Submission on behalf of the Tax Justice Network in respect of the scheduled Report to the UN General Assembly, 73rd session by the Independent Expert on foreign debt and human rights, Mr Juan Pablo Bohoslavsky, focusing on the impact of economic reforms and austerity measures on women's human rights.

Introduction

This inquiry by the Independent Expert on foreign debt and human rights focusing on the links and the impact of economic reforms and austerity measures on women's human rights is both welcome and timely. There are many approaches to securing women's human rights; structural, systemic, cultural and fiscal policy. The focus of our submission is on fiscal policy and specifically taxation. We address three key issues which impact on the full range of women's rights. First, the prevalence of tax avoidance and evasion, secondly, the impact of regulation, codified and normative; and thirdly regressive tax policy driven by free-market economic reforms. Accordingly, our submission sets out key policies for financial transparency and accountability. These offer the means to reverse a regressive trend in fiscal policy, such as increasing consumption taxes over corporation taxes, and will lead to greater equality and fundamental human rights for women. See also taxation implications for human rights per se in the UN's Special Rapporteur on Extreme Poverty (2014).[1]

Context

The need for an analysis of economic reforms and austerity on the human rights of women is important because of the decades of free-market economic reforms and the development of austerity policies since the 2007/08 'crash'. These have been so profound, systemic and global that without a check on the direction of travel the rights of women will continue to suffer with the effect of compounding generational gender inequality and development. Both in the global 'south' and 'north'[2], in developing countries and developed economies, in rural and in municipal communities, the disproportionate impact on women is marked. In low income and developing countries (LIDCs) the long-term use of development assistance and remittances, the under capacity to collect revenues and regulate, the conditionality of fiscal and monetary policies, and the aggregation of gender data has exacerbated progressive realisation of women's rights.

In developed economies, the UK for instance, recent impact assessments (2017) of fiscal policy note little relief for 'ordinary' women after decades of free-market thinking. The Women's Budget Group sums up the experience of women on low incomes who 'continue to shoulder by far the greatest burden of tax and benefit changes and cuts to public spending since 2010, with black and Asian women facing a triple disadvantage'[3] In a fact finding mission to the USA by the UN Special Rapporteur charts the impact of years of orthodox economic policies where '41 million people are officially living in poverty' – we must assume at least half are women. UN Special Rapporteur on Extreme Poverty Professor Alston told the Taxcast recently:

[1] Report of the Special Rapporteur on extreme poverty and human rights, Sepúlveda Carmona, M United Nations, General Assembly, A/HRC/26/28. May, 2014 Accessed on line [27-03-18] Available at http://www.ohchr.org/EN/Issues/Poverty/Pages/AnnualReports.aspx
[2] The Poverty and Inequality Report 2016, Pathways. Accessed online [25-03018] Available at http://inequality.stanford.edu/sites/default/files/Pathways-SOTU-2016-2.pdf
[3] Women's Budget Group, March 2017. Accessed online [25-03-18] Available at http://wbg.org.uk/main-feature/wbg-publishes-full-gender-impact-assessment-spring-budget-2017/

"Angus Deaton, a Nobel prize winner for economics recently wrote that 2 dollars a day in the rest of the world which is the accepted international poverty line or almost, it is actually a dollar ninety a day according to the World Bank, that would reasonably be translated to something like 4 dollars a day in the United States and if one used that as a benchmark there would be more than 5 million Americans who are living in absolute poverty that would be below international standards. In other words, the sort of standards that we think are highly problematic in developing countries like India or Nepal or wherever, you have got more than 5 million Americans living at that level."

The key point concerning economic reform and austerity policies is not that budget cuts affect everyone, but that they disproportionately affect women – be they social protection benefit cuts or cuts in the provision of services related to violence against women, or of health, or access to justice. Women's economic empowerment is particularly complex within an economic reform analysis – inextricably linked as it must be to women's positions in informal and precarious labour, by their dominant role as household earners and family and extended family carers and by often being inaccurately counted or 'uncounted'[4] in global society. The discrimination and gendered inequality experienced by women stems from economic and political thought that 'one model fits all'. Propping up this economic thinking is an archaic taxation system devised before the digital age and with a financial architecture that nurtures abusive and corrupt practices.

Key taxation policies and structures:

(i) Reverse the 'Race to the Bottom' and disincentivise Tax Competition

Women represent over half of the world's poor. How can taxation policies within broader economic reforms improve women's rights?

Two critical factors determine the attainment of rights such as those set out in the Sustainable Developments Goals to ensure women are 'not left behind': household income and the volume and allocation of government revenue. A critical source of government revenue is taxation.

The term tax "competitiveness" has become a staple of tax policy, frequently used as a justification for tax cuts, tax incentives or deregulation which removes social, environmental and economic protections. This has resulted in a 'race to the bottom' in terms of both taxation and regulation.

Tax competition, or 'tax wars' a term adopted by the Tax Justice Network, is revealed in many different forms (development of special economic zones, tax incentives, corporate tax rates, low tax/no tax jurisdictions, short term contracts within PPP, Foreign Direct Investment (FDI) and Tax Treaties [abuse of] etc.) Viewed together, they have one overriding feature in that they accelerate a race to the bottom with a loss of government revenue which in turn reduces social protections (and often labour rights) and prevents the redistribution of income.

Governments should, at every point, assess the impact of policy decisions that seem to offer 'tax for growth,' such as corporate tax cuts. They should be concerned that, as noted in the Bogota Declaration on Tax Justice for Women's Rights there are 'now more corporations than national states among the

[4]Uncounted: Power, inequalities and the post-2015 data revolution, Cobham, A. Accessed online [26-3-18) Available at Development (2014) 57: 320. https://doi.org/10.1057/dev.2015.28

top one hundred entities with the highest annual revenues (2015) and these corporations are outperforming all but the few richest countries.' It should also be noted that although women fight 'using constitutional, human rights, and international human rights laws to gain voting rights and elected positions in national governments, women still play relatively small roles in state governance' (Bogota Declaration, 2017). Meanwhile large trans-national corporations have the lobbying power to influence policy making that favours their own interests.

(ii) Tackle Tax Avoidance and Tax Evasion

The scale of annual global tax abuse is estimated at $600-$650 billion, or 25% of corporate tax revenues. A Tax Justice Network study found that the profit shifting of US-headquartered multinationals resulted in around $130 billion of revenue losses in 2012 (compared to just $12 billion in 1994, highlighting the exponential increase in this phenomena over just two decades). Meanwhile, Oxfam (2016) suggests that 'over the last thirty years, net profits posted by the world's largest companies more than tripled in real terms, from $2 trillion in 1980 to $7.2 trillion by 2013.5' and argues that 'this increase has not been matched by a rising trend in corporate income tax contributions, partially because of tax havens'.

Capital flight is one form of tax abuse with illicit financial flows particularly marked in Sub-Saharan Africa. These illicit financial flows can impact on the rights of all citizens, but disproportionately upon women where transport infrastructure, health, education, income parity and democratic representation fail to deliver equal rights.

The loss of revenue from Illicit Financial Flows (IFFs) undermines attempts by governments and multilateral initiatives to realise the rights of women as resources are scarcer and governments turn, either conditionally as part of ODI and/or through policy choice, to regressive consumption taxes and austerity measures. The consequence for women is that they inevitably forego services, and their unpaid 'care' labour is neither recognised or quantified.

> 'Over the period from 2000 to 2010, the sample of 39 African countries considered …lost 511 billion US dollars through capital flight, which is more than twice the amount during the previous decade (230 billion US dollars)'
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> Ndikumana, L. Curtailing Capital Flight from Africa. April 2016 https://bit.ly/2J7lhUq

(iii) Shine a spotlight on tax 'havens' through improved Governance & Transparency

In January 2018 the Tax Justice Network launched the fifth edition of the Financial Secrecy Index (FSI). Since 2009 the FSI has analysed and tracked the development of legal, administrative, regulatory, and tax structures in, now, 112 jurisdictions from Switzerland (1), and the USA (2) to the British Virgin Islands (16) to Mauritius (49) and Montserrat (112). As well as placing jurisdictions on a 'secrecy spectrum', the FSI assesses each jurisdiction's share of the market in offshore financial services. Corporate entities use these low or zero tax jurisdictions – claiming they are obeying the tax laws of those jurisdictions. The same system, using the same rationale, is used by high net worth individuals through for example trusts and foundations. The legitimacy afforded secrecy jurisdictions allows the corrupt to hide their criminal activity.

It is highly debateable whether the methods deployed by powerful multinational companies are indeed 'legal' 'tax avoidance' rather than 'tax evasion' since it's notoriously difficult even for wealthier countries with the political will and adequate resources allocated to challenge big companies and their armies of lawyers in court.

The Tax Justice Network, along with others in the tax justice movement who have monitored the progress of the OECD's work on tax avoidance believe that the standards and assessment procedures used by bodies such as the Organisation for Economic Cooperation Development (OECD) and the Global Forum "are too lenient". For a comprehensive critique of OECD's Global Forum read the FSI's 'Creeping Futility Report'[5].

It is important to note that the complexities of the secrecy system are both designed and navigated by professionals – particularly lawyers and accountants. The LuxLeaks, the Panama Papers and the Paradise Papers all testify to their role in tax avoidance, and facilitation of corrupt and illegal acts.

Civil society organisations are increasingly using the Financial Secrecy Index to inform challenges to financial and taxation laws and standards and to hold States to account for the impact of their laws and policies on women's human rights. See CEDAW Shadow Report and Factsheet on Switzerland.

The Tax Justice Network advocates an 'ABC' of tax transparency as follows:

Automatic Information Exchange of Tax Information (AIE) The exchange of financial information between jurisdictions (for example, about the bank deposits of a suspected criminal) used to be 'upon request'. This process is cumbersome, and very little information was provided - especially by those secrecy jurisdictions where criminal assets were often to be found. TJN has long proposed the automatic exchange of such information between jurisdictions, so that each year, a country would provide authorities in other countries with a list of their residents with bank accounts there, and the relevant tax information. Tax compliance is around seven times higher when taxpayers know that information on their incomes is automatically provided in this way – to say nothing of the impact on corrupt payments and other criminal transactions.

Public Registers of Beneficial Owners Historically, it has been easy to hide the real owners of companies, trusts and other legal vehicles in most countries. This ability to hide ownership not only allows outright tax evasion through the failure to declare, but also facilitates corrupt payments and transfers of ownership (directly enabling money laundering and terrorism), and the obscuring of corporate structures with implications for tax but also for market regulation (e.g. hidden monopolies). TJN proposed the establishment of public registers of the ultimate beneficial ownership of companies' foundations and trusts (that is, to identify publicly the warm-blooded human beings who stand behind any given entity). Again, this is a technical proposal involving a significant shift of power, which is fiercely resisted by many.

Public Country by Country Reporting Multinational companies often 'shift their profits' artificially to low-tax jurisdictions to minimise their tax liabilities. TJN, in an initiative led by Richard Murphy, created the modern proposal for country-by-country reporting by multinationals. This requires the annual publication of the location of companies' economic activity, profits and tax paid, making multinationals accountable to the public (as well as to tax authorities) for any misalignment between their profits and the location of their real activity, and tax authorities accountable to the public for their tolerance (or support) of such arrangements. This technical accounting exercise entails a powerful political shift – hence the resistance of multinationals and of the 'big 4' accounting firms that work for them. A detailed report on Country by Country Reporting can be found here.

[5] The Creeping Futility of the Global Forum's Peer Reviews - Prepared by Markus Meinzer. Tax Justice Briefing, 2012 Accessed online [28-3-18] Available at http://www.taxjustice.net/cms/upload/GlobalForum2012-TJN-Briefing.pdf

(iv) Establish an Intergovernmental Tax Body

An intergovernmental tax body would provide the global governance to underpin the resource requirements of the SDGs whose focus supports the rights of women. The lack of any comprehensive global body to work in tax policy has meant that progress towards a global tax system has been slow. The OECD has comprehensively failed to represent the interests beyond nations most culpable of offering themselves for profit shifting and other 'tax dodging' practices which undermine the rights of women. An international body should have at its heart human rights and therefore a proper focus on the impact of tax policy on women.

As nation states continue to haemorrhage tax revenue though illicit financial flows, the burden of loss is felt most keenly by the poorest in society and particularly by women who are most dependent on public services, tax credits and social entitlements that should be theirs.

The current international system has failed to address the problem of secrecy jurisdictions and tax avoidance. This recognition was reflected by the IMF's Fiscal Affairs Department deputy director Victoria Perry recently (2018) in advocating for a system change in corporate taxation in line with TJN's long held call for transparency; in particular the desirability of unitary taxation with apportionment of the tax base according to sales and labour force.

Dealing with the complex international issues of financial regulation and tax requires **sustained political engagement at the highest level** to mobilise required resources and bring a range of actors – governments, transnational corporations and professional 'enablers' to account. It is this focus which will help to drive forward progress towards the fulfilment of the full range of women's rights.

Conclusion

The Universal Declaration of Human Rights (UDHR), the SDGs, the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) recognises 'the equal rights of men and women to enjoy all economic, social, cultural, civil, and political rights' (Preamble), and the Beijing Declaration and Platform for Action (1995) calls for the mobilisation of resources at the national and international levels for the advancement of women (see Bogota Declaration). The establishment of greater tax transparency and accountability now provides a powerful counter-narrative and workable policy platform to the economic reform and austerity policies which continue to deny women their full range of human rights. Economic policies need to contribute a clearer and more transparent account of women's social and economic status –disaggregated to enable an analysis that reflects both their contribution and their needs. This should determine economic policy and 'call out' regressive austerity policies for what they are - neither ignorance, or the narrow interests of political elites should continue to erode the rights of women through regressive economic policy decisions.