Towards Tax Justice in Asia

- Neeti Biyani

This paper has been prepared for the North-South research center (CETRI) for their *Alternatives Sud* series, published in French in March 2019. This is in the context of a Belgian flagship #TaxJustice campaign that will be run throughout 2019 by the Belgian NGO platform CNCD 11.11.11.

Introduction

Home to three-fifths of the world population, Asia – as a geographical and civilizational construct – is an anomaly. Given its size and diversity, the concept of Asia has significantly differentiated human geography, and varies greatly with respect to ethnicities, cultures, economics, histories and government systems.

However, most of Asia is distinctly similar with respect to the neoliberal development model chosen by most countries in the region – one that is geared towards achieving rapid and high economic growth. This is based on trade and investment liberalization, privatization, and corporate friendly regulations and institutions. This development paradigm chosen by Asian countries can be situated in the financialization of the global economic system and the expansion of the role played by the financial sector since the 1970s, which led to significant structural changes in the way national and international markets function, impacting growth patterns as well as income and wealth distribution. Concurrently, countries moved to implement market liberalization reforms like deregulation of capital and exchange controls, lowering of trade and tariff barriers, privatization of industries and services, and reduced tax rates and lower public spending. Together, these neoliberal reforms have effectively diminished the role of the state in being able to raise and mobilize domestic revenue to realize human rights.

Financing development in Asia

In 2015, the world came together to agree to realize the 2030 Agenda for Sustainable Development, or the Sustainable Development Goals (SDGs). The SDGs, an ambitious set of 17 goals and 169 associated targets, are oriented towards securing human rights for populations across the world, and are a universal call to end poverty, protect the planet, and to ensure that all people enjoy peace and prosperity. While the SDGs and its associated targets are crucial for countries to develop implementation strategies and allocate resources accordingly, the indicators for SDGs will serve as the measurement of progress towards achieving the SDGs at local, national, regional and global levels. The UN Statistical Commission has emphasized that countries and national statistical offices would be assuming a leadership position to determine national indicators.[1]

[1]United Nations Economic and Social Council (2015). *Statistical Commission: Report on the Forty-Sixth Session*.

The Third International Conference on Financing for Development (FfD) – a broad framework agreed upon by the international community to finance the SDGs – preceded the adoption of the 2030 Agenda for Sustainable Development and put the onus of financing the SDGs primarily on domestic resource mobilization, along with investment and private financing. Domestic resource mobilization, progressive and stable tax systems, well-resourced tax administration departments, and national and regional strategies to curb illicit financial flows thus lie at the heart of development. In this regard, the role of the state with regard to mobilizing domestic resources is integral to public provisioning, social security, financing development, reducing inequality and for the progressive realization of human rights.

However, economic, sociopolitical and developmental realities in Asian countries differ pointedly from their international commitments. Countries in Asia face significant challenges with regard to the realization of the Sustainable Development Goals. Financing the lofty targets set forth in the SDGs remains an important concern, especially for developing countries. Though estimates of financing gaps vary greatly, projections for the alleviation of poverty stand between $66 billion annually[2] to $5 to $7 trillion globally,[3] whereas investment gaps stand at $2.5 trillion a year.[4]

Regressivity in Asia's tax systems

With the exception of Japan and South Korea, most Asian countries have extremely low tax-GDP ratios, with the regional tax-GDP ratio for Asia standing at about 18 per cent. The overall taxation rates in Asia at a regional scale are among the lowest in the world, below the tax levels in the European Union, the Americas, Africa, and the Middle East.[5] Personal income taxes account for less than 2 per cent of GDP in Asia compared to 8 per cent of GDP in developed countries.[6] Many Asian countries also have high levels of dependence on indirect taxation, with Value Added Tax or Goods and Services Tax rates averaging at about 12.5 per cent in the Asia Pacific region.[7] Asian tax systems are thus highly regressive, with a steady reduction in corporate tax rates and a substantial dependence on indiscriminate indirect taxes levied on consumption, which impacts the redistributive function of taxation as they ignore the *ability* of an individual to pay taxes. With a high proportion of revenue being generated by indirect taxes in Asian countries, public provisioning schemes thus end up being funded by the same people they were meant to benefit.

Furthermore, countries in Asia offer vast tax incentives or exemptions to multi-national corporations (MNCs) and big businesses, with the aim of attracting investment, especially foreign direct investment

---

[2] United Nations General Assembly (2014). *Report of the Intergovernmental Committee of Experts on Sustainable Development Financing.*

[3] United Nations Department of Economic and Social Affairs(2015). *Final push for milestone event to finance development.*

[4] United Nations Conference on Trade and Development (2014). *World Investment Report 2014: Investing in the SDGs: An Action Plan.*

[5] Asian Development Bank (2011). *Taxation in Asia*.

[6] United Nations Economic and Social Commission for Asia and the Pacific (2017). *Taxing for Shared Prosperity*. Policy Brief No. 46

[7] KPMG International (2013). *Asia Pacific Indirect Tax Country Guide.*

(FDI). These exemptions are offered in the form of tax holidays, reduced corporate income tax rates, investment tax credit, accelerated depreciation and so on. While the stated aim of offering such tax exemptions may be to incentivize certain investment and business behaviour, there is little evidence to prove that tax incentives are necessarily linked to any positive economic or social impact. Studies also show that general economic and framework conditions and the presence of large markets are far more important considerations for foreign investors rather than the availability of tax exemptions.[8]

The costs associated with tax exemptions have been known to outweigh the expected returns and corrode the tax base of already cash-strapped developing countries. Tax incentives also may lead to negative social and environmental impacts, undermine good governance and increase inequality. Moreover, there is a perceptible lack of transparency in how incentives are offered and granted – thus increasing the chances of tax evasion and corruption. The revenue foregone as a result of these incentives offered by Asian countries can be significant, and stands at over 0.5 per cent of GDP in Georgia and Tajikistan, over 1 per cent in Pakistan and the Philippines and over 8 per cent in People's Republic of China.[9] The drive to offer tax incentives in order to attract FDI has led several Asian countries and sub-regions on the continent to engage in fierce tax competition with one another, which has led to a downward spiraling of corporate tax rates, more harmful tax incentives being offered and a notable lowering of regulatory checks and balances – practices collectively known as a 'race to the bottom'.

Leaking revenue: Costs and consequences

As a consequence of the dominance of finance capital, a far more serious problem plaguing developing countries is the loss of revenue and weakening sovereignty through illicit financial flows (IFFs) – funds generated through a range of activities including tax evasion, misappropriation of state assets, laundering proceeds of crime, corruption as well as tax dodging and tax avoidance by multinational corporations and the elite by abusing domestic tax laws, bilateral or multilateral tax treaties, and trade and investment agreements.

Developing countries lose between $1 - $1.6 trillion to IFFs every year,[10] with Asia being the worst off region and contributing about 40 per cent to illicit finance annually. Countries across the world also lose approximately $500 billion of potential revenue each year to harmful tax avoidance by multi-national corporations to tax havens.[11] This issue has been exacerbated, especially for developing countries, through unregulated financial markets that created complicated channels of financial secrecy. At the heart of such financial secrecy afforded to MNCs, big businesses and the rich, lie tax havens – countries or regions within countries that offer financial secrecy, an escape from tax and a complete avoidance of

---

[8] Organisation for Economic Co-operation and Development (2007). *Tax Incentives for Investment – A Global Perspective: Experiences in MENA and non-MENA countries.*

[9] United Nations Economic and Social Commission for Asia and the Pacific (2014). *Economic and Social Survey of Asia and the Pacific: Regional Connectivity for Shared Prosperity*.

[10] United Nations Office on Drugs and Crime and The World Bank. (2007). *Stolen Assets Recovery (StAR) Initiative: Challenges, Opportunities, and Action Plan.*

[11] Cobham, A. and Jansky, P. (2017). *Global distribution of revenue loss from tax avoidance: Restimation and country results.* United Nations University World Institute for Development Economics Research

financial regulations and criminal laws, aided by an efficient industry of lawyers, bankers, accountants and offshore service providers. This parallel world helps the rich get richer not by way of increased economic activity but by avoiding paying their fair share of taxes. This financial secrecy is tailored towards a niche clientele – the transnational capitalist class, a global ruling class made up of economic and political actors like MNCs, financial institutions, forces from political parties, media conglomerates and technocratic elites. Estimates suggest that $21 – $32 trillion of private financial wealth is located or goes untaxed through tax havens.[12]

The phrase tax haven has been used interchangeably with 'offshore', which typically means some other jurisdiction. However, in the last few decades, 'offshore' is no longer so much a destination as much an array of features typically offered by a tax haven or a secrecy jurisdiction, which includes management of wealth and assets, as well as providing clients with complete security and access to their wealth irrespective of their physical location.

In the past decade or so, offshore trends have revealed that offshore wealth is increasingly moving towards Asian secrecy jurisdictions at an alarming rate. Secrecy jurisdictions in the Asia-Pacific were projected to hold 18 per cent of offshore wealth by the end of 2017. The Financial Secrecy Index (2018) ranks Hong Kong, Singapore and Dubai among the top ten secretive jurisdictions across the world. All three of these jurisdictions have marketed themselves as international financial services centres (IFSCs), and offer private banking reliant on secrecy; trust services which allow for abuse of such structures. These jurisdictions use a territorial principle to taxation such that accrued profits from overseas trade are not taxed. This encourages multinational corporations to artificially shift their profits to these jurisdictions and escape paying their fair share of taxes in countries where they actually generate economic value. Recently, developing Asian countries such as China, India and Malaysia have set up their own *onshore* IFSCs, aiming to attract domestic investment – a claim far from true. IFSCs are traditionally used as conduits for avoiding taxation and round trip domestic capital as foreign direct investment. Hong Kong, for instance, serves as a turntable for Chinese capital that escapes the mainland to avoid taxation and is further round tripped to China as foreign direct investment (FDI). About 40 per cent - 60 per cent of China's FDI inflows were from Hong Kong in the past three decades.

Illicit financial flows are antithetical to human rights

The reason this is of pressing urgency – particularly to developing countries – is that these nefarious activities prevent the immediate and progressive realization of human rights. These are not victimless activities. Illicit financial flows are severely harmful, making their impacts felt on countries and populations across the world. While national budgets witness constraints due to a loss in revenue, secrecy in the global financial system incentivises tax fraud, embezzlement, money laundering, crime, corruption and bribery – along with encouraging wealth accumulation at the cost of eroding public services and societies' welfare at large.

[12] Henry, James S. (2012). *The Price of Offshore Revisited: New Estimates for "Missing" Global Private Wealth, Income, Inequality and Lost Taxes*. Tax Justice Network.

Tax abuse and tax dodging erode the country's tax base, compelling governments to compensate for the loss of revenue by imposing indirect taxes. This also has severe adverse impacts on human rights for women and gender equality, as women take up additional unpaid labour at home with no provision for or low-quality public services. Domestic revenue lost to IFFs also has substantial consequences for financing development. Illicit finance reduces the revenue available to governments, especially in poorer nations, thus constraining them from fulfilling their developmental needs.

Tax avoidance practices and tax havens lie at the heart of increasing economic inequality. The richest one per cent of the world's population own about 40 per cent of global assets, while the bottom half owns about one per cent of the world's assets.[13] Asian societies are some of the most unequal in the world with more than half the total wealth pool being owned by the top 1 per cent of the population in Russia, India, Thailand and Indonesia.[14] Increases in income inequality have occurred in the developing countries that were most successful in pursuing dynamic growth – this growth, however, exacerbated income disparity rather than bridging the gap. For instance, despite being one of the fastest growing economies in the world currently, the extent of income and wealth inequality in India is higher than it has ever been in the last one hundred years. Between 1980 and 2014, the top 0.1 per cent of India's population saw its wealth grow 550 times the rate of the bottom 50 per cent of the country's population.[15] In addition, the top 1 per cent of the Indian population acquired 73 per cent of the wealth generated in 2017,[16] while the bottom 50 per cent of the country's population saw an increase of only 1per cent in their wealth. This points to the fact that economic growth and development has been uneven and unjust.

Tax avoidance is directly responsible for wage evasion, too – for every $100 lost by a developing country to IFFs, the state exchequer loses $25-$28, according to its corporate tax rate. The remainder could potentially have gone towards wages and reinvestment. Tax avoidance and tax havens are therefore instrumental in widening the wage gap between employees and company executives, who are paid up to 2,000 times more than the median pay.

This is systematically linked to greater inequality in non-income outcomes, and threatens access to food, housing, healthcare and sanitation. This is not only a violation of basic human rights, but also affects public participation due to eroded trust in democratic processes. Tax abuse is a grave threat to political and economic security too, especially in developing countries. It prevents countries from sustainably investing in institutional reform, building capacity in its institutions and strengthening the state's oversight and regulatory bodies, thus undermining state institutions and the government's legitimacy. Tax abuse by elites also leads to weakened tax morale and widespread non-compliance, as the taxes paid by citizens

---

[13] United Nations Development Programme (2013). *Humanity Divided: Confronting Inequality in Developing Countries.*

[14] United Nations Economic and Social Commission for Asia and the Pacific (2017). *Taxing for Shared Prosperity*. Policy Brief No. 46.

[15] Chancel, L. and Piketty, T. (2017). Indian income inequality, 1922-2015: From British Raj to Billionaire Raj?. *World Inequality Database*.

[16] The Wire (2018). Richest 1% Cornered 73% of Wealth Generated in India in 2017: Oxfam Survey. [online] Available at: https://thewire.in/economy/richest-1-cornered-73-wealth-generated-india-2017-oxfam-survey [Accessed 16 Nov. 2018].

don't serve them by providing decent public services. Revenue lost to tax avoidance leads to corruption, in turn resulting in a loss of national resources.

The need for regional cooperation

There are cooperative frameworks for tax administrators in Asia and the Pacific, such as the Study Group on Asian Tax Administration and Research (SGATAR). Initiated as a study group on tax systems in South East Asia in 1970, its membership includes tax administration bodies of 16 jurisdictions in East and South East Asia and the Pacific. SGATAR plays a networking role between Asian tax administrations, along with capacity development and policy coordination and research.

The ASEAN Forum on Taxation was established by the Association of South-East Asian Nations (ASEAN) as 'a platform to support regional dialogue on taxation issues for regional integration, particularly related to withholding tax and double taxation'. In the Pacific, the International Monetary Fund's Pacific Financial Technical Assistance Centre set up the Pacific Islands Tax Administrators' Association (PITAA) in 2003, with 16 member Pacific countries. In addition, the South Asian Association for Regional Cooperation (SAARC) has also been encouraging regional cooperation on tax matters.

However, these tax cooperation bodies do not facilitate significant cooperation between countries in the Asia-Pacific on international tax matters. Unlike the African Tax Administration Forum (ATAF) in Africa and Inter-American Center of Tax Administrations (CIAT) in Latin America, countries in Asia and the Pacific do not have pan-continental tax cooperation forum. The United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) had proposed the establishment of an Asia-Pacific Tax Forum for Sustainable Development in 2016, with the proposed agenda of supporting tax revenue enhancement efforts, strengthening municipal financing to support urbanization, promoting tax policies that support inclusive growth and sustainable development, addressing harmful tax competition, and providing developing countries with a platform to coordinate their positions on new international tax standards and practices. Though the proposal to establish an Asia-Pacific Tax Forum did not receive approval in 2016, ESCAP needs to reconsider the need for a pan-continental tax cooperation forum, especially for developing Asian countries.

The need for regional cooperation in Asia becomes starker given the lack of democracy in the global order. Efforts to address money laundering, tax avoidance and profit shifting practices by multinational corporations, and steps to bring about transparency in the global financial system have largely been spearheaded and designed by developed countries. Also, international financial institutions that design norms of international finance, tax and accounting standards mostly comprise of rich, developed countries.

The international tax agenda is driven by the OECD and backed by the G20 – both of which are clubs of mostly Northern states. The Base Erosion and Profit Shifting (BEPS) project as well as the Automatic Exchange of Tax Information standard were designed by the OECD. The current international financial architecture is therefore exclusive of most developing countries and most of the world's population. Developing countries are then only invited to implement these norms that they had no role in designing.

The lack of a representative, democratic space for all countries – developed and developing – to collectively shape international norms of finance, tax and accounting has resulted in the exclusion of differentiated realities and the concerns of developing countries. Therefore, the establishment of a neutral, democratic, representative forum for all countries to participate on an equal footing to design and shape norms of international taxation would go a long way in ensuring a fair, equitable global order.