UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

ILLICIT FINANCIAL FLOWS AND THE RIGHT TO DEVELOPMENT

POLICY BRIEF FOR THE CIVIL SOCIETY

Analysed through the lens of the Declaration on the Right to Development, the 2030 Agenda and Sustainable Development Goals and the Addis Ababa Action Agenda, illicit financial flows must be addressed, prevented and controlled, to achieve domestic resource mobilization. Domestic resource mobilization in turn, is key to realizing the right to development and all other human rights, the Sustainable Development Goals, and Financing for Development. National and international policymakers in countries across all stages of development must take concrete steps to address the monumental effects of illicit financial flows on human rights, sustainable development and sustained peace. The Declaration on the Right to Development requires national and international development policies to create conditions favourable to development - an enabling environment for development, human rights as well as peace. The policy guidance which follows is grounded especially in the Right to Development and related human rights norms, standards and principles; Sustainable Development Goal Target 16.4 wherein states pledge to significantly reduce illicit financial flows by 2030; Sustainable Development Goal target 17.1 which entails strengthening domestic resource mobilization; Sustainable Development Goal 10 which aims to reduce inequality within and between countries and Sustainable Development Goal 5 aimed at advancing gender equality and women's rights.

While all countries are affected by illicit financial flows in an age of economic and financial globalization, outflows from developing countries are of particular consequence and entail disproportionate impacts given their resource-constrained settings and as a percentage of their public budgets; and longstanding systemic and structural inequalities and vulnerabilities including in the global trade and finance architecture which undermine equality of opportunity for development for all nations and peoples, as required by the Declaration on the Right to Development. The implementation of appropriate national and international policy measures to ensure development and eliminate obstacles to development in line with the Declaration on the Right to Development, mandates states to cooperate on the basis of their sovereign equality, interdependence and mutual interest. Such policy measures would significantly increase transparency in the global financial system, to prevent and regulate illicit financial flows and require the effective channels provided by national, regional and international tax cooperation.

Due to the inherently global and transnational nature of illicit financial flows, the institutional environment for international tax cooperation is of particular significance. In addition to the seminal principle of international cooperation (including shared global responsibilities and mutual accountability, as well as common but differentiated responsibilities), other principles of the Declaration on the Right to Development which apply both locally and globally, include the human rights principles of equality, non-discrimination, participation, accountability and transparency. Relevant Declaration on the Right to Development principles and elements in this context include social justice and equity; free, active and meaningful participation; fair distribution of the benefits of development and fair distribution of income; self-determination and permanent sovereignty over all natural wealth and resources; and equality of opportunity for development for all nations and individuals who make up nations.

GLOBAL FINANCIAL TRANSPARENCY

RECOMMENDATION 1

International civil society advocates, activists and organizations, academia and research institutions should continue to play an active role in monitoring, supporting and promoting efforts to significantly strengthen global financial transparency by states, international organizations and the private sector. These efforts include the automatic exchange of tax information, beneficial ownership declarations, country-by-country reporting and other existing processes. Civil society should also continue to monitor and pressure central banks and financial supervision agencies to implement systems that supervise and require mandatory reporting on illicit financial flows-related activities by banks and non-bank financial institutions.

HUMAN RIGHTS IMPACT ASSESSMENTS

RECOMMENDATION 2

Civil society should support and promote the conduct of human rights impact assessments by states, in particular by facilitating the engagement and meaningful participation of affected communities and by playing an appropriate role toward the independent verification of human rights impact assessments.

CAPACITY BUILDING FOR NATIONAL TAX ADMINISTRATIONS

RECOMMENDATION 3

Civil society actors should assist in identifying which states have best practices in national tax administration capacity to prevent and regulate illicit financial flows. These states should be urged to provide technical assistance and capacity building through mutually agreeable partnerships with other states. They should also call on international organisations to employ their expertise, resources, and access toward capacity building.

CONDUCIVE AND GENDER-SENSITIVE TAX POLICIES AT THE STATE LEVEL

RECOMMENDATION 4

Civil society should promote the prevention and control of illicit financial flows through conducive fiscal and tax policies at the state level. Tax policies should attempt to increase the weight of direct taxes on income and profit capital, while reducing the weight of taxes on low-income communities, and in particular, women in such communities. Advocates should promote tax policies that do not foster tax competition through tax holidays, reductions and subsidies for transnational corporations that are sources of foreign investment. Gender sensitive tax policies should also be promoted by civil society advocates, with a view to ensuring that revenue and tax policies are formulated with due consideration to their impacts on women's rights and gender equality.

ENHANCING INTERNATIONAL TAX GOVERNANCE AND INTERNATIONAL COOPERATION

RECOMMENDATION 5

Civil society, and in particular international activists, should continue to play an active role in the monitoring and review process of the 2030 Agenda, the Sustainable Development Goals and the follow-up processes on Financing for Development. They should continue to promote the enhancement of international tax governance by strengthening the UN Committee of Experts on International Cooperation in Tax Matters through increased representation and participation of lower-income developing countries. Also with a view to enhancing democratic decision-making, civil society should promote the participation of developing countries in the Organisation for Economic Co-operation and Development's deliberations on international tax governance. It should also support the establishment of an intergovernmental body on tax matters with universal membership and equal voting rights under the auspices of the UN. The activities of all forums should be urged to include consideration and compliance with human rights including the right to development, women's rights and gender equality. The key UN instruments that address illicit financial flows (listed above) should also be actively supported. The Voluntary National Reviews produced by states in the Sustainable Development Goals follow-up and review mechanism should be supported as a process in which states should also address Sustainable Development Goal Target 16.4 on IFFs, Sustainable Development Goal 10 and 17, the Addis Ababa Action Agenda and the right to development.

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