtransparency.org/> - coalition of CSOs working on transparency and illicit financial flows
6. Financial Action Task Force: <https://www.fatf-gafi.org/> - documents its work on financial integrity
7. Global Financial Integrity (GFI): <https://gfindegrity.org/> - works on IFFs
8. Global Initiative Against Transnational Crime: <https://globalinitiative.org/>
9. International Consortium of Investigative Journalists (ICIJ): <https://www.icij.org/> - a global network of 280 investigative journalists in more than 100 countries who collaborate on in-depth investigative stories including the Panama Papers, Paradise Papers, Pandora Papers among others
10. Publish What You Pay: <https://pwyp.org/> – requires companies in the extractive sector to report their payments to governments and governments to disclose how much revenue they receive.
11. Tax Justice Network: <https://www.taxjustice.net/> - publish annual reports on the state of tax justice globally including indices on financial secrecy and corporate tax haven
12. Tax Justice Network Africa: <https://taxjusticeafrica.net/>

13. ODI: <https://odi.org/en/>
14. International Budget Partnership (IBP): <https://internationalbudget.org/>
15. Publish What You Fund: <https://www.publishwhatyoufund.org/>
16. Oxford Policy Management (OPM): <https://www.opml.co.uk/>
17. Global Initiative for Fiscal Transparency (GIFT): <https://fiscaltransparency.net/>
18. Public Expenditure and Financial Accountability (PEFA): <https://www.pefa.org/>
19. Transparency International: <https://www.transparency.org> – undertakes work on anti-corruption

WHAT KIND OF INFORMATION SHOULD I BE LOOKING AT?

1. Tax to GDP ratio
2. Tax to revenue ratio
3. Debt to GDP ratio
4. Budget allocation relative to total budget for social services, for example, health, education and social protection
5. Trends in the above across time periods or relative to regions or economic size
6. Government spending reports or public expenditure reviews
7. Auditor-General reports
8. Parliamentary budget committee reports
9. Tax expenditure reports or listings of tax incentives (from governments)
10. Finance Bills – which items are moving from the exempted or zero-rated lists to % of taxes list and vice versa

11. Double taxation agreement (DTA) registers
12. Debt registers
13. Debt sustainability assessments
14. Cost-benefit analysis reports
15. Economic, Social and Governance, human rights impact assessment reports by corporates and states
16. Thematic reports such as on tax and gender, tax and racial justice, tax and extractives and so on.

WHO ELSE IS WORKING ON TAX JUSTICE? (A NON-EXHAUSTIVE LIST)

Within broader fiscal policies and cycles there are groups working on revenue generation (such as the Africa Tax Administrators Forum or ATAF, the Tax Justice Network or TJN), groups working on adequate budgetary allocations (such as the Centre for Economic and Social Rights) and how allocations are spent (include the International Budget Partnership or IBP), groups working on debt which also intersect with tax include the European Network on Debt and Development (EURODAD), the Latin American Network on Economic and Social Justice (LATINDADD), the African Forum and Network on Debt and Development (AFRODAD) and the Asian Peoples Movement on Debt and Development (APMDD). Within these networks you may find several other NGOs, trade unions and faith-based groups working on fiscal justice such as the International Trade Union Congress (ITUC), Public Services International (PSI), Oxfam, Action Aid, Christian Aid, Tax Justice Network Africa, Transparency International, among others.



In relation to IFFs, the German Development Cooperation (GIZ) does a lot of work on good governance including IFFs and audits and the Global Financial Integrity (GFI) <https://gfintegrity.org/> specializes in IFFs.

For a comprehensive list of civil society actors working on tax justice see this mapping by IBP here: Dataset for global scan of civil society work on taxation, <https://internationalbudget.org>.

For a documentation of civic actors working on tax justice, see also this report by the International Budget Partnership: Pablo de Renzio and Jason Lakin, *A Taxing Journey: How Civic Actors Influence Tax Policy – Lessons from Seven Civil Society Engagement*, December 2020, <https://internationalbudget.org/wp-content/uploads/tax-synthesis-december-2020.pdf>.

Various UN bodies are also working on several aspects of fiscal justice including UNDP in relation to tax justice and IFFs, UNODC in relation to criminal forms of IFFs and asset recovery, ECOSOC through its financing for development (FFD) work and regional bodies including the UN Economic Commission for Africa (UNECA), UN Economic and Social Commission for Asia and the Pacific (UNESCAP) and UN Economic Commission for Latin America and the Caribbean (ECLAC).

ADVOCACY/CAMPAIGNING OPPORTUNITIES

The following are policy, advocacy and campaigning opportunities related to public finance at the national, regional and global levels which activists are engaging in:

1. Budget-making processes at the national level – the budget cycle for countries takes place throughout the year and you can intervene at each stage; when it is being developed, when projects are being implemented and during the reporting and auditing stage. There are often calls for citizen engagement at each stage and where there are not opportunities to engage, you can advocate for these to happen!
2. Review of audit reports at the national level, for example, by the auditor general, parliamentary accounts committees and others – these are great opportunities to check whether budgets have been implemented as they had been planned to be and where there are discrepancies, how these can be improved or addressed.
3. Policy development processes at the national level including the development of the annual Finance Acts and other national laws and policies including those related to DTAs, International Financial Centres, Income Tax Acts (which include tax incentives) – these opportunities to assess whether fiscal policies are being developed for the collective benefit of everyone or whether they discriminate against certain groups including women and lower-income groups, among others.
4. Regional and global processes, for example, the development of the UN Tax Convention – there is currently a process to develop a tax convention to promote effective and inclusive tax cooperation at the UN.⁷⁷ Regional groupings have been coordinating to strengthen their positions including the Africa Group which led and tabled the resolution at the UN General

⁷⁷ See UN Department of Economic and Social Affairs, Financing for Sustainable Development, <https://financing.desa.un.org/what-we-do/ECOSOC/tax-committee/tax-committee-home>

Assembly calling for a UN Tax Convention.⁷⁸ Likewise, countries in Latin American and the Caribbean, developed Plataforma Regional de Cooperación Tributaria para América Latina y el Caribe (PTLAC), the platform to cohere regional initiatives towards addressing tax abuse.⁷⁹

5. UN Treaty bodies and Special Procedures – the UN provides opportunities for CSOs to engage with its treaty body reporting system and special procedures including under the Committee on Economic, Social and Cultural Rights (CESCR) and Universal Periodic Review (UPR) respectively.
6. Public interest litigation – the process and/or substance of a fiscal policy can be challenged in court.
7. Annual meetings of development banks, G20, G7, World Economic Forum (WEF), or on sector themes like climate, education, among others.

78 UNGA, Promotion of inclusive and effective international tax cooperation at the United Nations, adopted on 22 November 2023, UN Doc. A/C.2/78/L.18/Rev.1.

79 UN Regional Platform for Tax Cooperation for Latin America and the Caribbean, <https://www.cepal.org/en/ptlac>



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Double taxation treaty shopping
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Governments use tax to ensure sustainable funding for social programmes, and for public investments to promote equitable growth and development. Taxation is thus an essential element of a government's ability to implement its policies and programmes. Tax matters for human rights because taxes are one of the key ways resources are raised to realize human rights. This guide is intended for researchers and campaigners within Amnesty International and for anyone who may want to better understand the link between taxation and human rights, and to carry out and/or support research, advocacy and campaigning for an equitable tax system nationally and internationally.