

# ENDLESS CORPORATE TAX SCANDALS?

## Oxfam's 5-point plan to build a fairer global tax system

When multinational corporations and the super-rich use tax havens to avoid paying their fair share, it is ordinary people, and especially the poorest, who pay the price. The Mauritius Leaks show that tax havens continue not only to exist but to prosper, despite government promises to rein in tax dodging. This briefing lists five steps governments can take to tackle tax avoidance, and end the era of tax havens and the race to the bottom on corporate taxation.

## TAX HAVENS ARE FUELLING AFRICA'S INEQUALITY CRISIS

Mauritius Leaks<sup>1</sup> reveals how multinational corporations are gaming the system to shrink their tax bills, and in doing so are cheating poor countries across Africa out of the vital revenue to which they are entitled to address poverty and invest in healthcare, education, agriculture and jobs. Tax havens like Mauritius are fuelling Africa's inequality crisis by enabling multinationals and super-rich individuals to dodge paying their fair share of tax.

Developing countries lose an estimated \$100bn a year in tax revenue as a result of tax dodging by multinational corporations, and even more as a result of the harmful tax competition between countries.

Although data are hard to come by, the New World Wealth (which publishes the *AfrAsia Bank Africa Wealth Report*) says it is likely that African multi-millionaires and billionaires have hidden up to three-quarters of their wealth offshore.<sup>2</sup> Because of this, it is estimated that African countries are losing \$14bn annually in uncollected tax revenue.<sup>3</sup>

African countries give away billions of dollars to multinationals through tax dodging and wasteful tax incentives. West Africa loses an estimated \$9.6bn annually as a result of such incentives.<sup>4</sup> This would be enough to build 100 modern and well-equipped hospitals each year in the region. Corporate tax incentives are reductions in tax offered by governments, ostensibly to attract investment. Evidence shows, however, that such incentives significantly reduce domestic revenue collection and are not necessary to attract foreign direct investment.<sup>5</sup>

## IS MAURITIUS A TAX HAVEN?

In 2016, Oxfam exposed Mauritius as one of the world's 15 worst corporate tax havens.<sup>6</sup> Mauritius earned its place on Oxfam's 'world's worst' list because it facilitates the most extreme forms of corporate tax avoidance, driving the global race to the bottom in corporate taxation. Tax Justice Network Africa cited Mauritius as 'among the most corrosive corporate tax havens against African countries.'<sup>7</sup>

Mauritius has positioned itself as Africa's offshore investment hub of choice by allowing global companies to divert millions of tax dollars away from low-income African countries. In the three decades since the island became a tax haven, Mauritius has woven an intricate web of bilateral tax treaties, especially with many African countries. These treaties aim to reduce 'double-taxation' and allocate taxing rights between the two signing countries. However, developing countries pay a high price for concluding double tax treaties with Mauritius and other tax havens: they are often more protective of developed countries' interests, and are used by big corporations to shift their profits to countries where they are able to pay little or no taxes.<sup>8</sup>

According to President Macky Sall of Senegal, a double taxation treaty signed with Mauritius in 2002 has cost Senegal more than \$250m in tax revenue. Senegal could potentially leave the double taxation treaty signed with Mauritius – one of many lopsided tax treaties that cheat poor African countries out of billions of dollars in tax revenue every year.

In March of this year, a tax treaty in existence between Kenya and Mauritius was voided and declared unconstitutional by a Kenyan court. The ruling is groundbreaking, not only for Kenya but for other African countries, and a significant step towards promoting a financing architecture that eliminates tax avoidance and promotes domestic resource mobilization.

Mauritius failed the European Union's 'blacklisting' criteria in 2017 and was put on the 'grey list'<sup>9</sup> of tax havens in 2018 after it abolished its so-called 'preferential tax regime' that allowed foreign companies operating from Mauritius to register the bulk of their profits there and therefore pay much less tax. However, Mauritius later introduced new rules that allow companies to pay tax on only 20% of their foreign income, leaving 80% entirely tax-free. Considering the normal corporate tax rate in Mauritius of 15%, this move cut that effective tax rate to just 3%.

EU governments did not accept the changes made by Mauritius. At their February 2019 meeting, EU finance ministers said the reforms were not sufficient, and the new rules were 'potentially harmful'. They kept Mauritius on their grey list of tax havens, giving the country until the end of 2019 to change its tax rules, which Mauritius again committed to do.

Despite being on the EU grey list, Mauritius continues to harm other countries and widen inequality because it facilitates the tax dodging of multinationals.

EU governments have also let several other tax havens off the hook,<sup>10</sup> even though reforms introduced by these countries to escape the blacklist are ineffective or cause more harm. In addition, the EU's criteria for identifying tax havens, and the process for screening countries, are too weak, putting the credibility of the whole blacklisting process at risk.

## POVERTY AND INEQUALITY IN MAURITIUS

Mauritius is often cited as an African success story, which over the past decade has seen substantial economic growth. However, much of this growth is attributable to the fact that Mauritius operates as one of the world's worst tax havens, depriving many other African countries of millions of dollars in tax revenue. Meanwhile, according to a recent World Bank report, inequality among Mauritians has 'widened substantially' over the past 15 years, 'threatening the standards of living of the poor'. Women, in particular, have not shared in the gains, with only 57% of them participating in the labour force by 2015, while women in the private sector are paid on average about 30% less than men.<sup>11</sup> Effectively tackling tax havens is a key issue for women's rights and for gender equality.<sup>12</sup>

## PROFIT SHIFTING TO TAX HAVENS

The Mauritius Leaks has exposed that one of the many ways that a company can avoid taxes is by shifting its profits via intragroup loans or debt financing. A multinational will create a company in a tax haven like Mauritius to then make 'artificial loans' from that company to another in the group. The borrowing company is located in a higher tax country and pays interest to the company registered in the tax haven, which is deductible in calculating income for corporate tax purposes – so the more money a company located in a higher tax country borrows, the more interest it pays and the more it slashes its tax bill in the country where profits are made. The authors of the paper *The Missing Profits of Nations*, published in 2018,<sup>13</sup> estimated that in 2015 about \$600bn in multinational foreign profits were shifted to tax havens.

In Mauritius, interest payments are taxed at the very low rate of 3%. Unfair tax agreements signed between Mauritius and countries in Africa and Europe allow some companies to cut their tax bills even further.

A 2015 report by Finance Uncovered revealed how MTN, one of the largest mobile telecoms operators in Africa, in Uganda, Côte d'Ivoire and Nigeria made substantial payments to a mailbox company of MTN located in Mauritius. MTN denied any wrongdoing and referred to agreements with the appropriate authorities in the countries involved.<sup>14</sup>

Tax havens like Mauritius distort the working of the global economy.<sup>15</sup> According to research, almost 40% of global foreign direct investment (FDI) – close to \$12 trillion – is completely artificial: it consists of financial investments passing through empty corporate shells in tax havens, with no real economic activity taking place.<sup>16</sup>

Company loans from Mauritius and nine other tax havens to African countries total over \$80bn. This means that for every \$6 of FDI in Africa, \$1 was a company loan from a tax haven.

Figure 1: Tax haven company loans to Africa

# TAX HAVEN COMPANY LOANS TO AFRICA

from 10 selected corporate tax havens, end 2017

BERMUDA	\$6 billion
BRITISH VIRGIN ISLANDS	\$3 billion
CAYMAN ISLANDS	\$1 billion
HONG KONG	\$9 billion
LUXEMBOURG	\$3 billion
MAURITIUS	\$12 billion
NETHERLANDS	\$28 billion
SINGAPORE	\$1 billion
SWITZERLAND	\$9 billion
UNITED ARAB EMIRATES	\$9 billion

**TOTAL LOANS FROM TEN CORPORATE TAX HAVENS OVER \$80 BILLION**

FOR EVERY **SIX DOLLARS** OF FOREIGN INVESTMENT IN AFRICA, ONE DOLLAR WAS A COMPANY LOAN FROM A TAX HAVEN.

## OXFAM'S 5-POINT PLAN TO BUILD A FAIRER GLOBAL TAX SYSTEM

Big corporations and super-rich individuals, aided and abetted by tax havens, will always be one step ahead of the game unless governments 'walk the talk' in tackling these dodges and loopholes, and cooperate to overhaul global tax rules.

Previous attempts at tax reform have attempted to plug the holes in our international tax system with limited success. As a result, multinational corporations are still paying less tax than before the financial crisis in 2008, and multinational corporations continue to shift as much as 40% of their foreign profits to tax havens.<sup>17</sup>

The new round of negotiations on the international tax system (BEPS 2.0)<sup>18</sup> offers the potential for the fundamental reforms needed to ensure our century-old tax system is fit for purpose in the increasingly digitalized economies of the 21<sup>st</sup> Century.

If governments get it right, these negotiations could significantly change the way all multinational companies are taxed – not just the tech giants. This process could spell the end of corporate tax havens and put a stop to the damaging race to the bottom on corporate tax. It could mark the beginning of a new fairer tax era where poor countries are able to claim their fair share of corporate tax revenues, and access the funds they need to tackle poverty and inequality.

Oxfam's 5-point plan to build a fairer global tax system calls on governments to:

- 1. Agree new global tax rules in the negotiations led by the OECD under the mandate of the G20 to ensure fair taxation of big corporations.** This should include the introduction of a global minimum effective tax rate set at an ambitious level and applied on a country-by-country basis without exception. This would put a stop to the damaging tax competition between countries and remove the incentive for profit shifting – effectively putting tax havens out of business. It could mark the beginning of a new fairer tax era where poor countries are able to claim their fair share of corporate tax revenues, and access the funds they need to tackle poverty and inequality. Developing countries lose an estimated \$100bn a year in tax revenues as a result of tax dodging by multinational corporations – and even more as a result of damaging tax competition between countries.
- 2. Developing countries should not give away their taxing rights.** Many agreements between developed and developing countries have unfair terms on tax for developing countries. Tax treaties are agreements between two countries which determine, among other things, which country has the taxing rights for a foreign-owned company. Tax treaties between lower and higher income countries generally unfairly allocate more taxing rights to the higher income country, ensuring that money flows untaxed from developing countries to high income countries. Many treaties result in multinational companies not paying certain types of tax at all in any country. Rich countries have a responsibility to ensure fair taxation with their investments and the projects they finance. Governments of developing countries can protect their tax base from erosion by revising or voiding their tax treaties, introducing withholding taxes<sup>19</sup> and implementing strong tax anti-abuse rules.<sup>20</sup>
- 3. End corporate tax secrecy by ensuring all multinational companies publish financial reports for every country in which they operate.** The current OECD initiative on country-by-country reporting falls well short of the mark, as it does not cover all multinational corporations and it does not require companies to make their financial reports *publicly* available. This means that poor countries are unable to access the information to identify tax cheats. Stronger European proposals on public country-by-country reporting were due to be agreed this year but are being blocked by EU member states such as Germany, Ireland, and Luxembourg. Development finance institutions should only invest in companies that have adopted responsible tax policies; for example, by publishing financial reports for every country in which they do business.
- 4. Agree a global blacklist of tax havens based on comprehensive objective criteria and take strong countermeasures including sanctions to limit their use.** Governments have yet to agree an objective global list of tax havens. A farcical OECD–G20 blacklist published in July 2017 features only Trinidad and Tobago. The more comprehensive European Union list omits European tax havens such as the Netherlands and Ireland.

5. **Strengthen global tax governance by creating a global tax body where all countries can work together on an equal footing to ensure the tax system works for everyone.** The new round of global tax negotiations (BEPS 2.0) is a historic opportunity to put a stop to damaging tax competition and corporate tax avoidance, and to build a fairer tax system that works for the benefit of all people and not just a fortunate few. Even if the new round of global tax negotiations delivers positive results, a more inclusive tax body is required to oversee the global governance of international tax matters and strengthen international tax cooperation.

## NOTES

- 1 Mauritius Leaks is a global investigation by the International Consortium of Investigative Journalists (ICIJ). For details see: <https://www.icij.org/investigations/mauritius-leaks/>
- 2 AfrAsia Bank (2018). The AfrAsia Bank Africa Wealth Report 2018. Johannesburg: New World Wealth, p.13. <https://enterprise.press/wp-content/uploads/2018/09/africa-wealthreport-2018.pdf>
- 3 G. Zucman (2015). The Hidden Wealth of Nations: The Scourge of Tax Havens. Tables and figures accessed at: <http://gabriel-zucman.eu/hidden-wealth/>
- 4 For more information on West Africa, see C. Hallum and K.W. Obeng (2019). The West Africa Inequality Crisis: How West African governments are failing to reduce inequality, and what should be done about it. Oxfam and Development Finance International. <http://dx.doi.org/10.21201/2019.4511>. The Commitment to Reducing Inequality Index measures, compares and ranks West African governments' commitment on 3 pillars: public spending, taxation, and labour markets.
- 5 IMF (2015). Options for Low Income Countries' Effective and Efficient Use of Tax Incentives for Investment. IMF Staff Report. <https://www.imf.org/external/np/g20/pdf/101515.pdf>
- 6 Esmé Berkhout (2016). Tax Battles: The dangerous global race to the bottom on corporate tax. Oxfam. <https://oxf.am/2FNStyn>
- 7 Tax Justice Network Africa (2019). UAE and Mauritius are the Most Corrosive Corporate Tax Havens Against African Countries. [https://taxjusticeafrica.net/wp-content/uploads/2019/05/TJNA-Press-release\\_UAE-and-Mauritius\\_Tax-Haven-Index.pdf](https://taxjusticeafrica.net/wp-content/uploads/2019/05/TJNA-Press-release_UAE-and-Mauritius_Tax-Haven-Index.pdf)
- 8 See Oxfam's report 'Pulling the Plug: How to Stop Corporate Tax Dodging in Europe and Beyond' (2015). [https://www-cdn.oxfam.org/s3fs-public/file\\_attachments/bn-pulling-plug-corporate-tax-eu-190315-en.pdf](https://www-cdn.oxfam.org/s3fs-public/file_attachments/bn-pulling-plug-corporate-tax-eu-190315-en.pdf)
- 9 The EU's blacklist includes countries that failed to address deficiencies in their tax laws or policies on the basis of the EU's criteria. The grey list comprises countries committed to improving their transparency standards.
- 10 See J. Langerock (2019). Off the Hook: How the EU is about to whitewash the world's worst tax havens. Oxfam. <http://dx.doi.org/10.21201/2019.4146>.
- 11 World Bank (2018). Addressing Inequality through More Equitable Labor Markets in Mauritius. <http://www.worldbank.org/en/news/press-release/2018/03/26/addressing-inequality-through-more-equitable-labor-markets-in-mauritius-world-bank-report>
- 12 W. Fitzgibbon (2017, 7 November). Tax Haven Mauritius' Rise Comes at the Rest of Africa's Expense. International Consortium of Investigative Journalists (ICIJ). <https://www.icij.org/investigations/paradise-papers/tax-haven-mauritius-africa/>
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- 14 For more information, see E. Berkhout (2016). Tax Battles. Op. cit
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- 17 T. R. Tørsløv, L. S. Wier and G. Zucman (2018). The Missing Profits of Nations. Working Paper 24701, National Bureau of Economic Research. <https://gabriel-zucman.eu/files/TWZ2018.pdf>
- 18 For more information about BEPS 2.0, refer to Oxfam's briefing 'Tax revolution?' [https://www-cdn.oxfam.org/s3fs-public/tax\\_revolution\\_-\\_oxfam\\_briefing\\_-\\_7\\_june\\_2019.pdf](https://www-cdn.oxfam.org/s3fs-public/tax_revolution_-_oxfam_briefing_-_7_june_2019.pdf)
- 19 Some countries impose withholding tax on interest, dividends and royalties to companies and non-residents to protect their tax base from tax avoidance.
- 20 Tax anti-abuse rules allow countries to discourage or prevent tax avoidance and abusive tax schemes.

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## OXFAM

Oxfam is an international confederation of 19 organizations networked together in more than 90 countries, as part of a global movement for change, to build a future free from the injustice of poverty. Please write to any of the agencies for further information, or visit [www.oxfam.org](http://www.oxfam.org).

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