CENTER FOR ECONOMIC AND SOCIAL RIGHTS
SOCIAL JUSTICE THROUGH HUMAN RIGHTS

This Human Rights Day, it's time multinationals pay their fair share

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Not long ago, speaking of tax as a matter of human rights would lead to, at best, strained looks, and at worst, outright antagonism.

Yet today, on Human Rights Day 2015, the tax justice and human rights movements are more in sync than ever before in the fight to ensure sufficient, equitable and accountable resource mobilization for human dignity and a zero-carbon future. This week all over Latin America and the Caribbean, advocates have come together to reclaim and promote tax and climate justice.

Soaring inequality has become one of the defining social ills of modern times

Almost every day, news reports emerge which show how corporate tax avoidance and evasion deprive countries around the world of billions of dollars in public revenue – money that could have been used to fund quality health and education for all, or for the public investments necessary to prevent catastrophic climate change. While all of us are affected, developing countries are the ones paying the highest burden for these harmful practices. But this loss of precious financing is not just a threat to governments' starving revenue base, but also undercuts their redistributive capacities to reverse growing economic and gender inequalities. Corporate tax abuses also deepen mistrust in how fiscal policy is governed and thus how effective it can be, especially for the most disadvantaged. And crucially, these abuses limit governments' ability to regulate companies for their environmental and climate impacts.

On this Human Rights Day, the interwoven challenges of climate change and deepening economic inequality are two of the most important threats to human rights in the 21st century. It is no coincidence that the industries serving the wealthiest sectors of the wealthiest economies bear the lion's share of responsibility for carbon emissions today. Over 50% of the world's carbon emissions come from the wealthiest 10% of the global population, and just 90 multinational companies reportedly caused two-thirds of the world's carbon emissions. The average carbon footprint of the richest 1% of people globally could be as much as 175 times that of the poorest 10%. Meanwhile, deepening economic inequalities within and between countries disproportionately expose the poor and most disadvantaged to the harmful effects of climate change, even though the poorest half of the global population – around 3.5 billion people – are responsible for only 10% of total global emissions attributed to individual consumption.

Fair taxation – especially fair corporate taxation – is a key element in addressing both human rights threats. Perhaps more important than any other social responsibility a company bears is its duty to pay its fair share of taxes. Yet, many multinational companies continue to profit from astounding levels of tax abuse. Between 2004 and 2013, $6.5 trillion of illicit flows stemmed from company trade fraud. In parallel, developing countries are estimated to lose $212 billion per year in direct revenue from various cross-border tax avoidance techniques.

How has this occurred? A large industry of facilitators – tax lawyers, accountants and auditing firms – has emerged over recent decades enabling multinationals to shield themselves from their national tax liabilities, out-compete domestic companies and operate where there might not otherwise be a feasible business model.

So what can be done? In simple terms, governments should ensure corporate tax practices respect human rights law. Indeed, high-profile UN officials and bar associations are increasingly invoking human rights norms and principles to challenge unjust tax policy, and company tax abuse in particular. The measures governments should take are manifold – from tax transparency to stronger enforcement against tax crimes. Most importantly, perhaps, is to confront the enabling conditions of corporate tax abuse. Among the most important external factors is the availability of offshore financial secrecy – both in traditional tax havens but also in countries like the United States. Some modest proposals for how human rights law should be adhered to in these financially secretive countries are listed here:

First, countries are obliged to respect human rights that may be put at risk due to corporate tax abuse. This would imply that those countries:

> i. Implement **corporate tax and financial transparency**, including public registries of ultimate beneficial ownership, country-by-country reporting, and automatic exchange of tax information;
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> ii. Conduct **systematic human rights impact assessments** to monitor the spillover effects of their tax policies and agreements overseas, as the Netherlands and Ireland have already done. These should be periodic and independently-verified, with public participation in defining the risks and potential extraterritorial impacts. These impact assessments should analyze not only the revenue implications, but also the distributive and governance spillover effects of a country's tax regime abroad.
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> iii. Address any harm found. If and when the main problems are identified, these impact assessments should **trigger legal and policy action** by including explicit recommendations for responsible parties, and clear deadlines for remedies and redress of any negative impacts discovered.
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> iv. Put in place **robust whistleblower protections** to ensure that individuals who want to share information about corporate tax practices which harm human rights are allowed to do so free of fear or recrimination.

Second, countries have a legal duty to protect against human rights harms stemming from corporate tax abuse. This would imply that, at a minimum, they **mandate integrated reporting guidelines for large companies**, including **due diligence requirements on the human rights risks of their tax and financial arrangements**. These due diligence requirements should include the users, but also the market makers and suppliers of tax abuse schemes (tax lawyers, accountants, financial intermediaries). This would simultaneously provide greater transparency and access to information for tax authorities to better do their jobs. These requirements could be streamlined into governments' national action plans on business and human rights.

In a fairer world, companies should compete in the global economy on the merit of their innovation, product quality and ability to improve people's lives, rather than on the ingenuity of their tax attorneys, the opacity of their financial intermediaries, and the impunity afforded them by their governments.

- *To learn more about CESR's work on human rights in tax policy, click here.*
- *For updates on events taking place across Latin America and beyond as part of the tax justice campaign, click here.*

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