ISSUE BRIEF

Discrimination against Women in Tax Law and Policy

1. What do we mean by "discrimination against women"?

CEDAW defines discrimination against women as "**any distinction, exclusion or restriction made on the basis of sex** which has the effect or purpose of **impairing or nullifying** the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of **human rights and fundamental freedoms** in the political, economic, social, cultural, civil or any other field" (Article 1).

Such discrimination is present in tax systems and laws today. Often those concerning personal income tax contain explicit bias against women as citizens, economic actors and taxpayers. Others that apply more broadly is where implicit bias against women is likely to occur because **they depend on prevailing assumptions and attitudes towards women's roles and identities in society, and disregard how incomes are earned and spent**. Conversely, such biases favor men by maintaining a fixed notion of the household head and the primary worker as male.

2. How is discrimination against women reflected in tax systems, laws and policies?

a) Personal Income Tax (PIT)

From ways of filing tax returns to differences in tax rates, PIT systems in a number of countries exhibit gender biases that end up discriminating against women. Joint filing systems that assess tax liability on the basis of spouses' aggregate income are more common among developing countries. **Filed in the name of the male spouse, this system assumes that women's earnings are part of their husbands' too.** Consequently, the marginal tax rate rises for secondary earners who are typically women, and eventually causes them to drop out of paid work. Women's increasing share of unpaid care work has also been linked to joint filing.

In some countries, only the male spouse enjoys formal recognition as a taxpayer. Self-employed married women in Indonesia have to show a prenuptial agreement on income and asset separation for them to keep their tax identification number and exercise their own tax rights. Otherwise, their income is combined with their husbands' who then file the joint PIT as household heads, so defined under Indonesia's Marriage Law.

Individual filing is said to be more gender-fair because it allows women to be assessed on their earnings alone, regardless of marital status or household structure. But it has its own share of discriminatory effects on women. **Dominant patriarchal values and beliefs bestow ownership and control over non-labor income to husbands even if these arose from their wives' enterprises and property**. These are still experienced in developing countries (e.g., Thailand, Dominican Republic, Kenya, Ivory Coast) where **even under individual filing systems, property income is generally attributed to husbands**. While they shoulder the tax obligation, women's hold over assets and other property rights are potentially weakened.

Another area of gender bias emerges in allocating deductions, exemptions, and other tax preferences. There are countries such as Indonesia where an employed married woman is deemed an individual taxpayer, but is taxed at a higher rate for the additional income she brings to the household. However, she does not enjoy any deduction from taxable income on her husband. She also is not entitled to a family allowance, a subsidy which a working husband with a non-working wife can claim but not working wives with unemployed husbands.
In other countries, only husbands can claim tax deductions for up to four children-dependents. Wives have to ask for a waiver from their spouses in order to apply this to their tax liabilities.

b) Broad commodity taxes

A rising number of countries are adopting goods and services taxes or value added taxes and excise taxes as a way to recoup significant losses from corporate tax cuts, removal of trade tariffs, tax incentives and other revenue-eroding measures to attract foreign investments.

Consumption taxes are well established as regressive; they unjustly burden informal workers, the low-paid and precariously employed, such as many women are. Women also tend to spend much of their earnings on VAT-covered household necessities or on inputs in their small enterprises. In these respects, consumption taxes show implicit bias towards ordinary working women.

Studies of the VAT burden on South African households before zero-rating of some necessities, affirmed regressive impact, i.e., **the lower the income, the higher the VAT as a share of total taxes paid and income**. The implicit bias lies in the fact that women are more adversely impacted, disadvantaged by gender gaps across the world, whether in opportunities for decent work, wages or in time spent on unpaid household care work.

Using their edge as lending institutions, **financial institutions such as the International Monetary Fund exert considerable pressure for states to enact or expand VAT laws and other types of indirect taxes**. It is argued that the regressive effects will be offset by progressive public spending revenues raised from broad-based taxes. **This ignores the hand-to-mouth existence of the poor and low-income, and the crippling effects of higher priced, VAT-covered goods on their daily struggles for survival.**

3. What should we do about tax systems and laws that are discriminatory to women?

More than 190 countries have acceded to or ratified the Convention for the Elimination of All Forms of Discrimination Against Women. This means that **almost all the world's governments have committed to the legally binding obligation of progressively taking action on direct and indirect discrimination embedded in institutions, laws and policies**. These include taxation measures that sustain gender stereotypes, such as the male breadwinner bias and notions of women as secondary, marginal economic agents. Tax laws that disincentivize women from exercising their right to work, and attendant gender-biased socio-cultural norms and practices are equally key targets for change.

Civil society has a critical role to play in ensuring that the process of sourcing revenues must be as fair and empowering as the outcomes it envisions. This is only possible by foregrounding the redistribution of assets and resources as a core function of taxation, not only among economic classes but also between women and men.

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