ESSAYS

WOMEN'S RIGHTS AND FISCAL JUSTICE

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• *Why tax policy must be dealt with by the feminist movement* •

ABSTRACT

This article makes the case for tax policy to be considered from a human rights perspective. In a context of increasing economic inequality and austerity programmes cutting back on services and social protection measures, it is critical for human rights advocates to take up tax as an issue for the full realisation of human rights. In particular, given the gendered consequences of lack of funding to realise human rights, tax policy is of particular importance to women's rights advocates and feminists globally. Whether it is the impact of indirect taxes on women's income, how tax policy influences labour market participation for women or the consequences for women's rights of large scale corporate tax dodging, our advocacy would benefit from a deeper understanding of tax as human rights issue.

KEYWORDS

Tax justice | Women's rights | Development

1 • Tax and human rights are closer than you think

Over the past eight years tax has become a mainstream development issue. The perfect storm of austerity, scandals of corporate tax dodging in the North and South, rampant privatisation of essential services and an increased polarisation in matters of economic policy have all contributed to make tax emerge from the abyss of obscure technicality, which seems to be its natural habitat. The post 2015 process has also helped to rally part of civil society around tax. In fact, the complex, ambitious agenda of the Sustainable Development Goals (SDGs) and its universal nature call for a new approach towards financing sustainable development. And then there is reality: we live in a post aid world where tax revenue is dwarfing aid as a source of development finance. For example, in 2012, total tax revenue collected in Africa was ten times the volume of development assistance.[1]

However, many human rights advocates are still wary of dipping their toes into the world of tax. But they should, because engaging with matters of tax offers a great opportunity to bring the question of how to realise human rights to the forefront as well as offering innovative ways to promote human rights accountability. In this article I explore particularly the links between tax, women's rights and gender justice. This is borne out of my experience as a feminist working in a large United Kingdom (U.K.) based international non-governmental organisation with the task of mainstreaming gender analysis into long established tax justice policy and advocacy work. In my work, gender mainstreaming went hand in hand with trying to forge and strengthen relationships between women's rights organisations and the global tax justice movement.[2] I strongly believe that we need to cross-fertilise our movements and work together to reverse the erosion of human rights caused by the current dominant economic policy.

International human rights instruments for the promotion of women's rights are well established. In ratifying the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), 189 countries have committed to use all appropriate measures to realise the human rights of women. However, progress on the realisation of women's rights has been "slow and uneven", as defined by the Executive Director of U.N. Women, Phumzile Mlambo-Ngcuka, while commenting on the results of the progress reviews undertaken for the 20th anniversary of the Beijing Declaration and Platform for Action, a global blueprint for the realisation of women's rights.[3] While many progressive equality laws have been passed over the past 20 years, lack of financial resources committed for implementation has been one of the main causes of slow progress. U.N. Women's analysis of selected National Action Plans for gender equality has found financing gaps of up to 90%.[4] Funds are necessary to realise all those things that are necessary to advance gender justice such as refuges for women fleeing domestic violence, maternal health care clinics, low carbon decentralised energy, vocational training etc.

This is where tax comes in. As countries graduate to middle-income status and levels of aid decrease, the question of how to raise adequate resources for the realisation of women's rights is shifting from a donor/recipient one to a structural one, which calls into question the global financial system and those who rule it. Even after the adoption of Agenda 2030, which calls for improving essential services, social protection measures and infrastructure, amongst other things, countries in both the Global North and South are pursuing austerity policies. A recent International Labour Organization (ILO) review of government spending trends, based on data from the International Monetary Fund (IMF), highlights the negative consequences on human development of a range of policy measures adopted by the majority of governments in both the North and South, since 2011. In particular, excessive fiscal contraction is projected to continue until 2020 affecting 80 per cent of the world's population, with sub-Saharan Africa one of the most affected regions. If these policies are implemented the result will be an estimated loss of five per cent of global GDP and 12 million jobs. In particular, 93 developing countries are considering raising consumption-based taxes, such as value added tax (VAT), which can have a disproportionate impact on women living in poverty.[5] It is concerning that governments are concentrating on such a regressive measure instead of pursuing progressive tax reform, at the national and international level, in a manner consistent with the commitments of the SDGs.

We cannot say such questions have always been at the forefront of the women's rights movement but it is time to make financing a mainstream feminist issue. And as we fight for the realisation of women's rights and gender equality we need to look very closely at tax.

While human rights do not necessarily present governments with a programme of macroeconomic policy, they are not silent as to what the outcomes of economic policy should be. Article 2.1[6] of the International Covenant on Economic, Social and Cultural Rights (ICESCR) calls for states to mobilise maximum available resources for the progressive realisation of human rights. The former U.N. Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona, collected evidence of how tax policy in many countries hinders the realisation of human rights. In her 2014 report on Fiscal Policy and Human Rights she highlights the need to "[i]nclude a commitment to align fiscal policy with human rights obligations as part of the post-2015 sustainable development framework, including by raising sufficient public revenue in equitable ways, allocating and spending revenue to realize human rights for all, and strengthening public oversight, transparency, participation in and accountability over fiscal policy, tackling tax evasion and illicit financial flows."[7]

When we think about tax from a human rights perspective we think about its four functions, the so-called 4 Rs: resourcing, redistribution, representation and re-pricing. Each is a potentially powerful channel for tackling inequality. Resourcing through tax revenue provides for accessible and high-quality public services, redistributing ensures that income and wealth are shared more fairly, representation increases the voice and power of disadvantaged women and men in fiscal and political affairs, while also strengthening the accountability of those in power. Finally, it is possible to shape positive and negative incentives through re-pricing goods and services and correcting market distortions. Thanks to its functions, tax can be a powerful tool to realise substantive equality.

By and large, tax justice campaigners have focused on the impact of tax on income inequality, but there is a growing movement of researchers, advocates and activists mobilising to highlight the ways in which tax policy is gendered and can therefore promote or hinder the realisation of women's human rights and gender equality.

2 • Tax is a gendered issue and matters for women's rights

In most countries women are overrepresented among those on low incomes, and there is a solid body of research showing that the weakening of the fiscal state over the last 30 years has in turn unfairly disadvantaged lower income groups. Women are affected by tax in specific ways because of their employment patterns, including wages, their share of unpaid care work, consumption patterns and property and asset ownership.

Women perform two-thirds of unpaid care work globally. This includes caring for children, the sick and the elderly as well as domestic chores such as cooking, cleaning and fetching water and firewood. Due to the disproportionate share of unpaid care that they are responsible for, women tend to enter and exit the labour market at different times of their lives. When they work, they earn less than men - globally between 60 and 75 per cent of men's wages - and tend to be clustered in low-pay precarious work, such as paid care work. Social norms and legislation that favour men in owning and transmitting the ownership of property and assets often deprive women of a fair share of wealth. Those women at the bottom of the income scale may not pay taxes on their income but still pay indirect taxes such as VAT or sales tax, as well as being excluded by benefits afforded through the tax system. For example, women might not work enough during their lifetime to be able to access contributory based pension systems, which exposes them to poverty later in life. In countries where the tax system is particularly regressive, women living in poverty shoulder a disproportionate burden of tax. For example, in Brazil it is estimated that black women, one of the most deprived groups, end up shouldering the highest tax burden.[8]

Those countries that still have regimes with joint taxation for spouses or partners tend to disadvantage the lowest earners (in the case of heterosexual couples, usually the woman) and disincentivise women's paid work, while reinforcing stereotypes about a woman's income being secondary to that of the male breadwinner, and to her unpaid care work. Within the context of the widespread gap between women's and men's wages and their employment rates, income tax provisions can further discourage women from taking up paid work when tax allowances for dependants favour a stereotypical male breadwinner model. In Morocco, for example, the tax allowance for dependents is automatically assigned to men; working women have to legally prove they are head of the household before being able to file for the allowance. In addition, as these benefits rarely keep up with the cost of care services such as crèches, their effectiveness is limited and it is thus "cheaper" to outsource the care responsibilities to women and make them stay at home. It is important to understand how gender bias intersects with class and marital status. For example, in the U.K. evidence is emerging of how single mothers are the group most affected by austerity policies as they see their tax credits slashed while at the same time services are being cut.[9]

The amount of tax revenue that is raised overall also affects women in gender-specific ways. Women tend to rely more on public services, which struggle after years of regressive budgetary cuts. Regressive taxation regimes with high rates of VAT or sales tax impact women's incomes particularly harshly, as they tend to be the ones buying food, clothes and other basic goods for the household. In the majority of countries an essential item for women such as sanitary products carry high rates of VAT. Meanwhile, wages are often taxed at a higher rate than wealth and the incomes of trans-national corporations and high-net worth individuals are allowed to escape overseas to secrecy jurisdictions, also known as tax havens. As white rich men are overwhelmingly more likely to accumulate wealth, own property, and be corporate CEOs and shareholders – it is women at the bottom of the economy that are paying for a broken system. Tax policy, as with all economic policy, operates within a world built on gender, race and class inequality. This and its potential to reverse inequalities are compelling reasons for human rights advocates to embrace tax as part of their struggle.

3 • Why feminists should care about corporate tax

2015 was a momentous year for feminists and women's rights advocates around the world. We worked hard to ensure that the SDGs had gender equality at their heart in order to set the world on the right track to accelerate progress towards gender equality. And accelerate progress we must – the national, regional and global reviews undertaken for the 20th anniversary of the Beijing Declaration and Platform for Action have shown that, despite increased legislation for equality in many countries around the world, progress has been slow and uneven.

In March 2016 member states and activists gathered in New York for the Commission on the Status of Women, the annual meeting tasked with advancing the realisation of the Beijing Platform for Action. The theme under discussion in 2016 was the implementation of the SDGs. One recurring question throughout the process, asked on countless panels, was "what can corporations do for gender equality?" The list is long, from ensuring equal pay for women employees to respecting rights at work and ensuring freedom of association to promoting women into leadership positions and tackling discrimination and gender based violence in the workplace. However, there is another thing that corporations can do to support women's rights and progress towards gender equality: paying a fairer share of tax in the countries in which they operate and stop lobbying for tax breaks.

Global tax rules have not kept pace with the nature of globalised trade, 80 per cent of which now takes place within transnational corporations.[10] Transnational corporations are global conglomerates seeking to maximise profit through a coordinated strategy. However, for tax purposes they are treated as individual companies. This creates a series of loopholes that allow different parts of a company to trade goods and services at artificially inflated prices and post profits to those jurisdictions, known as tax havens, which have the lowest or even a zero tax rate, to minimise their tax liability. So both outdated rules and the global network of secrecy jurisdictions facilitate tax dodging. Financial wealth held in tax havens from corporations as well as by wealthy individuals is estimated to be worth US$ 170 billion in lost tax revenue each year.[11] In addition to the ability of minimising their tax bills, corporations have been enjoying a steady reduction in corporate tax rates: according to KPMG, the international accountancy firm, the average corporate income tax rates worldwide reduced from 38 per cent in 1993 to 24.9 per cent in 2010.[12] Corporates are only one of the taxpayers that developing countries need to collect more revenue from, but they are a critical one. According to the IMF, corporate income tax makes up 16 per cent of government revenue in developing countries compared to just over 8 per cent in high income countries.[13]

As already discussed, the immediate consequence of tax dodging for women's rights is a lack of resources to implement policies and programmes to prevent and combat violence against women, to ensure safe maternal health services and to reduce the drudgery of domestic work by providing piped water and electricity. Other consequences arise as governments are under pressure to increase tax revenue and do so by increasing indirect taxes such as VAT and sales taxes, which have a disproportionate impact on those on low incomes and especially on women who, due to their assigned gender roles, have to balance household budgets. Secondly, women's economic activities and rights at work are shaped by tax policy. Despite the current attention to women's economic empowerment, tax is rarely part of the picture. 80 per cent of women in South Asia and 74 per cent in Sub-Saharan Africa work in the informal economy, mostly without access to legal contracts and social protection. However, they still pay tax. Research carried out by Christian Aid in Ghana found that 96 per cent of women traders working in markets in Accra were paying tax of up to 37 per cent of their income and with no access to social protection.[14] They were often harassed by tax collectors and never saw any improvement to their working conditions, such as improved facilities, like toilets, in the market.

While women running small businesses have no choice but to pay VAT and an array of other local taxes, transnational corporations enjoy generous tax breaks as governments compete to attract foreign direct investment. There is no clear evidence that tax incentives attract productive investment.[15] In particular, tax incentives for the extractive sector do nothing to encourage investment and deprive governments of revenue in the face of often huge environmental and social costs. The IMF found that in 1980 no low-income country in sub-Saharan Africa had tax free zones but 50 per cent did so in 2005. Whereas 40 per cent of sub-Saharan African countries were offering tax holidays in 1980s, 80 per cent did so by 2005. Tax incentives are most often offered on an ad-hoc basis, without adequate cost benefit analysis. The special economic zones that are created for these companies often have poor labour conditions, bans on trade unions and environmental pollution. Tax incentives mask the contribution that women workers make to the economy and effectively subsidise poor working conditions and low pay. In Cambodia, for example, the subsidies to garment factories and enterprises, including tax and duty incentives, amounted to US$ 1.3 billion in 2013 – equivalent to over four times Cambodia's combined government and donor spending on healthcare in 2012. Cambodia's GDP almost doubled between 2007 and 2013, fuelled significantly by the country's multibillion-dollar garment industry. However, this impressive growth masks deep economic inequalities, especially for women. Some 90 per cent of Cambodia's garment workers are women. But while their labour has been a major contributor to the country's economic rise, with the garment industry accounting for a massive 80 per cent of export earnings, the gender wage gap in the country more than doubled between 2004 and 2009.[16]

Finally, there is also a more radical feminist reason for why corporation tax matters. Corporations are currently reaping the benefits of women's unpaid care work, which subsidises the productive economy and reproduces and maintains the workforce of today and tomorrow. Since this work is generally invisible in economic policy there is no assessment of the resources needed to support it or a thorough assessment of the impact of economic policies on women's burden of unpaid care. Despite its limitations, SDG target 5.4 on unpaid care offers us a renewed opportunity to make care visible and push for its recognition, reduction and redistribution through investment in infrastructure and universal public services.[17]

Women's rights movements should demand nothing short of a complete overhaul of global tax rules. Tax dodging also hurts richer countries. Consequently, efforts for reform have been started by the OECD, in particular looking at revenue loss from the digital economy. However, developing countries, in particular small low income countries, do not sit at the OECD's table and the issues they face are not part of its programme of work. A more democratic way of reforming global tax rules would be to bring decision making under U.N. auspices with a Global Tax Body adequately resourced, including with human rights and gender equality expertise. The call for a global tax body dominated negotiations for the third Financing for Development conference that took place in Addis Ababa in July 2015, creating a deep divide between northern and southern countries.[18]

4 • How to work together across movements for human rights accountability

At present, in the first year of the implementation of the SDGs, 93 developing countries are considering raising VAT and other consumption based taxes as well as other contractionary fiscal measures such as freezing wages in the public sector. The implementation of the SDGs, as well as other long-standing commitments to women's rights and gender equality will greatly depend on which economic policies countries adopt and coordinate on, including tax policy. It is critical for the women's rights community to cross organise with those working on tax and economic justice and to hold governments to account at the U.N. Commission on the Status of Women and in other spaces where global economic policy is discussed, such as the Spring Meetings of the International Monetary Fund and the World Bank. We need to make financing a priority in women's rights spaces and make women's rights a priority in financing spaces.

Working with treaty bodies to expand human rights accountability, especially extraterritorial obligations, can open up new avenues for holding states and corporations accountable. This year a diverse coalition worked together to make a submission to the CEDAW committee in relation to its review of Switzerland. The submission[19] produced by the Center for Economic and Social Rights in collaboration with the Global Justice Clinic at New York University School of Law, the Tax Justice Network (TJN) and Berne Declaration, breaks new ground by being the first to focus exclusively on the role of a tax haven in undermining human rights outside its borders. As a result of the initiative, CEDAW has called on Switzerland to account for the impact its policies may have in facilitating tax abuse abroad when it appears before the Committee in early November this year.

This is an important example that could be replicated not only through policy and advocacy work but in our organising in workplaces, schools and communities. There is an urgent need to demystify economic policy, including tax, and take it in our hands as we struggle for a different, better world.

NOTES

1 • OECD, *From commitment to action: Financing gender equality and women's rights in the implementation of the Sustainable Development Goals* (Paris: March 2015), accessed October 25, 2016, https://www.oecd.org/dac/gender-development/From%20commitment%20to%20action%20FINAL.pdf.

2 • The global tax justice movement consists of many different organisations including regional and national NGOs such as the Tax Justice Network Africa and Latindadd, INGOs, academics, trade unions such as Public Services International and other activists, many working together within the Global Alliance for Tax Justice (http://www.globaltaxjustice.org/) that coordinates campaigns through five regional networks.

3 • Liz Ford, "World leaders pledge to achieve gender equality by 2030," *the Guardian*, March 10, 2015, accessed October 25, 2016, https://www.theguardian.com/global-development/2015/mar/10/world-leaders-pledge-womens-rights-equality-csw-2030.

4 • http://www.unwomen.org/en/news/in-focus/financing-for-gender-equality.

5 • The policy measures taken into account are: 1. Elimination or reduction of subsidies, including those for food, agricultural inputs and fuel. 2. Cuts or caps to the public sector wage bill. 3. Rationalising and increased targeting of safety nets. 4. Pension, labour market and

healthcare reforms. 5. Social-protection. The full paper is available at: Isabel Ortiz et al., *The Decade of Adjustment: A Review of Austerity Trends 2010-2020 in 187 Countries* (Geneva: ILO, 2015). (Extension of Social Security Series, no. 53), accessed October 25, 2016, http://www.social-protection.org/gimi/gess/RessourcePDF.action?ressource.ressourceId=53192.

6 • http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx.

7 • United Nations, General Assembly, Human Rights Council, *Report of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona* (Geneva: A/HRC/26/28, 22 May 2014), accessed October 25, 2016, http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A_HRC_26_28_ENG.doc.

8 • Inesc, *Carga tributária brasileira é mais pesada para mulheres negras e pobres. E seus direitos?* Brasília, Inesc, July 2, 2015, accessed October 25, 2016, http://www.inesc.org.br/noticias/noticias-do-inesc/2015/julho/carga-tributaria-brasileira-e-mais-pesada-para-mulheres-negras-e-pobres.

9 • Stephanie Seguino et al., *Inequality Matters: austerity policies, gender and race* (London: LSE and University of Vermont and SOAS, May 2015), accessed October 25, 2016, http://www.lse.ac.uk/publicEvents/pdf/2015-ST/2015-Stephanie-Seguino-PPT-FINAL.pdf.

10 • United Nations Conference on Trade and Development – UNCTAD, *80% of trade takes place in 'value chains' linked to transnational corporations, UNCTAD report says* (Geneva, February 27, 2013), accessed October 25, 2016, http://unctad.org/en/pages/PressRelease.aspx?OriginalVersionID=113.

11 • "How do we make sure the Panama Papers lead to lasting reforms on tax evasion?" *From Poverty to Power Blog,* April 7, 2016, accessed October 25, 2016, https://oxfamblogs.org/fp2p/how-do-we-make-sure-the-panama-papers-lead-to-lasting-reforms-on-tax-evasion/.

12 • Christian Aid and Center for Economic and Social Rights (CESR), *A Post-2015 Fiscal Revolution - Human Rights Policy Brief* (New York: CESR, 2014), accessed October 25, 2016, http://www.cesr.org/downloads/fiscal.revolution.pdf.

13 • ActionAid, Christian Aid and Oxfam, *Getting to Good – Towards Responsible Corporate Tax Behaviour* (UK: November 2015), accessed October 25, 2016, http://www.christianaid.org.uk/images/Getting-to-good-corporate-tax-November2015.pdf.

14 • Erica Carroll, *Taxing Ghana's informal sector: the experience of women* (UK, Christian Aid, November 2011), accessed October 25, 2016, http://www.christianaid.org.uk/images/ghana-women-informal-sector.pdf.

15 • OECD, Tax and Development – Principles to enhance the transparency and governance of tax incentives for investment in developing countries, accessed October 25, 2016, http://www.oecd.org/ctp/tax-global/transparency-and-governance-principles.pdf.

16 • Kasia Staszewska, Close the gap! The cost of inequality in women's work (UK: ActionAid, January 2015), accessed October 25, 2016, https://www.actionaid.org.uk/sites/default/files/publications/womens_rights_on-line_version_2.1.pdf.

17 • The target calls for interventions "as nationally appropriate", showing the strength of prejudice towards considering unpaid care as women's work. In addition, the indicator for this target only tracks time use disaggregated by age, sex and location rather than any data on actual provision of services.

18 • For more information about the conference, see http://www.un.org/esa/ffd/wp-content/uploads/2015/08/AAAA_Outcome.pdf.

19 • Berne Declaration et al., State Responsibility for the Impacts of Cross-border Tax Abuse on Women's Rights & Gender Equality (Geneva, February 22, 2016), accessed October 25, 2016, http://www.cesr.org/downloads/Switzerland_CEDAW_Submission_TaxFinance_1mar2016.pdf.

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