Oxfam Ireland's submission to the Civil Society Cross Sectoral Steering Group's response to Ireland's second Universal Periodic Review Cycle

Tax Justice

There is a strong and growing global consensus that tax policy is fundamentally a human rights issue. Tax provides a reliable and sustainable source of revenue to fund the public services necessary to meet the basic human rights of the general population. The tax system has also been identified as one of the greatest tools at a government's disposal to tackle poverty and inequality within a society.

However there is mounting evidence to suggest that Irish tax policy has enabled wealthy individuals and corporations to avoid paying their fair share of tax. This has significant implications, not only for Irish citizens, but for developing countries and their ability to raise sufficient revenue to finance essential services. There is definite need for Irish tax policy to incorporate a human rights perspective as a matter of urgency and determine the full impact of Irish tax laws, policies and practices on poverty and inequality.

Tax and Human Rights

Tax policy is fundamental to the enjoyment of human rights for the following reasons:

> Firstly, taxes are essential sources of revenue to fund the services, infrastructure, and 'public goods' that benefit us all, and can be the glue between citizen and state. A just and progressive system of taxation increases the accountability of a state to its people by improving governance, reducing inequality and financing public services. Without this important source of revenue, governments will struggle to sufficiently and equitably realise the human rights of their citizens.
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> Secondly, tax plays a significant role in the redistribution of resources in ways that can prevent and alleviate inequality. Oxfam's 2014 report, "Even It Up: Time to end Extreme Inequality[1]." found that the gap between the rich and poor is growing ever wider. In 2014 a mere 80 individuals owned as much wealth as half the people on our planet. This level of extreme economic inequality is standing in the way of ending poverty and inhibits the fulfilment of human rights worldwide. Through its research, Oxfam found that in many EU countries unfair tax systems are failing to correct income inequalities and, worse, are actually contributing to a widening inequality gap. These tax systems are consistently biased towards more heavily taxing labour and consumption than capital, allowing high earners, wealthy individuals and

[1] Oxfam, 2014. Even it Up: Time to end Extreme Inequality.

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the most profitable companies to largely escape from their tax obligations, and placing the burden of effort on common citizens.

Obligations under International Human Rights Law

Unfair and harmful tax policies directly contradict Ireland's obligations to International Laws and Conventions such as:

- Article 2.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)[2] requires that states must devote the maximum available resources to ensure the progressive realisation of all economic, social and cultural rights as expeditiously and effectively as possible, even during times of severe resource constraints, whether caused by a process of adjustment, economic recession or other factors.[3]

- Article 4 of the United Nations Convention on the Rights of the Child[4] which supports the requirement of the state to use the maximum available resources to guarantee economic, social and cultural rights.

- The Maastricht Guidelines on violations of economic social and cultural rights clarifies that a state is in violation of the Covenant if it fails to allocate the maximum of its available resources to realizing human rights**.**

Relevance for Ireland

The current UN Special Rapporteur on Extreme Poverty and Human Rights, Professor Philip Alston recently described the figures released by Central Statistics Office that one in eight children live in poverty in Ireland as '*a negation of all human rights*'. Speaking at the Christian Aid conference on "The Human Rights Impact of Tax and Fiscal Policy" in February 2015, he declared that the poverty in Ireland was "*the result of a series of deliberate and conscious decisions by key actors who have chosen to prioritise other goals….the sanctity of tax policy is too often invoked as though there are no choices to be made*".

Oxfam supports this statement by Professor Alston. Oxfam's decades of experience in the world's poorest communities have taught us that poverty and inequality are not inevitable or accidental, but the result of deliberate policy choices. Our recent report "A Europe for the Many, Not for the Few"[5]shows how harmful taxation policies in addition to austerity measures have facilitated the rising

[2] Article 2.1, International Covenant on Economic, Social and Cultural Rights.
[3] Official Records of the Economic and Social Council, 1991, Supplement No. 3 (E/1991/23), annex III, Committee on Economic, Social and Cultural Rights, general comment No. 3
[4] "With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation."
[5] Oxfam, 2015. "A Europe for the Many, not the Few" https://www.oxfam.org/en/research/europe-many-not-few

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economic inequality and poverty we see in Europe, and indeed Ireland, today. This in turn has threatened the human rights of Irish citizens and their access to essential services. A prime example of this is the right to healthcare in Ireland.

The inequalities in Ireland's healthcare system have been well documented. Ireland has what is often described as a two-tier system, where access to healthcare is based on financial resources and geographical location rather than on need. Approximately 45 percent of the population has private health insurance, which offers access to private hospitals and specialist care, while roughly 39 percent of the population hold medical cards, offering limited free access to public health services.[6] There is also a concern that recent austerity measures have widened this divide. Oxfam's research into the Irish healthcare system[7] has argued that a fairer tax regime would increase public revenues, which could then be used to increase public investment in health services and deliver free universal healthcare for all. This is an example of how the government's approach to taxation has undermined Ireland's obligation to mobilise maximum available resources for the fulfilment of Irish citizens' economic, social and cultural rights.

Importance of International Cooperation for Tax Justice

Tax is also an important feature of international cooperation towards the fulfilment of human rights and there is an international human rights dimension to Irish tax policy. Despite playing a leading role in the field of development assistance, Ireland has unfortunately faced harsh criticism for its lenient tax system which has been accused of allowing multinationals and wealthy individuals to avoid paying their fair share of tax. This not only has implications for the financing of public services for Irish citizens, it has significant consequences for developing countries too as they lose out on vast amounts of revenue that could otherwise be used to fund essential public services. The impact of Irish tax policy on the ability of developing countries to raise revenue to fund essential services is well documented by a number of organisations including Action Aid[8] and Christian Aid[9]. Furthermore tax avoidance and harmful tax loopholes are identified as significant obstacles to the realisation of human rights under International Laws for example Article 21 of the Maastricht principles which states that states refrain from engaging in activity that impairs the ability of other states to comply with their own human rights commitments. This is echoed by the former UN Special Rapporteur on Extreme Poverty and Human Rights, Magdalena Sepúlveda Carmona who in her final annual report on Taxation and Human Rights[10] states that:

[6] Oxfam, 2015. Achieving Universal Healthcare in Ireland: Learning from Rwanda and Malawi's experiences.
[7] As above
[8] Action Aid, 2013. Sweet Nothings. http://www.actionaid.org.uk/sites/default/files/doc_lib/sweet_nothings.pdf
[9] Christian Aid Death and Taxes, 2008: http://www.christianaid.org.uk/images/deathandtaxes.pdf and Tax of Life, 2010: http://www.christianaid.org.uk/Images/Tax_of_Life_Report.pdf
[10] OHCHR, 2014. http://www.ohchr.org/EN/Issues/Poverty/Pages/AnnualReports.aspx

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"Providing an avenue for high-net-worth individuals and transnational corporations to evade tax liabilities…could be contrary to obligations of international assistance and cooperation, because it can directly undermine the ability of another State to mobilize the maximum available resources for the progressive realization of economic, social and cultural rights."

Oxfam's Recommendations

- Support the introduction of public country by country reporting by the OECD BEPS process and increase transparency by recording what companies are paying, what countries have tax rulings signed with large companies and who the real owners of companies are.
- Publish the recent spill-over analysis on Ireland's tax practices impact on developing countries
- Ensure Irish law and tax practice does not enable companies or individuals to avoid taxes
- Require companies based in or doing business in Ireland to be transparent in relation to their ownership and taxation arrangements
- Support the creation of a new inter-governmental body on tax cooperation, which can build a more inclusive international tax architecture where all countries are participating on an equal footing in the tax decision making process.
- Work for an end to tax havens through current international processes.

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