TAX JUSTICE MANUAL

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Zimbabwe Coalition on Debt and Development
ZIMCODD

Investing in People for Social and Economic

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TAX JUSTICE MANUAL

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1.0 INTRODUCTION

About ZIMCODD

ZIMCODD is a socio-economic justice coalition established in February 2000 to facilitate citizens' involvement in making public policy and practice pro-people and sustainable. ZIMCODD views Zimbabwe's indebtedness, the unfair global trade regime and lack of democratic people centres economic governance as the root causes of the socio-economic crises in Zimbabwe and the world at large. Drawing from community based livelihood experiences of its membership. ZIMCODD implements programmes targeted at;

- Educating the citizen
- Facilitating policy dialogue among stakeholders
- Engaging and acting on socio-economic governance at local, regional and global levels.

ZIMCODD's headquarters are in Harare with regional structures in Bulawayo and Mutare to coordinate Southern region and Northern regions activities respectively. Under the rural livelihoods project ZIMCODD operates in Gokwe and Checheche, working with cotton farmers to challenge unjust trade practices.

Our Vision

Sustainable socio-economic justice in Zimbabwe through a vibrant people based movement

Mission

To develop capacities of Zimbabwean people t redress the debt burden and unjust trade and tax practices, building and promoting alternatives to neo-liberal agenda

Objectives

- To raise the level of economic literacy among ZIMCODD members to include views and participation of grassroots and marginalized communities
- To facilitate research, lobby and advocacy in order to raise the level of economic literacy on issues of debt, trade and sustainable development
- To formulate credible and sustainable economic and social policy alternatives
- To develop a national coalition and facilitate the building of a vibrant movement for social and economic justice.

ZIMCODD is a member of the Jubilee South global network, Southern Africa People Solidarity Network and AFRODAD. It is also current host to the Zimbabwe Social Forum (ZSF).

1.1 A Decade of Social Movement Building For Economic Justice in Zimbabwe

Since its formation ZIMCODD has worked with its membership for social and economic justice in Zimbabwe. Social movement building has been the cornerstone of the organisation's programmes under the Civic Participation in Economic Development Programme. Under the CPED programme the organisation seeks to achieve the following objectives;

a) To raise the level of economic literacy among ZIMCODD members, so that all, including grassroots and marginalized communities can participate meaningfully in policy discussions.
b) To facilitate research, lobby and advocacy to inform pro-people decision making on debt, trade and sustainable development
c) To formulate credible and sustainable economic and social alternatives
d) To develop a national coalition and facilitate the building of a vibrant movement for social and economic justice in Zimbabwe

A number of publications and community interaction of economic and social issues have happened in pursuit of achieving the above objectives. ZIMCODD published and carried out capacity building trainings on debt, social effects of debt and linking it to the social and economic rights discourse. Notable publications to facilitate the building of a vibrant movement for social and economic justice during the past years included but are not limited to the following;

In 2003 ZIMCODD published the first “Citizens' guide on understanding debt in the form of 3 pamphlets to train and engage with its grassroots membership focusing on public debt. The series included (i) Understanding Debt (ii) Social Effects of debt and (iii) Developing an economic justice movement. Thousands of people were trained during this period and people started to engage and identify the national debt burden as one of the major causes of their poor living conditions and demanded economic justice, pro- poor policies and development with a human face instead of focusing on macro-economic development, focusing on figures and leaving out the human being out of the development agenda.

In 2010 ZIMCODD published the 2nd edition of the citizen's guide on understanding debt to embrace new developments in the national and global economies. Debates on economic recovery and addressing the debt crisis proceeded at high levels by technocrats leaving the voices of the People. The updated version of the grassroots training manual sort to take the debate back to the people in simplified language and terms, to raise their economic literacy and to start a process of including their views and participation in the development discourse. The 2nd manual has so far given people the platform to raise their voices and lobby for pro- poor debt management strategies and reject technocratic strategies that call for economic reforms without considering the plight of the people.

In the same year 2010, ZIMCODD widened the debate on the debt issue from just understanding debt and its social effects to seeking to understand the concept of ecological debt as the question of “who owes who?” became louder and louder in ZIMCODD's interface with the people. A citizen's guide to understanding ecological debt was published in October 2010. It was noted that a broader view of indebtedness is critical if ever there is going to be credible and sustainable economic and social policy alternatives in the context of sustainable development. The manual echoes the voices of the social activists around the world that the debt issues goes beyond its financial terms, to include historical, human and ecological aspects focusing on climate change and the extractive industries.

Throughout the decade of social movement building, ZIMCODD has noted that the search for pro-people alternatives to the economic challenges posed by the global capital begins with educating the affected communities. This will enable them to understand their local struggles and link them to the complex matrix of the global village and fight for their cause.

1.2 Introducing Tax Justice- Breaking The Bonds of Aid and Debt Through Taxation

As noted in some sections above, one of ZIMCODD's objectives is to formulate credible and sustainable economic and social alternatives. Over the past years ZIMCODD has done lobby and advocacy work on the current economic discourse and has proffered pro people alternatives to address the myriad of challenges posed by macro-economic development that doesn't not have human development at the centre of it. ZIMCODD has spoken in clear terms against debt and aid that comes into the country tied with conditionalities that have left people worse off and in appalling living conditions.

The Minister of Finance has proposed four debt and arrears clearance options that are widely reported to be under consideration. These are (i) Internal Resource inflows (ii) Resource based debt restructuring (iii) Paris Club debt restructuring and (iv) Highly indebted Poor Countries Initiative (HIPC). Any proposal that facilitate foreign interference in the country's economic and political affairs raises a lot of debate and is bound to be rejected by the people as it maintains the external debt and aid legacy which in the past has not worked for the ordinary person on the street. The option to mobilise internal resource inflows therefore becomes more viable and closer to the voices of the people.

The mobilisation of internal resources as a means of financing development has become an important development issues and a viable alternative to debt and aid. In the past emphasis on financing development focused on scaling aid and external borrowing. For a long time mobilising domestic revenue has been neglected, despite being a better long-term option[1]. The reasons have been the pessimism about raising revenue locally, the "small state ideology and a preference for foreign aid-led solutions by technocrats and policy makers.

To break the bonds of debt and aid Zimbabwe should focus on the mobilisation of internal resources as a long term home grown option. Taxation is one of the major ways of mobilising resources for financing development and allows policy makers to distribute resources equally amongst higher earning citizens to those that are low income earners. Taxation allows the government more policy space and capacity to be responsive and

[1] *Afrodad, What has tax got to do with development: A critical look at Mozambique's tax system, 2011*

accountable to national development objectives that are not informed and influenced by the conditionalities of foreign aid and loans. Through the use of resources mobilised through taxes the government will have increased independence, provide sound basic social services such as health, education, social security for pensioners and infrastructural development according to national development objectives.

Currently Zimbabwe's taxes for the mobilisation of domestic resources are; Value Added Tax (VAT), Corporate Tax, Pay As You Earn (PAYE), Excise and Duties Tax, Presumptive Tax (for small scale, informal businesses). Using these channels and making other tax reforms to make every player, play their part especially big multinational companies responsibility in their tax payments could go a long way in the development of Zimbabwe and freeing the country from the web of external reliance for financing development.

ZIMCODD has been at the fore in educating the people about external debt and its social effects on the vulnerable and the periphery and advocating for debt audit and the subsequent cancellation of such debt proved illegitimate and odious. ZIMCODD will once again engage with the people and the policy makers on the issue of tax justice as a sustainable alternative to external debt and loans which leads to undue external dependency for development.

2.0 UNDERSTANDING TAX JUSTICE

2.1 Defining Taxation and Tax Justice

While some civil society groups have long been campaigning for fairer tax systems, the critical role of tax in achieving development and social justice has often been neglected by civil society both in the North and South. For many, tax is a complex topic better left to "experts" But this need not be the case. Tax may appear technical, but it is an issue too critical to bypass. Fairer and effective tax collection is essential for raising the revenue to deliver services that citizens need. It is a powerful tool for redistributing wealth within society to address poverty and inequality[2]. For these reasons make it clear to the participants that engaging with tax policy is considered essential for all sectors whether residents, health, education, labour or a women's group.

Notes To The Facilitator

Notes to the facilitator: Since tax issues are generally believed to be technical and the public has no interest in engaging on tax issues hence it is important to demystify this notion by engaging with the participants and allows them to share their thoughts no matter how "wild" about tax and gauge their interest and knowledge from their answers. It is also important to undo the negative perceptions about tax at this stage.

Discussion

1. Describe your thoughts about tax in Zimbabwe/ which types of taxes do you know/ which ones are you paying as an individual? How do you view/define tax?
2. How would you describe Zimbabwe's current taxation system from individual taxes to corporate taxes? Do you think tax is important in community development? Give examples from your community or sector.
3. What do you think can be done to effectively collect and use tax revenues collected?

PLEASE NOTE: participants are free to make up their own definitions of tax and tax justice and draw out their own symbols of what tax is to them. The group share and present their summary of discussions and these are displayed to keep referring to them.

[2] *Christian Aid Advocacy Toolkit on Tax Justice, 2011*

Definitions

Coin out a single definition from the many thoughts and definitions of the group. In coming up with the definitions take note:

Tax: A fee levied by a government or a regional entity on a transaction, product or activity in order to finance government expenditure. Taxes rates and the tax base are decided by a representative legislative body.

Taxation: The process includes policy decisions on what to tax, whom to tax, how to tax and also issues of collecting the tax and the expending of the tax revenues. The people's involvement in the process is important as they are the tax payers levied and also should be the beneficiaries of the resources

2.2 Why Bother With Tax in Zimbabwe

There is no better time to discuss issues of tax justice in Zimbabwe like this time as Zimbabwe is on an economic recovery path. Options to put the economy in the right track are being thrown around and the mobilisation on internal resources in one of them. In mobilising internal resources, taxation is one major tool to do so.

Notes To The Facilitator

Engage with the people allow them to reflect on the Zimbabwe economy in the past decade, the challenges, the prospects and their role in reviving the economy.

In the discussion the link between taxation and development should be clear and projected as fundamental. A functioning state that can meet the basic needs of its citizens must rely ultimately on its own revenues to meet development objectives. Using tax, resources can be mobilised and redistributed. Effective structures can also create incentives to improve governance, strengthening channels of political representation and reducing corruption.

Governments across the world struggle to collect enough taxes to fund essential services in a fair way. Developing countries like Zimbabwe face serious challenges as a result of weak and under-resourced revenue authorities, large informal sectors, and pressure to lure foreign direct investment through overly generous tax breaks and the trade loopholes exploited by unscrupulous companies and rich individuals. Too often tax systems are heavily skewed against the interests of the poor (which is why people hate taxes and end up missing out on the benefits of tax revenues).[3]

[3] *ibid*

2.3 Why Tax Matters

Notes To The Facilitator

By now participants should have a general appreciation of tax and the need for tax justice for development. Allow the participants to first share why they think tax matters, what it is they think effective taxation systems can achieve for them in their communities or sectors.

The assumption is that tax is bad to an ordinary citizen; it takes away from his/her disposable income. This is not the case as highlighted in section 1. From an economic justice and human rights perspective, taxes are crucial for four main reasons which you can summarise as the four “Rs”:

Revenue - funding to deliver the services for citizens

Tax revenues can be used to initiate and sustain funding for essential services that citizens need. Because citizens are the tax payers they have the right to demand for service for which the tax is intended for. All sectors have a part to play and service delivery is a concern to every citizen. Increased earnings from taxes would enable government to provide more on social services.

Notes To The Facilitator

Allow participants to make a list of where they would want tax revenues collected to be channelled towards in the social services delivery. Participants should therefore know that “if they are campaigning for the provision of improvement of education, health, access to water or any other services, engaging in tax issues should be a central part of their efforts as an alternative to external funding.

Redistribution - to address poverty and inequality

A sound tax policy can play an important role in redistributing wealth within the economy. The provisions of social service as highlighted above can be one way of addressing poverty and inequality as the poor are more likely to depend on public funded social services such as in health and education. Redistribution happens from the wealthy (e.g. companies) to the poorest and most vulnerable (e.g. women, children, old people) this is an example of “progressive” taxation.

Notes To The Facilitator

At this point highlight to the participants that tax systems include “progressive” or “regressive” elements: Give examples: When a government collects and relies more on corporate and property taxes while less taxing people with low incomes, that is progressive taxation. On the other hand heavy reliance on consumption taxes (food, fuel etc) is considered regressive.

Discuss with the participants their views on VAT on basic goods. Zimbabwe has VAT and generally VAT is regressive in nature and is unfair on the poor. Most developing countries rely on VAT as a response to the large informal sector which makes it difficult to tax and also pressure from International financial Institutions and donors. However, over reliance on VAT can deepen inequality in a country.

Representation - building accountability of governments to citizens and reclaiming policy space

If you are working on governance and accountability issues, tax should be on your agenda. Taxation is about more than revenue raising; it is also a fundamental part of state building and democracy. One important study examined the link between democracy and taxes in 113 countries between 1971 and 1997. It found that introducing or increasing taxes without simultaneous increasing and improving service delivery led to citizens demanding their rights to subsequent democratic reforms.

Campaigners have always challenged governments when they raise and spend public revenue in unfair or corrupt ways. In many countries the imposition of unfair taxes has been an important catalyst of social and political change, from the pool tax in medieval England through the Boston tea party to VAT in 1990s Ghana. The long term relationship between taxation and the development of more accountable governments has a number of components[4].

- Collective bargaining around tax revenue creates a 'social contract' between members of society who are paying taxes and voting for political parties, and officials who are expected to raise and spend those revenues in a manner that benefits the constituents who elected them. Taxes make governments more immediate and visible, and ultimately more accountable. Critically, fairness in the tax system is important for building that accountability between governments and citizens- without the perception that the big players are contributing their fair share, the incentive for ordinary citizens to do so is considerably diminished.

- A state that depends on taxes needs a healthy economy to generate them. That requires citizens and business that flourish, so the government has an interest in responding to their needs.

[4] *Ibid*

- To raise tax reliably, governments need efficient, accountable and honest revenue services (that is good administrative governance).

However, without transparency and access to information, citizens are less able to hold governments to account. Without knowing how much tax is being raised and from where, the people are less able to make proposals about how the money should be spent. Lack of transparency and lack of freedom of information are both issues that are also central to the democratic control that a population holds over its government. The demand for transparency and freedom of information is therefore a campaign issue in its own right, as well as a central aspect of tax justice campaigns. Many organizations and activists are finding ways of getting governments to share this information and holding them to account.

Notes To The Facilitator

Once again highlight the importance of every sector in tax justice campaigns. Those in the governance and media should campaign for the right to information on taxes. Citizens have a right to know who is being taxed, how much revenue is being raised and the projects being financed by such revenues. Social and economic justice networks carrying out budget monitoring exercise to ascertain on income and expenditure according to the citizens needs and fulfillment of social and economic rights.

Repricing - limiting public "bads" and encouraging public "goods"[5]

Taxes can be used to ensure that all social costs and benefits of production or consumption of a particular good are reflected in the market price. This could being the form of making it costly through taxes to engage in actions considered socially undesirable or by incentivising behaviour that is considered beneficial to society. Example: taxing cigarettes to limit damage to health. Before rating there is need to consider the negative impacts of such taxes on the poor

Notes To The Facilitator

Open a discussion on what the participants think should be highly taxed and less taxed and why they suggest so?

Reclaiming space and achieving independence from aid and debt

As noted in previous sections of the manual, emphasize the role tax justice can play to unlock domestic

[5] *Ibid*

resources for development and cut the umbilical cord of foreign aid and debt dependency of Zimbabwe.

Many countries in the south depend on aid and debt for a higher percentage of their revenue which means accountability will be to the donor and the lender. However as lessons have been learnt e.g. through ESAP, the prescriptions of these donors and lenders are harmful to livelihoods and should not be relied on. Tax is also sustainable as it is likely to dry up as does aid and loans. Debt servicing at the expense of social service is also immoral and unacceptable. The only sustainable alternative is therefore generating resources from within which gives independence and accountability to the citizens.

Notes To The Facilitator

Sum the discussion up by highlighting that revenue from tax reduces dependency on foreign donors which in Zimbabwe has left us with an unsustainable debt overhang. Taxed helps governments and their citizens to escape the aid and debt trap and leaving the legacy of unsustainable debt on future generations.

2.4 How Countries Are Deprived of Tax Revenues[6]

Notes To The Facilitator

The points below should be highlighted as the session begins. Allow the participants to share through discussions on major companies operating in their communities. Ask them the name of companies operating in their community, any community projects funded by the company and whether they know about the taxes paid by the companies?

- If all developing countries could increase the amount of tax raised to at least 15 percent of national income, an additional US$200 billion per year would be available to governments, according to Action Aid estimates.

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- Southern countries lose out on an estimated US$160 billion each year as a result of trade-related tax dodging, according to calculations from Christian Aid. This is more than those countries receive in aid.

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- From 1970 to 2008, total illicit financial outflows from Africa totaled between US854billion and US$1.8trillion, according to research from Global financial integrity. This is between four to nine

[6] *Christian Aid Advocacy Manual on Tax Justice*

times the current levels of sub-Saharan Africa's external debt.

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- The IMF estimates in 1999 that around US$4.6trillion, or half of cross-border assets, was held in tax havens (secrecy jurisdictions)[7]

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The previous sections explained some of the important functions of tax. The following section goes on to explore how governments are deprived of tax revenues. If tax revenues leak from an economy on a grand scale, this undermines the scope for tax to bring any of the potential benefits described in the previous sections. Lost tax revenue affects all countries, rich and poor, but the impact on countries in the South is demonstrably greater.

Many southern countries are affected by a set of common domestic challenges. Revenue authorities are often weak and fail to collect the taxes they should; the size of informal sector makes monitoring of economic activities and the collection of taxes a huge challenge; and corruption in governments and tax authorities undermines trust and diminishes the incentive for citizens to pay tax.

At the international level the odds are stacked against southern countries like Zimbabwe. Many southern countries face pressure to adopt domestic policies that can undermine the taxing rights. Some countries have been subject to conditionalities that promote a set of policies known as the 'tax consensus' which are highly regressive; tax competition results in countries lowering tax rates or offering tax holidays in the hope of attracting foreign investment. On top of this there is a lack of accountability regarding agreements signed with multinational companies (MNCs), particularly in the extractive sector.

It is clear that a lack of transparency facilitates grand corruption. Secrecy surrounding the operations of MNCs and the taxes they pay means that companies can easily avoid or evade taxes; and financial secrecy in tax havens makes it easy for individuals and companies to hide financial activities from governments in the South.

This Section will look at the domestic constraints to effective taxation, before addressing external pressure to change tax policy and finally, financial secrecy leading to tax evasion and avoidance.

Domestic Constraints

Weak Revenue Authorities and Large Informal Sectors

The capacity of tax authorities in southern countries is an area that urgently needs improvement. Traditionally, few resources have been devoted to auditing and its common for many companies in southern countries to declare losses for tax purposes with few investigations resulting. In addition, the capacity of a national tax

[7] *IMF Background Paper: Offshore Financial Centers, 2000*

authority in a southern country to effectively audit the accounts of a multinational is often extremely limited given the complex accounting practices MNCs can use to allocate profit and loss across a large number of subsidiaries in a range of countries. VAT evasions and even basic smuggling are also major problems for southern countries tax authorities.

Given that in most southern countries a large proportion of the economy operates in the informal sector, the capacity constraints are all the more pertinent. If individuals and small businesses use cash transactions rather than bank accounts, it is difficult to monitor economic activity. At the same time, individuals and small businesses need to be motivated to register and pay tax. Necessary incentives might include protection of property rights, provision of services and support to save. It is the challenge of the informal sector that can lead governments to implement regressive VAT regimes, as it is easier to collect revenue from consumption than income.

In addition, southern countries generally have an extremely poor record with regard to the investigation and prosecution of tax evasion. For example, in Guatemala, between 2001 and 2003, 1,295 tax evasion cases were presented before the courts. Of these only four resulted in the defendants being found guilty. In Honduras, a tax authority director went public about receiving anonymous threats over ongoing tax evasion investigations. Many southern countries do not even have a large taxpayer unit (which can reduce tax compliance costs and ensure uniformity in determining tax duties), never mind a dedicated team to track tax evasion cases. The impunity of large tax evaders is a major obstacle in countries where governance is weak, corruption is widespread and the political will to address such issues in non-existent.

This then undermines the willingness of ordinary citizens to contribute to taxes, as they see the wealthy dodging their responsibilities.

Politicization and Corruption In Revenue Authorities

Within revenue authorities, as with any institution, there is scope for politicization, corruption and mismanagement. For example, an Indonesian tax official who was just three years into his job was found to have an accumulated wealth of more than Rp100 billion (US$10million) – impossible on his monthly salary of about US$800. An investigation and statements of the disgraced tax official included allegations that several companies linked to a major political figure had bribed the disgraced official in order to evade taxes. Several officials have been convicted in relation to this case. Cases of corruption such as this can undermine public trust in the tax system as well as morale within the revenue authority and can lead to lower levels of tax collection. Such problems are not confined to southern countries.

In addition to these domestic challenges, southern countries face external pressures and constraints in setting domestic policies that would enable them to raise revenue effectively. The international tax system equally represents the interests of the powerful.

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External Influence On Tax Policy

Tax Competition[8] – The Race To The Bottom

Tax competition has gone hand in hand with the increasing mobility of capital in globalised world. Over the past three decades, nation states have tried to attract foreign direct investment through low tax rates and incentives and, in some cases, the promise of financial secrecy. The IMF, World Bank, regional development banks and the European Union (EU) have all, in varying ways through their private sector development work promoted this trend, by encouraging the lowering or corporate tax rates or granting tax-deductible capital allowances for the mining industry, for example. These sorts of policies together are sometimes collectively described as the 'tax consensus.'

Proponents of tax competition argue that lower tax regimes are essential to attract the investors who will in turn provide jobs, revenue, technology transfer, infrastructure and linkages to domestic firms. However, the role of tax breaks in attracting foreign investors is highly questionable, with a number of cross-country studies concluding that the costs of tax incentives in terms of lost revenue frequently outweigh the benefits in terms of increased productive investment. The IMF is now more likely to advise countries to minimize tax exemptions and to ensure that the costs of all tax incentives are explicitly included in national budgets.

Companies attracted by such tax breaks have been regularly criticized for their, often, poor record in terms of worker rights or respect for the land rights of indigenous people. Such investors also often fail to bring the promised technology transfer or other linkages to domestic firms, particularly as World Trade Organization (WTO) requirements make it difficult for governments to oblige companies to do so. Not only does tax competition fail to guarantee inward investment that is pro development but is also anti-democratic, as it undermines the ability of electorates to choose between high-tax/high spend and low-tax/low spend governments. Ultimately, winners from tax competition are the mobile MNCs that can play governments off against each other in order to secure lowest tax rates. Ordinary citizens whose governments are deprived of vital revenues are the ones to lose out – and it is the poorest who suffer the hardest.

Special Economic Zones

Notes To The Facilitator

Pose a question on Export Processing Zones (EPZ) in Zimbabwe. This will set the tone for Participants to understand special economic zones and relate the global issues to Zimbabwe.

Governments often grant these extended tax breaks through establishing special economic zones (SEZs), which are geographical regions that have different tax laws to the rest of the country. The category 'SEZ' covers a broad

[8] Definition – tax competition is the process by which nations compete with another to attract inward investment from international companies by offering lower tax rates or tax holidays, sometimes in 'special economic zones' such tax incentives have been widely adopted across the world and are often described as leading to a 'race to the bottom'

range of more specific zone types, including free trade zones (FTZs), export processing zones (EPZs) and free zones (FZs). Maquilas (otherwise referred to as 'maquiladoras') are individual factories that operate according to similar terms of SEZ s.

In general, SEZs and maquilas have a poor reputation in terms of their labor standards and their record of displacing indigenous people from their land. As citizens agitate to redress these injustices, many also build tax justice into their campaigns.

Tax Breaks In The Extractive Sector

Another area in which tax breaks cost southern countries dearly is the mining and mineral sector. Mineral extraction is renowned for its poor social and environmental impacts. In addition, industrial mining companies are particularly known for failing to create linkages into local or national economies that would stimulate more private sector development and job creation. This is because foreign mining companies import most of their equipment, as well as the technical, financial, and managerial services needed to run the mines. Once extracted, raw ore is usually exported for further refining or processing elsewhere. Moreover, given the capital intensive nature of industrial mining, these companies create relatively few jobs. This is why there is a widespread view that the paramount development benefit of mining in Africa is the potential to generate public revenue through tax. Government revenue in the form of royalties, fees, and various direct and indirect taxes is potentially a major source of income for governments of countries rich in natural resources.

However, extremely widespread tax breaks mean that this primary benefit too often fails to materialize. Too many MNCs have demanded and received massive tax and royalty concessions from governments as the price of setting up operations. These tax deals are usually made in secret between companies and governments through contracts that often override national tax laws. This kind of treatment in turn encourages corruption as secrecy makes it difficult for civil society, parliaments and others to monitor the revenue from extractives and how this money is spent through the budget.

Trade Liberalization Leading To Lost Trade Taxes

Trade liberalization is another major avenue through which southern countries have faced diminished tax income. Many southern countries rely heavily on taxation of imports, because such taxes are relatively easier to collect and less costly to administer than other forms of taxations. The proportion of a government's overall revenue that comes from these taxes can be up to one-third in some countries even higher.

However, many countries have progressively lowered tariffs during the past couple of decades as a result of World Bank and IMF conditionalities and donor 'advice' which has in turn reduced their tax income. And today, bilateral and multilateral free trade agreements threaten to impose additional severe reductions in southern countries' income and tariffs. For example:

- Based on figures from the United Nations Conference on Trade and Development (UNCTAD), ongoing multilateral negotiations in the context of the WTO Doha Round could result losses of up to US$64billion for southern countries, through lost import revenues on industrial goods. This is four times the amount that the World Bank predicts southern countries would gain as a result of increased trade.

- Free trade agreements being negotiated, or in some cases recently concluded, between the EU and groups of African, Caribbean and Pacific (ACP) countries (known as economic partnership agreements, EPAs) would also impose serious revenue losses for particularly vulnerable countries as a result of foregone trade taxes. Cote d'Ivoire is predicted to lose an estimated US$83million per year, equivalent to its current health spending for half a million people.

The IMF and others have strongly argued, as part of 'tax consensus' that trade taxes should be replaced with VAT. However, we highlighted earlier that VAT tends to be a regressive tax. In addition, research from the IMF itself has shown that the introduction or expansion of VAT has not generated levels of tax income of anything like the magnitude that would compensate for the lost trade taxes. In least developed counties, VAT and other forms of taxation only make up for about one-third of the taxes foregone through lost trade taxes, according to the IMF's estimates. This means less revenue for spending on social services.

Financial Secrecy Leading To Tax Evasion and Avoidance

We have explored how governments offer low tax rates, tax breaks and tax holidays in an attempt to attract investment. We have also seen how foregone trade taxes present a further strain on government coffers. As if these practices did not already drain enough domestic resources, further leakage of potential revenue occurs through international tax evasion[9] and avoidance[10], which is facilitated by financial secrecy. There are a number of techniques for avoiding tax.

Abusive Transfer Pricing

It is estimated that 60% of international trade occurs within MNCs, as different subsidiaries sell goods and services to each other. Although tax dodging[11] is not restricted to multinationals these companies with multiple subsidiaries operating in different countries can more easily manipulate their taxable profits. One of the key mechanisms through which multinationals get away with non-payment of what they owe to governments is through manipulating the prices that are charged for goods and services within the company but across borders. Transfer pricing is the system of pricing transactions between related parties, for example sister companies within the same commonly controlled group of companies. MNCs run their businesses on an international basis, and a sale of goods or services to a customer in one country will often involve group entities in several other countries in the supply chain. The problem is how to allocate the cost of production and selling the product or service and the profit earned on the sale.

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[9] *Tax evasion – illegal or fraudulent non-payment or underpayment or taxes*

[10] *Tax avoidance – the organisation of finances or accounts in such a way as to minimise declared income and therefore pay as little as possible – often through finding and exploiting loopholes in different countries' legislation. This is legal*

[11] *Tax dodging – a legally imprecise term which is often used by tax justice campaigners when it is not clear whether tax is being avoided or evaded*

International regulations require companies to price goods and services to related companies as if they were unrelated and trading in the open market. However, often it is difficult to determine what a market value for a product is. In this context, a company can set the sale of goods and services by affiliated companies within an MNC to each other at artificially high or low prices. The companies can therefore often allocate the profit between subsidiary companies in such a way that a minimal amount of tax has to be paid.

When this occurs within companies, tax justice, campaigners often term this 'transfer mispricing'. A similar practice where unrelated companies make deals with one another to manipulate the price is called 'false invoicing'. Together these are often termed 'trade mispricing'. It is estimated that around 50% of trade transactions in Latin America and 60% in Africa are falsely priced by an average or more than 10%.

The victims of trade mispricing are all too often poorer countries where the revenue authorities have neither the expertise nor the resources to monitor or prove what is happening. Secrecy and lack of transparency in financial reporting make it incredibly difficult for under resourced tax authorities to work out what tax is due to them, because companies are not obliged to report their profits and that of their subsidiaries at all national levels to the governments in whose jurisdiction they operate. On the other hand, MNCs have the resources to carry out complicated global transactions and procedures which tax administrators in southern countries may find difficult to trace.

Losses From Trade Mispricing

Christian Aid estimates losses to southern countries as a result of trade mispricing[12] to be in the region of US$160 billion. The following are examples of what this means at a country level:

- In 2007, Bangladesh lost an estimated US$172.6 million in tax revenue as a result of trade mispricing involving trade with the EU and the US, in significant part attributable to its knitting and crocheting apparel industry. Growth in this sector exceeded all expectations in 2007 in spite of rising costs because of energy price increases. To facilitate this growth, the government invested in technical as well as financial support to help exports. Yet it lost out on much-needed tax revenue because of trade mispricing.

- In the same year Vietnam lost US$171million of tax revenue and Pakistan lost US$152 million.

- Kenya is estimated to have lost around US$2billion between 2000 and 2008 to illicit outflows of capital, equivalent to about 70% of the country's 2010/11 development budget of US$2.7billion. There are likely to be significant tax losses as a result of this level of capital flight. Kenya Revenue Authority (KRA) has been investigating a number of multinationals, including the country's three largest flower companies, for abusive transfer mispricing, as the practice is believed to account for a significant proportion of these illicit outflows. According to Mr. John Njiraini, the KRA

[12] *'transfer pricing abuse (often referred to as transfer mispricing) this involves the manipulation of prices of transactions between subsidiaries of multinationals or, more specifically, the sale of goods and services by affiliated companies within a multinational corporation to each other at artificially high and low prices.*

commissioner of domestic taxes in charge of the large tax payers. 'We have seen cases of multinationals reporting losses in Kenyan subsidiaries while their parent firms are making huge profits. We are investigating whether they have abused their transfer pricing policies.

Country –by-Country Reporting

It is crucial that companies are transparent about their operations in all the countries in which they operate. Country-by-country reporting is a tool to make MNCs more transparent. As we have established, tax avoidance is a worldwide problem. It involves the abusive exploitation of gaps and loopholes in domestic and international tax laws that allow MNCs, in particular, to shift profits from country to country, often via tax havens, with the intention of reducing the tax they pay on some or all of their profits. Tax avoidance on such a large scale worldwide is made easy by a lack of transparency in the way, MNCs report and publish their accounts. Making MNC accounts more transparent would help civil society and governments hold them to account for taxes that they pay and the extent to which these correspond to underlying economic activity.

This proposed standard, which originated with the Tax Justice Network, is now supported by the EU and has reached the attention of the OECD, the UN Tax Committee and other international bodies.

It is not just lack of transparency in corporate reporting that facilities tax evasion and avoidance, but also the lack of cooperation between countries when it comes to sharing tax information. Secrecy jurisdictions undermine the ability of governments to collect revenues by allowing companies and individuals to harbour assets on their shores, away from the eyes of tax man.

Secrecy Jurisdictions (Commonly Known Tax Havens)

Secrecy jurisdictions facilitate the tax dodging outlined above. There are between 50 and 72 of these secrecy jurisdictions in the world, which allow companies and wealthy individuals to hide assets and avoid tax by refusing to effectively exchange information with other countries. The Tax Justice Network estimates that the total sum of money held 'offshore' is around us$11 trillion, resulting in an annual tax loss of US$255 billion. Secrecy jurisdictions deprive the exchequers of rich and poor countries, but they have immeasurably greater impact on southern countries that can ill afford the losses. In some cases they can provide a hiding place for bribes paid to governments, or assets siphoned from a government's budget.

Secrecy jurisdictions also allow MNCs and wealthy individuals to set up 'trusts' into which money is paid. The identity of those paying money into these tax havens is hidden, as is the identity of those with access to them. This means that if tax is liable on this income, the country where the tax due may never know.

Automatic Tax Information On Exchange

A number of NGOs are also calling for a multilateral agreement on automatic tax information exchange to end the secrecy of tax havens, which makes tax dodging possible. This agreement would mean countries automatically sharing information on citizens or companies holding assets on their shores, with the country where that asset originated the citizen is resident. It would equip countries with timely information about where tax abuse is likely to be taking place therefore where further investigation is needed.

As demonstrated throughout this chapter, tax policy has a substantial impact on many of the core concerns of CSOs, from ensuring the availability of funds for important social programmes to narrowing the gap between the rich and the poor. In many countries, tax debates are dominated by businesses and wealthy individuals. Their concerns are often different to those of civil society more broadly. Yet decisions on revenue issues are some of the most important that a government makes. It is vital that civil society be in a position to offer perspective on tax policies so that it can help broaden the debate on influence these policies and the impact they have on all citizens.

Action Page

This page offers participants and the facilitator the opportunity to share on the knowledge acquired during the training process and also to come up with follow up activities that can be drawn from the preceding sections. The follow-up activities should be noted as action points with details on how these will be followed through.

Advocacy Bullets

In their discussions groups should also identify action(s) that they can take in the following advocacy bullets to shoot and win on tax justice:

- Value Added Tax, Pay As You Earn etc- is it fair, do you know where it is going, what can be done to improve the collection and use of VAT, What are you going to do about the issues raised?
- Right to information- campaigns around right to information on taxes. Holding policy makers to account on how much they are getting, how they are using it and citizens demands on where the money should be allocated to.
- Campaign against debt and loans and for internal resource mobilization as an alternative.
- No to Corruption- ZIMRA official to declare assets?

Exercise 1: Why bother with tax? Making the case for your organization

Aim: To establish why tax is relevant to the work of different organizations, networks and communities.

Discussion

Discussion exercise in groups: Share the case studies and quotes from the chapter on 'Why bother with tax?' with groups. Do any of these examples seem relevant to them? Ask groups to discuss ways they think tax is relevant to their organization, network or community.

In plenary: Ask the groups to share their main conclusions.

3.0 TAXATION, DEVELOPMENT AND HUMAN RIGHTS

3.1 Definitions

Notes To The Facilitator

Open the discussion with a question to participants on their own definitions of development and human rights. Write down the list of rights that participants come up with and their definitions and stick them close by where they are visible. Participants can go on to say reasons why taxation is important to the realization of development and human rights especially socio-economic and environmental rights, taking from previous sections.

Development

Development is a complex issue, with many different and sometimes contentious definitions. A basic perspective equates development with economic growth. The United Nations Development Programme uses a more detailed definition- according to them development is 'to lead long and healthy lives, to be knowledgeable, to have access to the resources needed for a decent standard of living and to be able to participate in the life of the community.'

Achieving human development is linked to a third perspective of development which views it as freeing people from obstacles that affect their ability to develop their own lives and communities. Development, therefore, is empowerment: it is about local people taking control of their own lives, expressing their own demands and finding their own solutions to their problems.

Economic, Social and Environmental Rights

Human rights are widely regarded as claims or entitlements which every human being has by virtue of the fact that they are human beings. Human rights are held by every human being against the state and society. They are based on the principle that all human beings are equal and endowed with inalienable rights which protect their dignity and worth of human being. The Universal Declaration of Human Rights (UDHR) is widely recognized as a watershed in laying the foundation for the recognition of human rights by the international community.

Economic, Social and Cultural rights (ESCR) have their roots in the UDHR as well. These rights protect people's claims or entitlements to economic, societal and cultural benefits. For example, the right to work, the right to health, the right to education and the right to culture which are key ESCR are provided for under the UDHR. However, it is not until 1966 that ESCR which have their genesis in the UDHR were further developed and a framework for their realization was put in place. In 1966, the United Nations adopted two significant international Covenants that have greatly shaped and influenced the human rights discourse in the 20th century and seem to set to continue to do so in the 21st century. These are the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR). In particular, the ICESCR makes provisions for a number of economic, social and cultural rights. These include the right to work, the right to form and join a trade union of one's choice, the right to social security, the right to an adequate standard of living that includes among other things adequate food, shelter and clothing and the right to education.

At the continental level, the African Charter on Human and People's Rights (ACHPR) provides the framework for the realization of economic, social and cultural rights. Just like the ICESCR it makes provision for the right to work, health and education.

Zimbabwe ratified both the ICESCR and ACHPR and therefore under obligation to put measures in place that will result in the realization of economic, social and cultural rights by its citizens. However, the obstacle to citizens realizing these rights is the stipulation in section 111B of the Lancaster Constitution which stipulates that any convention, treaty or agreement acceded to by the authority of the President shall be subject to approval by parliament, and shall not form part of the laws of the country unless it is incorporated into domestic law through the Act of Parliament. This has been compounded by these violations of these rights by state institutions, limited resources and lack of political will.

The Classes of Human Rights

Human rights have traditionally been grouped into three categories namely first, second and third generation rights. First generation rights encompass civil and political rights which are mainly enjoyed on an individual basis. The main objective of civil and political rights is to protect the individual from the excesses of state hence the reference to them as negative rights. The most distinctive feature of civil and political rights is that they are justiciable which means they are legally enforceable in the court of law.

Economic, Social and Cultural rights fall under the second generation rights category. They are generally regarded as positive rights due to their requirement for the duty bearers (the state) to take positive action like the enactment of resources of appropriate laws and policies, the development of programmes as well as the provision of resources that will result in the fulfilment or realization of economic , social and cultural rights. The most distinctive feature of ESCR is that when they were first enacted, the perception was that they were not enforceable in a court of law or justifiable. However, recent court rulings both at the national and regional level have shown that ESCR are indeed justiciable. Some court decisions in other jurisdictions have upheld the rights of people to food, shelter, environment and water and this to a larger extent can be viewed as a manifestation of communities claiming ecological debt.

Third generation rights are also called solidarity or group rights. Unlike other rights, third generation rights emphasize on the group or the community hence the name solidarity or group rights. Their enjoyment and violations are not targeted at an individual but a community or a group. Examples of third generation rights include the right to development, clean and health environment, peace, self determination and rights of minorities. There is no international legal instrument that recognizes third generation rights. What mainly exist are soft law declarations like the Rio Declaration on Environment and development. However, despite the lack of an international legal instrument to back them, some countries have enshrined third generation rights in their constitutions making them justiciable.

Having dealt with issues of taxation; the definitions, why we should bother about, why tax matters and how countries are deprived of tax revenues in previous sections, it can be noted that, social and economic rights and environmental rights which fall under second and the third generation respectively, are the anchor in the campaign for tax justice. This is because socio-economic rights and environmental rights also include the rights of communities to benefit from mobilized domestic resources, natural resources, the right to access information, to be involved in decision making for their development and the right to access justice when their rights are violated or when their demands are not met as citizens and tax payers. Weak national revenue structures, losses of revenue through unjust trade practices, operations of extractive industries and their financiers can impact negatively on socio-economic rights and environmental rights and hence perpetuate underdevelopment.

While there is a persistent wrong perception that civil and political rights are more superior to the second generation rights, it is important to note that Environmental, Economic, Social and Cultural Rights (EESCR) are critical in the promotion, protection and fulfilment of rights of the greater majority of citizens in developing countries, for example Southern Africa. These rights play a critical role in promoting sustainable development. Environmental, economic, social and cultural rights seems to be most suited to address development needs of developing countries in Southern Africa where poverty levels are on the rise. As Muchena notes “one of the greatest immediate threats to human rights in Southern Africa lies in the twin problem of poverty and inequality which feed on poor governance”. Environmental, social and economic justice issues affect a lot of urban and rural communities in Southern Africa and Zimbabwe. Environmental, social and economic justice issues are not best addressed by civil and political rights which are individualistic in their focus but by environmental, economic, social and cultural rights whose objective is to protect vulnerable members of society by focusing on group and community rights. The above position places these rights at the centre of the tax justice campaign as taxation can be used as a tool to guarantee long term development and these human rights.

Tax justice, Development and Human rights

There is a shared belief that taxes are essential to raise domestic revenues, promote development and contribute to poverty reduction. Tax rates have to be efficient in allocating investment across sectors; equity as well as promoting citizenship. Every government in the world has certain responsibilities regarding its citizens. The human rights legal framework spells out those responsibilities.

As noted in previous sections, however human rights encompass not just civil and political rights but also socio-economic and environmental rights. The minimum requirements for the fulfilment of economic and social rights include the provision of available foodstuffs for the population, essential primary health care, basic shelter and housing and the most basic forms of education.

Groups working on human rights should be concerned about how human rights are realised through the budget, and how they are violated when states are unable to meet their obligations through weak or unfair taxation. In 1986 the UN made explicit the link between these rights and the resources allocated to their realisation. The MDGS are also an attempt to create a practical benchmark for states to work towards implementing human rights.

While focusing on pushing for countries to meet their aid pledges in noble for MDG campaigners, it is important to note that the progressive realisation and sustainability of these rights in the long term, requires domestic resource mobilisation through tax. From the research that the TJN made, it is clear that there is a symbiotic relationship between taxes collected and the progress with regards to MDGs.

Domestic resources can constitute a stable and long lasting source of funding to national development agenda. The private sector and citizens can contribute to this effort through taxation. However most governments in the South, including Zimbabwe have been neglecting this avenue of resource mobilisation and concentrating their efforts and attention to foreign aid. Foreign aid can compliment national efforts to foster development and reduce poverty but it should not be the main source of revenue.

Notes To The Facilitator

Are resources being mobilised to ensure that government fulfil their responsibilities towards the progressive realisation of rights? If not, the government can be held to account for not doing so. Link this to the constitutional provisions on social and economic rights as you lead the discussion.

Linkage Between Extractive Sector and Development

Notes To The Facilitator

The extractive sector was covered in previous sections on how countries are deprived of tax revenues. Take this time to emphasise how poor management of the industries through proper legislation and practices can harm any developmental efforts in the country. Participants can share on their experiences from their communities and sectors where there are extractive companies operating.

The majority of populations in Southern Africa are directly dependent on natural resources like minerals, fisheries, wildlife and forestry to sustain their livelihoods. The extraction of natural resources affects the environmental, economic, social and cultural rights of communities as a group and not as individuals. As such both second and third generation rights provide a very good foundation for communities to organize themselves so as to participate, derive benefits from natural resources governance and to hold decision makers accountable.

The contribution of the extractive projects to development should e judged by the extent to which they contribute not only to total investment, production, employment and trade but above all to the rate of retention and absorption of wealth by the economy

Taxation and The Vulnerable: Case Of Gender

Notes To The Facilitator

Highlight that each sector has peculiar issues with regards to tax justice. Sectors can share on their views and experiences before or after citing gender as a case study.
Tax systems play a role in addressing or exacerbating economic inequality between women and men. This can either be implicit or explicit.

Implicitly, an identical tax may have a differential impact on women and men because of their differing social and economic roles. For example,

- A high rate on part time earners is likely to affect women more than men because women are more likely to work part time than men as then accommodate family responsibilities. Any changes in taxation for the informal sector (presumptive taxes are more likely to affect women who are the major players in the sector, duties on cross-border goods also affect women more who are the majority of cross border traders).
- A shift from direct taxes to indirect taxes such as VAT can produce greater gender inequalities if taxes are levied on essential goods that are consumed disproportionately by female-headed households.
- Men are more likely to benefit from corporate and income tax exemptions as they are more likely to own property and shares compared to women.

There are also explicit differences built into tax systems between how women and men are taxed. In Pakistan, for instance, the tax code allows women to shield a greater amount of their income from tax than working men. In contrast, in South Africa prior to 1994, married women were taxed as higher rates than married men. So it is important for groups working on tax to assess the gender implications of tax structures and to challenge those systems that are regressive along gender lines.

Notes To The Facilitator

Open a short discussion with participants on their suggestions on Zimbabwe's tax system with regards to gender justice and taxation. Already some women's groups are campaigning for gender sensitive budgeting, highlight the role of tax in budgeting!

Case Study: South Africa's Women's Budget Initiative (WBI)[13]

The WBI began in South Africa in 1995, soon after the country's first democratic elections. It engaged in research, training and advocacy focused on the gender impact of government budgets. In its first year, the WBI examined four areas- housing, education, welfare and work as well as the broader issues of public sector employment and taxation. The WBI analysis highlighted that South Africa's shift from direct to indirect taxation and the implicit gender bias of this shift. The regressive nature of the indirect tax bears disproportionately on women, precisely because the majority of the poor are women. The analysis also examined the impacts on women of a range of other types of tax and recommended that government tax data include gender breakdowns to facilitate more sophisticated analyses of the gender impact of taxation. In the late 1990s, the government followed some of the WBI recommendations and published the number of male and female tax payers who submit returns. The WBI expanded its work over the years to encompass all sectors of the budget. In its fifth year, the WBI focused on tax issued, conducting a gender analysis of South Africa's customs and Excise taxes and examining gender issues in relation to local government revenue.

In some cases the WBI's analyses led to tangible policy results on tax issues. For instance, pressure from WBI and other groups led the government to remove VAT on paraffin, which is consumed heavily by the poor- this had a positive impact on women in particular, given that there are more women than men among those living in poverty and paraffin is largely bought by women.

[13] *Christian Aid Advocacy tool: tax justice*

Action Page

Exercise 1

In groups (determined by number of participants), the participants should:

- Their human rights situations and how they can be improved through tax justice
- Identify industrial projects that are going on in their communities or even at national level and how they are contributing to their development
- Discuss their developmental demands that can be implemented in their community through revenue raise in taxes

Advocacy Bullet(s)

- Identify a campaign that can be launched against any unjust taxes to the vulnerable if they are any.
- Access to information on private sector taxation especially those in the extractive secto