

# **Curbing Illicit Financial Flows and dismantling secrecy jurisdictions to advance women's human rights**

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## Abstract

This paper explores some of the links between tax justice and gender justice at the global level. It highlights two channels in which illicit financial flows and gender justice are connected. Tax evasion and avoidance have the following effects: (i) undermine the possibility to close the financing gap for gender equality and women's rights; (ii) have negative impacts on vertical equity and the progressiveness of tax systems that disproportionately affect women. The paper goes on to focus on the role of financial secrecy jurisdictions and global networks of facilitations in enabling the illicit financial flows resulting from trafficking in women. The paper presents a review of existing literature and evidence, and provides new insights from more in-depth qualitative research for the case of Argentina. It argues that confronting and dismantling the global enablers and secrecy jurisdictions will be beneficial not only for transparency and global equality but also to achieve greater gender equality and to respect, protect and fulfill the human rights of women and girls.

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## I. Introduction

To understand some of the key connections between tax and gender justice it is important to look at three interlinked factors that affect fiscal revenue-raising capacity of states and how these resources are distributed throughout society: tax burden, tax structure and policies and mechanisms to tackle tax evasion and avoidance nationally and internationally.

Tax policies are not neutral; they can perpetuate or promote social equality and gender equality. Women and men experience differently the impacts of tax policies, because of their diverse and unequal positions as part of the workforce, as consumers, producers, as asset owners, and as responsible for the activities of the “care economy” within and outside households. Moreover, gender inequality intersects with other inequalities based on socio-economic status, race, age, location, caste and other social markers.

Most of the existing literature has focused on understanding the gender dynamics of tax structures at national level<sup>1</sup>. Less explored are the international dimensions of gender and taxation. Brooks (2009) analyses the role of tax treaties in allocating tax revenues between countries and proposes some ways to allocate a greater portion of international tax revenues to advance gender equality in low-income countries (Brooks, 2009). Other efforts have focused on advocating for an intergovernmental tax body providing it with gender expertise and mandating it to review national, regional and global tax policy according to gender equality and human rights obligations<sup>2</sup>.

However, there has been relatively little work on the effects of tax abuses, the shifting of profits using low and zero tax jurisdictions as conduits, and the current international tax architecture on gender inequality, and even less on the effects of Illicit Financial Flows

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<sup>1</sup> See Grown & Valodia (2010); Pazós Morán & Rodríguez (2010); Coello Cremades & Fernández Cervantes (2014).

<sup>2</sup> See WWG on FfD (2015), DAWN (2015).

(IFFs), taking into consideration not only the outcomes of tax evasion and avoidance<sup>3</sup>, but also the flows relating to the money laundering of criminal proceeds<sup>4</sup>. Among the international crimes generating IFFs is that of human trafficking, which impacts heavily on women. The proceeds of such exploitation appear to be laundered using the same structures, mechanisms, jurisdictions and enablers as those of tax evasion and avoidance<sup>5</sup>.

Moreover, such human trafficking constitutes the initial bond of a structure that should be interpreted as constituting a global wealth chain (GWC)<sup>6</sup>. Human trafficking for labour is combined with transfer pricing mechanisms applied with the objective of cross-border tax abuse and capital flight<sup>7</sup>. Such structures as well as those involving strategies such as treaty shopping, hybrid mismatch arrangements<sup>8</sup> and locating subsidiaries and holding companies in financial secrecy jurisdictions; are organized with the knowledge and skills of tax and legal advisors, and banks, acting as enablers.

Therefore, this paper will attempt at providing an introductory analysis of the channels by which IFFs and gender justice are connected, with a focus on Latin America. For this

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<sup>3</sup> In this document we will understand tax avoidance as illicit as tax evasion following Cobham's (2014) understanding of 'illicit' as 'forbidden by law, rules or custom' – encompassing the illegal but also including the socially unpalatable, such as the multinational corporate tax avoidance that is the target of the OECD BEPS (Base Erosion and Profit Shifting) initiative; and Rua's (2014) analysis concluding that "illicit fiscal avoidance" refers to abusive practices that, even when complying with the law, are contrary to the purpose and spirit of the legislative framework.

<sup>4</sup> In terms of spillover effects of tax policies, Berne Declaration et al. (2016) highlight Switzerland's responsibilities for the impacts of cross-border tax abuse on the rights of women, especially in developing countries.

<sup>5</sup> See section **Error! Reference source not found..**

<sup>6</sup> See Seabrooke and Wigan (2014) for an analysis of Global Wealth Chains and their interrelation with Global Value Chains and economic activity.

<sup>7</sup> Capital flight in its broad sense, refers to funds that are abroad both licit and illicit (or within the country, albeit outside of the formal economy) as well as those owned by local residents. Illicit capital flight refers to the unregistered portion of such funds. In other words, it refers to funds that have been illegally obtained, transferred and/or used; i.e., unregistered funds resulting from the accumulation of foreign assets, owned by residents in contravention of applicable laws. (Henry, 2012; Gaggero, Rua and Gaggero, 2013.)

<sup>8</sup> Treaty shopping strategies consist of taking advantage of double tax treaties among jurisdictions in order to avoid withholding and income taxes in source countries and income taxes and taxes on dividends in residence countries. Hybrid mismatch arrangements are particularly used in relation to intercompany loans (although also in relation to services and royalty charges), by which, for example, interest payments are deductible in one jurisdiction but are recorded by the counter-party as a dividend payment.

purpose, Section II will analyze the negative impact of the loss of tax revenue for the fulfilment of the human rights of women and girls and gender justice and for tackling vertical inequality; Section III provides an introductory analysis of illicit financial flows and trafficking in women; and Section IIV provides some final reflections and recommendations.

## **II. Loss of tax revenue and its negative impacts for realizing human rights of women and girls and for tackling inequalities**

States have the duty to mobilize the maximum available resources to implement public policies for the realization of the human rights of women and girls. Taxation is the most sustainable and predictable source of financing for the provision of public goods and services, as well as a key tool for addressing economic inequality, including gender inequality. However tax policy currently fails to generate enough revenue to fund government expenditure and to close the gender equality and women's rights financing gap.

Focusing on the case of Latin America and the Caribbean, low tax to GDP ratios are explained by a combination of factors. Despite the tax reforms in the previous years, average **tax burden** remains low in view of the region's relative level of development and financing needs. For the period 2010-2014, the average tax burden in the region is half of the average of 15 countries of the European Union (18,7% of GDP and 38,3% of GDP respectively) and stands 15 points below the average of the Organization for Economic Co- operation and Development (OECD) countries (CEPAL, 2016, p. 45). This average situation hides the large difference between countries. For instance, tax burden in Brazil goes up to 36% of GDI, while it goes down to 13% in the case of Guatemala.

Regarding **tax structure**, less than one third of LAC tax revenues come from direct taxes, while the bulk of the burden falls on consumption taxes and other indirect taxes. In terms of GDP, the region has raised an average of 9.4 % in indirect taxes during the period 2010-

2014 (compared to 10.9% of GDP in OECD countries); and 5.7% of GDP from direct taxes, which is far from the 13.8% that accounted for the OECD countries(CEPAL, 2016, p. 46).<sup>9</sup>

Moreover, after more than three decades of financial globalization and increasing corporate power there is little taxation of capital assets, as well as unbalanced tax incentives schemes and international trade and investment agreements which restrict the ability of governments to reconsider tax breaks and implement progressive tax reforms. As a result of this, the ability of governments to collect revenue and implement progressive taxation is limited. Governments give favourable tax treatment to multinational companies in many countries in the region, which results in considerable forgone revenue and violates the equity principle by which persons with equal capacity to pay should pay the same amount in taxes (horizontal equity), and that those with greater capacity should pay a proportionally larger amount (vertical equity). By some estimates, the tax burden for national businesses is twice the burden borne by multinational companies. (ECLAC & OXFAM, 2016, p. 6)

It should also be pointed out that over time, the source principle of taxation –integrating the tax to the space where the activity originates has been more and more globally replaced (in double tax treaties first but later also in developing countries’ local legislations) by the residence principle which favours the jurisdiction of origin of the capital (Figueroa, 2005). Considering the fact that Latin American countries are mainly capital importers, while developed countries are mainly exporters of capital, such evolution of international taxation has tended to favour developed countries more and more often than developing ones.

To fully understand the persistent inequalities and the revenue losses in the region, it is necessary to complement the analysis of the LAC region’s **narrow and regressive tax base** with a third element: the **high non-compliance levels**.

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<sup>9</sup>In most cases, VAT explains most of indirect taxation revenue.



According to ECLAC, **tax evasion** is up to 2.2 % of GDP in the case of VAT and 4.1 % of GDP in the case of income tax, which accounts for a total of US \$ 320 billion in 2014 (ECLAC, 2016, p. 7). The cost of revenue losses is thus extremely high.

To have a more comprehensive picture that also considers the current transfer of resources from Latin America to developed countries, it is necessary to focus on **IFFs**. They represent a huge outflow of financial resources from the region that far exceeds the entry of other financial flows. The average of illicit financial flows in Latin America and the Caribbean for the period 2002-2011 represents 113,1 billions of USD.<sup>10</sup> These illicit flows are roughly double the amount of remittances and private financial flows; and 14 times the amount of ODA received by the region (CEPAL, 2015, p. 43).

*Swissleaks* revealed that 52,600 million dollars of funds of Latin American residents were in HSBC bank accounts in Switzerland in 2006 and 2007. This is equivalent to 26% of total public investment in health across the region (CEPAL & OXFAM, 2016, p. 14).

What are the **implications for women's human rights and gender justice**? When the State does not mobilize sufficient resources, and has budget shortfalls therefore providing insufficient and low quality services (i.e. education, health, sanitation, public transport, social infrastructure, care services), gender inequalities are perpetuated or even exacerbated. This is due to the fact that, given the unequal gender power relations in society, women are overrepresented in poverty and low-paid and poor-quality jobs. They are also more dependent on State provisions and tend to hold the brunt of more unpaid care work when States cut social services.

Moreover, when State's ability to collect revenue and control IFFs is more restricted, tax structures tend to be compensated through higher taxes on compliant taxpayers, such as small and medium-sized companies and individuals (Ritter, 2015) or relying more heavily

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<sup>10</sup> Henry (2012) estimates that at least \$21 to \$32 trillion (2010) had been in "offshore" low or zero tax secrecy jurisdictions; and that "...developing countries might be losing as much as \$120-\$160 billion per year in lost tax revenue on the interest and other income generated by all this unreported anonymous wealth – more than the entire global total of foreign aid from OECD countries. Most of this unreported income was either retained abroad and reinvested or spent on shopping trips in Paris, London or Miami. "

on indirect taxation. Therefore, if States do not tackle tax abuse, they are likely to be disproportionately benefiting wealthy individuals to the detriment of the most disadvantaged. There is also a gender dimension in this, since women are overrepresented in small and medium enterprises and at the bottom of the income distribution. The report of the UN Special Rapporteur on Extreme Poverty and Human Rights acknowledges that women tend to use larger portions of their income on basic goods because of gender norms that assign them responsibility for the care of dependents, so they bear the regressive brunt of consumption taxes (A/HRC/26/28, 2014, Para 46).

The report also recognizes that high levels of tax abuse undermine the principles of equality and non-discrimination, given that evaders end up paying less than taxpayers with the same – or less – capacity to pay. High net-worth individuals and large corporations also have a far greater ability to evade taxes as they are able to pay tax advisers, lawyers and accountants (who may sometimes provide inappropriate advice and assistance) and to open undeclared foreign bank accounts in low-tax jurisdictions. (A/HRC/26/28, 2014, Paragraph 60).

A complementary perspective is brought by the report of the Independent Expert on the effects of foreign debt on the enjoyment of human rights. It states: “even if they [IFFs] are repatriated after they have been laundered abroad or offshore, they tend to be reinvested into luxury residential property and other luxury goods, increasing inequality rather than being allocated to strengthening the rule of law, or judicial, health, education or social security systems, for the benefit of the common good. Frequently illicit inflows fund further crime, including organized crime, human trafficking, piracy, the illicit arms trade and terrorist activities undermining the rule of law, peace and security, and human rights”. (A/HRC/28/60, 2015, Para 11)

In the most unequal region of the world, monitoring and curbing IFFs seems crucial to close the financing gap to realize women’s rights and gender justice as well as to reduce horizontal and vertical inequalities. In many countries in the region, the effects on public

finances of slowing growth and deteriorating terms of trade have been very significant, and have led to significant fiscal adjustments because the fiscal space has diminished (CEPAL, 2016, p. 13). However, from our perspective, fiscal space can substantively expanded in the region by increasing the progressiveness of tax regimes and by tackling illicit financial flows.

### **III. Illicit Financial Flows and women's trafficking**

There are two main definitions of IFFs. One equates 'illicit' with 'illegal', so that IFFs are movements of money or capital from one country to another that are illegally earned, transferred, and/or utilized. This would include individual and corporate tax evasion but not avoidance (which is understood as legal by this definition), and other criminal activity like bribery or the trafficking of drugs or people. The other (e.g. Cobham, 2014) relies on the dictionary definition of 'illicit' as 'forbidden by law, rules or custom' – encompassing the illegal but also including the socially unpalatable, such as the multinational corporate tax avoidance that is the target of the OECD BEPS (Base Erosion and Profit Shifting)<sup>11</sup> initiative" (CBBA and FTC, 2014). This second definition is also supported by Rua's (2014) analysis concluding that "illicit fiscal avoidance" refers to abusive practices that, even when complying with the law, are contrary to the purpose and spirit of the legislation. In this document we will understand tax avoidance as illicit as tax evasion. **IFFs** can be defined as cross-border movements of money or capital that is illegally earned, transferred, and/or utilized. The three main sources are: commercial tax evasion, trade mis-invoicing and abusive transfer pricing, the laundering of the proceeds of criminal activities, and corrupt payments, the theft of state assets (Cobham, 2014 and Baker, 2005), and capital flight<sup>12</sup>.

The way in which such illicit financial flows take place in practice is through commercial and investment transactions. Exports under-pricing and imports over-pricing can serve the

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<sup>11</sup> The G20/OECD Base Erosion and Profit Shifting (BEPS) delivered its 15 final outputs in October 2015, two years after its launch in July 2013.

<sup>12</sup> As has been already described in a previous footnote, capital flight understood in a broad manner can include both licit and illicit funds abroad.

purpose of shifting criminal proceeds out of the country, as well as inward investment under-pricing and outward investment over-pricing.

It seems necessary to distinguish between the **preceding crime** generating the assets (e.g., human trafficking for sexual and labour exploitation), from the **money laundering** of the assets itself. They relate to two different moments of the crime and, may involve two different organizational structures.

The **laundering of assets** is the process by which goods obtained in an illicit form are introduced in the legal economic-financial system. According to Ritter (2015) money laundering can be divided into three phases: i) the 'placement' of illicit funds into the financial system through breaking large sums in smaller parts in order to be able to circumvent anti-money laundering laws; ii) 'layering' with the purpose of concealing the criminal origin of the proceeds and; iii) 'integration' that can take the form of buying luxury goods or real estate and consumer goods for export purposes.

#### A Trafficking in persons and women's human rights

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (known as Palermo Protocol)<sup>13</sup>, defines trafficking in persons as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs" (art. 3(a)).

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<sup>13</sup> The protocol supplements the UN Convention against Transnational Organized Crime. It was approved in 2000 and signed, at that time, by 80 countries.

This definition consists of three core components:<sup>14</sup>

- 1) The action of trafficking which means the recruitment, transportation, transfer, harboring or receipt of persons;
- 2) The means of trafficking which includes threat of or use of force, deception, coercion, abuse of power or position of vulnerability;
- 3) The purpose of trafficking which is always exploitation.

The Protocol includes some other relevant elements, powerful for the definition of human trafficking, as well as to establish basic principles to approach the issue. Following Raymond (2001) we can mention: i) the trafficked persons are no longer viewed as criminals but as victims of a crime; ii) the consent of a victim of trafficking is irrelevant (art. 3b); iii) all victims of trafficking in persons are protected, not just those who can prove force, and the victims do not bear the burden of proof (art. 3a and b); iv) the need of a global and integral response is signalled, calling for cooperation by police, immigration authorities, social service agencies and NGOs (art. 10); v) in this sense, the accepted international definition and agreed-upon set of prosecution, protection and prevention mechanisms, allows for harmonizing countries' legislation.

Trafficking involves **human rights violations** and it is a crime against the person. Victims of human trafficking are bought, kidnapped, or enticed with job offers, transported across borders, and coerced into exploitation.

**Sexual exploitation** is one of the purposes of trafficking in women. It is considered that trafficking takes place in regards to a commercial sex act, when it is the result of force, threats of force, fraud, coercion or any combination of such means (Department of States, 2015). It may also happen within debt bondage, as individuals are forced to continue in forced prostitution through the use of unlawful "debt", "purportedly incurred through their transportation, recruitment, or even their crude "sale", which exploiters insist they must pay off before they can be free" (Department of States, 2015: 7). It is within this

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<sup>14</sup> See [http://www.unodc.org/unodc/en/human-trafficking/faqs.html#What\\_is\\_human\\_trafficking](http://www.unodc.org/unodc/en/human-trafficking/faqs.html#What_is_human_trafficking)

context that the adults' consent becomes non determinant, as people forced to prostitute through psychological manipulation or physical force are considered victims.

**Forced labour** is the other common purpose of trafficking in persons. It takes place when a person uses force or physical threats, psychological coercion, abuse of the legal process, deception, or other coercive means to compel someone to work. Migrants are particularly vulnerable to this type of labour exploitation within a trafficking chain, although it might also take place at the national level. Debt manipulation is also one of the main methods by which trafficked workers are exploited. Document confiscation is also a common and key practice in the exploitation of trafficked migrant workers (Department of States, 2015). The sectors most frequently documented are agriculture or horticulture, construction, garments and textiles under sweatshop conditions, catering and restaurants, domestic work, entertainment and the sex industry. However, human trafficking also affects other quite mainstream economic sectors, including food processing, health care and contract cleaning, mainly in private but also in public sector employment, such as the provision of healthcare services.<sup>15</sup> Women and girls are particularly vulnerable to this type of trafficking and exploitation in domestic servitude. It is also common that they are victims both of forced labour and sexual exploitation.

**Involuntary domestic servitude** is also a form of human trafficking found in distinct circumstances (work in a private residence) that creates unique vulnerabilities for victims. It is a crime in which a domestic worker is not free to leave, is abused, not paid or underpaid. Domestic workers in servitude are mostly women and they confront various forms of abuse, harassment, and sexual and gender-based violence. (Department of States, 2015).

According to UNODC (2014), trafficking in persons is a worldwide phenomenon. During the period from 2010 to 2012, at least 510 trafficking flows were detected, involving victims of 152 different citizenships in 124 countries across the world. More than 60% of

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<sup>15</sup> [http://www.unodc.org/unodc/en/human-trafficking/faqs.html#What\\_types\\_of\\_industries\\_are\\_involved\\_with\\_human\\_trafficking](http://www.unodc.org/unodc/en/human-trafficking/faqs.html#What_types_of_industries_are_involved_with_human_trafficking)

all victims of trafficking in persons are foreigners in the country where they are identified as victims, which implies that they have been trafficked across at least one national border, usually within the same region. “Domestic trafficking is also widely detected, and for one in three trafficking cases, the exploitation takes place in the victim’s country of citizenship” (UNODC, 2014: 8).

Almost 49% of all detected trafficked people were women, 21% girls, 18% men and 12% boys, which implies there is a gender pattern in human trafficking. While women and girls are among the vast majority of victims of trafficking in persons, men are the majority among offenders. UNODC (2014) points out that 70% of offenders are men. Women are the vast majority of the detected victims trafficked for sexual exploitation. In the case of forced labour, men are the majority but still women comprise one third of the detected victims. In the case of Asia, where the incidence of trafficking for forced labour is the largest form of trafficking, women are the majority of victims.

Sexual exploitation is the most relevant form of exploitation among detected trafficking victims (53% of total cases), while forced labour is the form of exploitation that has increased the most, reaching 40% in 2011<sup>16</sup>. There are some regional differences in these figures, while in Europe sexual exploitation counts for 66% of the detected cases, in East and South Asia and the Pacific, labour exploitation counts for 64%, with sexual exploitation falling to 26%.

Trafficking in persons is the result of multiple factors. Those are located at different levels, they are interlinked, and they are rooted in economic policies that result in a lack of livelihood options in countries of origin as well as lack of regulation of the global illicit economy. This may stem from discrimination (barriers in education and economic opportunities), conflict, displacement (loss of land tenure or violation of land rights), structural reform policies impacting local economies, unemployment, development

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<sup>16</sup> According to UNODC (2009) because it is more frequently reported, sexual exploitation has become the most documented type of trafficking in aggregate statistics. In comparison other forms of exploitation might be under-reported.

strategies, restrictive migration laws and policies, feminization of poverty, particular cultural or religious practices and corruption of authorities (Ham, 2013).

The violation of women's rights is both a cause and a consequence of trafficking in women (Blokhuys, 2008). Women and girls are particularly vulnerable to trafficking due to their social and economic position, as well as their position in the migration process. Many women are trafficked as they attempt to migrate. **Feminization of migration** is therefore linked to trafficking trends and the feminization of trafficking. Restrictive migration laws and the corruption of migration officers often constitute a fertile ground to foster trafficking.

Poverty (and the **feminization of poverty**), unemployment, a cultural context where violence against women is tolerated, patriarchal systems including norms that limit their autonomy, access to key resources (economic, social networks, information and knowledge), as well as the demand for cheap labour in feminized economic sectors are some of the causes of trafficking in women. The relevant role of women as income providers for their homes, cheap labour in global value chains, and domestic workers in the context of unfair social organization of care systems, complete a vicious circle of precarious livelihoods and economic profits.

At the same time, "trafficking can be regarded as a cause of human rights violations because the very act of trafficking constitutes a breach of, amongst others, the right to dignity and security, to move freely and to work in just and favourable conditions" (Blokhuys, 2008: 13).

**Violence against women**, a recurrent violation of their human rights, is a defining feature of trafficking in women. "Women fleeing abuse or violence may turn to brokers, recruiters, and traffickers. Women who have been trafficked may encounter abuse and violence from their employers and/or from their agents or brokers (for example, using violence to prevent a woman's escape). Unfortunately, a woman may also experience violence if she has escaped her trafficker. She may encounter violence by authorities in



detention centers or law enforcement, or by service providers who control women's movements as a method of 'saving' them. Violence can also be a risk when a woman returns to her community, either from traffickers or from her community as a result of the stigma around trafficked women." (Ham, 2013: 549)

It is important to highlight that the Palermo Protocol fosters the implementation of the 3P paradigm, which calls governments to **prosecute** trafficking cases, provide **protection** and services to victims and to take measures to **prevent** the crime from happening in the first place. While legislation in many countries has improved in order to provide a legal framework to protect victims of trafficking in women, there are still limitations, given that some countries do not have any legislation at all, and others have partial legislation that covers only some victims or certain forms of exploitation. In fact, "more than 2 billion people lack the full protection of the Trafficking in Persons Protocol" (UNODC, 2014: 12). The situation is even more worrying when it comes to convictions for trafficking in persons, with most of the countries having less than 10 convictions per year, and almost 15% having none at all. In brief, impunity prevails showing the difficulties, and maybe the lack of will, of criminal justice systems.

Based on different evidence, it seems it is important to tackle the structural causes of this phenomenon with a more comprehensive approach. Jeffreys (2011) describes trafficking in women and girls within the sex industry<sup>17</sup>. She asserts that women are trafficked to all forms of the sex industry (brothels, street and escort prostitution, strip clubs, pornography, military prostitution and tourist prostitution), and that currently the provision of trafficked women and girls who are forced to work in order to pay their debts to traffickers, has become the most common way to supply the industry<sup>18</sup>.

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<sup>17</sup> Jeffreys (2011: 3) defines this industry as the "ways in which traditional forms of organization of prostitution are being changed by economic and social forces to become large scale and concentrated, normalized and part of the mainstream corporate sphere"

<sup>18</sup> There is an ongoing debate on between the abolitionist and regulatory approach to commercial sex. While it is not in the scope of the present article to enter that discussion, this debate does not put in question that trafficking for sexual exploitation and violence against women and girls should be eradicated. Trafficking in

Cacho (2011) extensively documented trafficking women and girls for sexual exploitation in Asia, Europe and Latin America. Trafficked persons' testimonies compiled in this work clearly reveal the complexity of the issue as well as the many layers of human rights violations to which women and girls are subjected to.

She also reveals the interlinkages between the poor livelihood conditions in source countries, the existence of global crime organizations, the corruption of police officers, migration officials and political leaders, the economic profit derived from trafficked people and the opportunity provided by the diverse mechanisms of illicit financial flows to launder this money.

Therefore, it is necessary to reveal the enterprise of criminal organizations, the industrial feature of prostitution, and to understand that women, girls and boys are the merchandise on sale. For this, the focus should be shifted to lawyers, accountants and owners of bars, massage houses, night clubs, casinos, hotels and maquilas (Cacho, 2011).

Cooperation between local gangs and international syndicates is demonstrated in human trafficking. Local recruiters obtain victims; transporters move them across borders and on to international routes. Corrupting police, immigration, border, and airport officials is a key part of the transporter's job. A network of overseers and informers protects the cargo and assures its final delivery. Criminal syndicates usually take over in the destination country to force victims into diverse forms of exploitation. And then money laundering assures that every link in the chain is well rewarded for its portion of the enterprise. (Baker, 2005)

Moreover, the blurred boundaries between different illegal and criminal activities is a problem. "It is reasonable to believe that there are considerable flows of criminal money circulating internationally, but it is almost impossible to distinguish within these flows the profits generated by trafficking and the profits generated by the core businesses of large

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human beings is criminal regardless of the reason for the trafficking and forced prostitution should be illegal like any other forced labor.

criminal organizations (prostitution, illegal drugs, counterfeiting, corruption and so on)" (Kopp, 2012: 197).

### B. Findings on money laundering, transfer pricing

The money trace does not clearly result from the analysis, research and legal investigations carried out for the human trafficking cases, which generally concentrate on the human trafficking trace, rather than the money trace.

Nevertheless, the money trace has been lately one of the objects of Financial Intelligence Units (FIUs). Recent interviews conducted for this paper reveal that although most of the court cases in Argentina<sup>19</sup> originated from research conducted by from the Prosecutor's office in charge of human trafficking and exploitation (PROTEX), more and more often some investigations are initiated at the FIU. Based on reports of crimes linked to human trafficking as a precedent, analyses the money transfers information provided by the banks to screen people linked to trafficking. This has then been followed up by the Prosecutor's office in charge of affected Economic Crimes and Money Laundering (PROCELAC).

It should not be overlooked that, in the cases relating to trafficking in persons for labour exploitation, the labour exploitation is the first link in a global wealth chain (GWC) that is initiated with the exploitation of persons in the productions of goods that are afterwards sold by Multinational Entities (MNEs) around the globe, using complex organizational structures for channeling the profits through entities located in secrecy jurisdictions, contributing to capital flight and eroding the taxable base of the country where economic activity took place shifting the profits using low and zero tax jurisdictions as conduits.

In the cases of trafficking in persons for sexual exploitation, the network of businesses involved in the money laundering may on occasions be quite far removed from the forced prostitution business. Such is the case, for instance, of the real estate investments or even

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<sup>19</sup> The Argentine case as well as other national and regional examples are has been used in this paper only for the purpose of illustrating the problem.

coffee shops that have been found as investments related to the profits of the sexual exploitation and human trafficking business. In some other cases, there is a network of related businesses involving casinos, pubs, nightclubs, and hotels.

### ***1. Findings on money laundering in human trafficking cases***

FATF (2011: 31) describes an investigation focused on a criminal group that operated in different areas of Spain trafficking women from Eastern European Countries. The organized group was detected by two different sources, the police investigation and the FIU information. The police investigation was focused on a group of people that were members of an organized criminal group linked to smuggling and trafficking women. The group was the owner of several “night clubs” in different cities of Spain where women were exploited. Part of the money obtained through that illegal activity was sent abroad through money remittance companies in order to pay the debt of each woman. Such remittances were of small amounts of money<sup>20</sup>. During the police investigation it was detected that front companies were also created, some of them with no real activity. Some properties were bought in the names of those companies and payments were made in cash.

Common traces of money laundering detected in Spain, as a country of destination of exploited women, were the following. (FATF, 2011: 32):

- Use of cash.
- Transfers through money remitters.
- Transfers in small amounts.
- Transfers from different regions to the same persons in other countries (origin country of women involved).

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<sup>20</sup> In general, bank deposits or money transfers related to human trafficking are made in small amounts in order not to be reported by banks to the FIU in each country.

- Transfers sent to many different people.
- Some recipients received money from different people.
- Lack of any licit business behind those operations.
- Use of front companies to conceal the illicit origin of the funds.

Therefore, money laundering techniques used in human trafficking cases are found to be similar to those found in other serious crimes.

- Using Ritter's (2015) first phase of money laundering classification consisting in the 'placement' of illicit funds into the financial system through breaking large sums in smaller parts, currency smuggling, changing currency, transportation of cash or traveller cheques or gambling; the following trends have been found in relation to human trafficking cases (FATF, 2011): use of money service businesses,
- use of cash couriers, and money remitters,
- buying winning lottery tickets.

In Argentina, the proceeds of human trafficking have also been invested in the purchase of foreign currency in the illegal market<sup>21</sup>; and one of the ways in which the revenues from human trafficking for sexual exploitation are collected is through credit cards. According to the findings of the money laundering and human trafficking cases in Argentina, in some places, forced prostitution is paid via credit cards (payments for sex are disguised as charges for drinks in a night club); such is the case when prostitution is exploited in commercial places, such as coffee shops, pubs, night clubs or casinos.<sup>22</sup>

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<sup>21</sup> Information obtained from the interviews held for the purpose of this working document (see section VI), and Valerdi (2015). It should be then observed that the limitation of the expansion of informal activities, both due to legal actions, or any other motives, or limitation in any other way of the consumption expenditures of such proceeds, may probably lead to a short run pressure on the illegal currency markets and its price. (Valerdi, 2015: 34)

<sup>22</sup> Such affirmations were extracted from the interviews held for this document (See section VI)

Colombia detected three trends depending on the purpose of the trafficking (FATF, 2011):

- the parceling of wire transfers when the purpose is sexual exploitation,
- credit card transfers or on-line payments when dealing with pornography (in which the main victims are children),
- postal orders and cash payments in cases of domestic human trafficking for sexual or labour exploitation.

In relation to Ritter's (2015) second phase of money laundering consisting of 'layering' through fictitious sales and purchases, shell companies, wire transfers, splitting and merging of bank accounts or by using underground banking; the following trends have been found in human trafficking cases (some trends in human trafficking cases are the same in most countries, while some others are country-specific, but all share some common characteristics):<sup>23</sup>

- use of cash-intensive businesses,
- use of formal and informal banking systems<sup>24</sup>,
- use of local or offshore companies, trusts<sup>25</sup>, and shell companies
- commingling of funds with legitimate business proceeds
- use of aliases, straw men, false documents

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<sup>23</sup> This list was created based on FATF (2011) and the information of the interviews held for the purpose of this working document (see section VI).

<sup>24</sup> A case of Colombian people trafficked to Argentina to be exploited in a furniture manufacturing company was found to be related to an informal lending business. See <http://www.lanacion.com.ar/1855967-los-carreteros-colombianos-victimas-de-la-trata-y-del-lavado-narco>

<sup>25</sup> As it has been informed in the interviews held for the purpose of this working paper (see section VI), trusts are particularly chosen for laundering the proceeds of trafficking in humans, because of the fact that they can serve to stop any legal action that attempt at getting to the ultimate beneficiaries.

- use of night clubs, restaurants<sup>26</sup>, convenience stores, taxi companies, hotels and casinos as front companies, or investments
- use of import/export companies, transport companies, construction companies, tourist agencies<sup>27</sup> and sports clubs<sup>28</sup> for money laundering and shifting the money
- use of companies registered in different countries and bank accounts registered under such companies.
- use of the identity of the trafficked individuals to open bank accounts to gain access to credit through overdrafts, loans and credit/debit cards.
- trafficked women are forced to borrow money<sup>29</sup> in the formal and informal banking system.

In some cases it has been found that money is shifted to limited companies, legally constituted, simulating the payment for services that are difficult to verify (an operation which is also seen in transfer pricing cases within MNEs). Such money movements make it difficult for local authorities to follow the money trace and creates a distance between the crimes and illicit activities and the wealth they generate. In a money laundering scheme, this is also known as stratification or diversification of the illicit assets.<sup>30</sup>

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<sup>26</sup> The informality of the restaurant sector in developing countries, allows for it to be the place where money laundering has an opened door. In this sense, another activity where there is a proven level of money laundering is wine and other alcoholic beverages production (Valerdi, 2015: 60-62)

<sup>27</sup> Information obtained from the interviews held for the purpose of this working document (see section VI).

<sup>28</sup> In the case of human trafficking for prostitution of Marita Veron in Argentina, one of the companies used for laundering the proceeds of the illicit activity was “Gerenciadora Deportiva del NOA”, the company managing the soccer club “Club Atlético San Martín de Tucumán”. See <http://www.fiscales.gob.ar/criminalidad-economica/tucuman-pidieron-que-casacion-procese-al-clan-ale-por-asociacion-ilicita/>

<sup>29</sup> In addition to cases in which trafficked humans are indebted in order to force them to repay by forced labour or prostitution.

<sup>30</sup> Information obtained from the interviews held for the purpose of this working document (see section VI).

Finally, in relation to Ritter's (2015) third phase of money laundering consisting of the 'integration' that can take the form of buying luxury goods or real estate; the following trends have been found in trafficking in human's cases:

- use of Investments in real estate, in cars, in boats and offshore

## ***2. Transfer pricing manipulation<sup>31</sup> and human trafficking***

Trafficking in persons involves corporations. This is evident in the case of trafficking for labour exploitation.

Several MNEs have been denounced internationally for exploitation of workers, child labour, or human trafficking, such as: Nike<sup>32</sup>, Inditex<sup>33</sup>, Nestle<sup>34</sup>, ADM, and Cargill<sup>35</sup>, among others. In such cases, the MNEs are usually accused of turning a blind eye to the flouting of core labour standards or the use of child labour, and are thus held as indirectly responsible. However, it should be noticed that the economic reality based on the fact that they are exclusive producers<sup>36</sup> for such brands on many occasions, should indicate

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<sup>31</sup> In this paper it is understood that transfer mis-pricing is not the only problem relating to transfer pricing manipulation. Transfer pricing manipulation is thus understood as the use of intragroup transactions and global MNE's structures designed with the objective of shifting the profits of MNEs from the jurisdictions where the economic activities take place to the jurisdiction of the beneficial owners, using for that purpose zero and low tax jurisdictions and tax shelters as conduits and taking advantage of double taxation and other treaties in place; among other strategies. Such transfer pricing manipulation is facilitated by the globalized use of the arm's length criteria and the internal contradiction within this criteria when understanding transactions within a MNE as comparable to transactions within independent parties, and contracts within an economic group as if they had been agreed between parties with equal negotiating powers (see Avi- Yonah, 2007 and Corti, 2012).

<sup>32</sup> See <http://www1.american.edu/ted/nike.htm>

<sup>33</sup> See <http://www.equaltimes.org/zara-uses-slave-labour-in?lang=en#.Vt3Fs0Jmpz0>

<sup>34</sup> See <http://www.theguardian.com/sustainable-business/2016/feb/01/nestle-slavery-thailand-fighting-child-labour-lawsuit-ivory-coast>

<sup>35</sup> See <http://www.confectionerynews.com/Manufacturers/Nestle-Cargill-and-ADM-face-child-slavery-case>

<sup>36</sup> Some countries such as Argentina consider an economic linkage, for transfer pricing purposes, to exist when a party enjoys exclusivity as an agent, distributor or dealer for the purchase and sale of goods, services and rights of the other; a party provides the other with technological property or technical knowledge which forms the basis of the activities on which the latter conducts its business; and various other cases which overall prove the existence of economic collusion between two or more parties. (Argentina's AFIP's General Resolution 1122 of 2001)



that there is a relationship between the brands traded and the exploitation of persons who have been victims of trafficking<sup>37</sup>.

Human trafficking has also been found in agriculture, and agricultural GWC affect particularly developing countries, which are the big global producers of such products.

In Argentina, the outsourcing of activities that are later outsourced over and over again is one of the ways in which the companies attempt to grow a distance from the exploitation and trafficking in persons associated to the first bonds of the GWCs. This is particularly seen in the yerba mate chain.<sup>38</sup>

Consequently, Base Erosion and Profit Shifting (BEPS) techniques that also serve the purpose of capital flight, such as transfer pricing manipulation, can also be said to be used for shifting the wealth generated out of trafficking in persons.

Some of the transfer pricing mechanisms which can be specifically related to human trafficking for labour exploitation cases are<sup>3940</sup>:

- *Contract manufacturing, toll manufacturing and purchasing services:*

Contract manufacturing structures (of which one the most well known cases are Mexican maquilas, but can also relate to sweatshops) are intended to limit the profits

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<sup>37</sup> It should be observed that as long as the responsibility of the brands and big MNEs is not recognized, the ones that end up being judged for trafficking in humans will keep on being the smallest bonds in the chain.

<sup>38</sup> Information obtained from the interviews held for the purpose of this working document (see section VI).

<sup>39</sup> For an analysis of transfer pricing manipulation see Grondona (2014 and 2015) and Grondona and Burgos (2015).

<sup>40</sup> Other transfer pricing mechanisms which have not been linked to human trafficking in this paper but could however be used in combination with the described mechanisms are: provision of logistical services from abroad, commission agents; performing sales activities from offshore entities; centralization of management and low value added services in offshore entities; locating intangible assets in offshore entities; and intragroup loans and other financial instruments. These mechanisms are combined with hybrid mismatch arrangements (e.g. when an entity deducts interest payments for a loan which is registered by the other entity as a capital transfer and dividend payment) and treaty shopping (organization of intragroup transactions and entities taking advantage of double tax treaties between jurisdictions in order to minimize tax) strategies in order to avoid withholding and income taxes in source countries, and income taxes and taxes on dividends in residence countries.

earned by local affiliates. Under such schemes, it is understood (and is formalized in a contract) that the affiliate assumes limited risks, functions and assets, and that for such reason it is entitled to a limited profit (for example, a 2% over total costs).

Contract manufacturing structures are found in all types of industries in which a part of the manufacturing activity can be stripped off of its assets, risks and functions (e.g. textile, car, electronics, etc.). In this way, a local entity may produce under a contract from an affiliate located in a low or zero tax jurisdiction; obtaining for such production a limited profit. The intermediate entity will thus obtain the goods at a low cost and retain the profits associated to a sale.<sup>41</sup>

The abuse of these types of structures has motivated China and India to incorporate the concept of "Location Specific Advantages" (LSA), under which it is argued that some investments by multinationals in those countries are more profitable than in other countries as a result of specific location advantages such as a comparatively low- cost workforce, among other advantages (UN, 2013). In this way, such countries attempt at seizing part of the income tax evasion achieved by the exploitation of low- cost manufacturing which constitutes the first bond of a GWC in which the value of intangibles is later added to globally sell a product at a price that is several times higher.

To separate themselves from the exploitation of humans at sweatshops, MNEs create intermediate entities which, instead of being related to the manufacturing activity themselves are characterized as providing purchasing services for the whole group. Manufacturers are said to be non-related entities, although performing manufacturing activities exclusively under the orders of the client. This is the case of MNEs in the textile industry. Such "purchasing services entities" charge the group entities a fee in relation to this service provision; and act as intermediaries between the entities

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<sup>41</sup> The sale of the products would be performed from the intermediate jurisdiction to the customer located in a third country. Thus, this transfer pricing structure is also included in what is generally referred to as 'triangulations', because in practice what is seen is that the goods physically move from country A to country B, but the invoice goes through an intermediate entity located in a low or zero tax jurisdiction.

performing the manufacturing activity and the group entities acquiring such goods for distribution.

- *Commodity<sup>42</sup> triangulation, under-invoicing of exports<sup>43</sup>, over-invoicing of imports:*

The strategy of under-invoicing of exports and over-invoicing of imports can also include the participation of a third country. The third country acts as an intermediary between related companies leading to trade triangulation. For instance, agricultural, oil, or mining companies, export their products through intermediaries (traders) located in low or zero tax jurisdictions such as Uruguay, Panama, Mauritius Islands, Switzerland, The Netherlands, Delaware, etc. at a minimum price –export under- invoicing- while the merchandise is shipped directly to the purchaser’s destination.

The purchaser is invoiced by the entity located in the intermediary jurisdictions, at a price several times higher, and the profit is retained by the intermediary.<sup>44</sup>

This export under-invoicing is combined with offshore commissioners that may charge between 5 and 10% of the export value for their commercialization activities. Even when in some cases such commissioners are not related parties, they can be used for the purpose of BEPS and capital flight. (Argibay Molina, 2013: 78 - 82).

### ***3. Estimations on human trafficking profits and IFF***

Different trafficking operations have one key element in common: profit-making through the exploitation of the victims. With a few exceptions (such as child soldiers, removal of body parts for rituals and some other forms that comprise a small share of the total number of victims), the vast majority of trafficking is aimed at obtaining economic benefit from the labour and services extorted from the victims (UNODC, 2014: 46).

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<sup>42</sup> We refer in this point to commodity and not trade triangulation, because other aspects relating to trade triangulation were discussed in the previous bullet-point; but also because human trafficking for labour exploitation is particularly relevant in the agricultural sector.

<sup>43</sup> On an analysis of mispricing on Argentine soybean exports, see Grondona and Burgos (2015 and 2016).

<sup>44</sup> For an analysis of commercial transactions using Switzerland as an intermediary, see Cobham, Janský and Prats (2014).

Several estimates have been produced in relation to the profits generated by human trafficking.

In this respect, the International Labour Office (ILO, 2005) informed that about 2.45 million men, women and children are victims of trafficking at any point in time; and that the total illicit profits<sup>45</sup> of all forced labour resulting from human trafficking is estimated to be about USD 32 billion per year.<sup>46</sup>

Considering that the total profits coming from illicit trades (including drugs, people, arms, fake goods and stolen natural resources) are estimated by the UNODC as USD 130 billion, the estimated profits of human trafficking represent a significant proportion of that total (FATF, 2011: 16). The proceeds of trafficking in persons and exploitation are not found registered in national accounts (gross domestic product), partly because they are not considered to generate an added value due to their illegal nature (Valerdi, 2015: 15). But also, because of the difficulty of obtaining such data, which is, due to its criminal origin, disguised into other figures. Once the proceeds of such crimes are re-introduced into the legal system (after being “laundered”), it is very difficult to distinguish the economic activities that have criminal activities as an origin from those that are licit. Therefore, figures shown in relation to human trafficking are not definite, but only very modest approximations to measuring the problem.

Estimations relating to IFF do not normally capture human trafficking<sup>47</sup>.

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<sup>45</sup> Value-added usually represents the sum of profits and wages. In the case of forced labour, however, most value-added goes as profits into the pockets of traffickers and employers (ILO, 2005).

<sup>46</sup> The estimate follows the methodology described by the OECD to calculate profits from prostitution in general: estimate average turnover (i.e. number of clients multiplied by the price paid by each client) and subtract intermediate consumption expenditures. The 32 billion USD also include profits made from trafficked victims in other forms of forced economic exploitation. Since there is no way to know the exact profit generated by each forced labourer, ILO used as a proxy the data on average value-added per worker in agriculture from the World Bank’s World Development Indicators 2004, considering that trafficked forced labourers typically work in low-tech labour-intensive sectors. It should also be mentioned, that ILO considers this estimation to be very modest, because both the global estimate of the number of victims the actual profits per person are minimum and lower than those provided by some other informed sources. (ILO, 2005).

<sup>47</sup> See Kar and Le Blanc (2013), Gaggero, Rua, Gaggero (2013), Henry (2012), Ritter (2015).

However, estimations relating to the impact of transfer pricing manipulation, could in some way reflect what has not been registered as income in the jurisdiction where the exploitation has taken place<sup>48</sup>.

### C. Global network of facilitators and secrecy jurisdiction that can serve as a den for trafficking in humans

#### 1. *The role of enablers*

Facilitators or enablers can be defined as “...firms that provide services for transferring funds to tax havens (or to countries with preferential systems in place), and without the existence of which capital flight could not take place in many cases. This concept encompasses the whole gamut of professionals that are involved throughout the cycle of this kind of operations.”(Rua, 2014)

The professional assistance of lawyers and accountants, as well as banks, destined for re-introducing in the financial legal market the profits of the preceding crimes has been repeatedly found in cases of trafficking in persons’.

Enablers play an essential role. The bigger the network for trafficking in persons, the more sophisticated the enablers supporting them.

Those traffickers who operate in an organized group may be able to traffic more victims and to operate in different countries in a coordinated manner. A greater level of organization may enable the exploitation of more victims and thus higher revenues. Transnational organized crime activity requires connections with other groups, significant investments for travel and border crossing, and overall coordination and distribution of labour. (UNODC, 2014: 43-44)

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<sup>48</sup> Grondona and Burgos (2015 and 2016) estimated that the effect of transfer pricing mechanisms in the soybean sector was close to a 10% under-invoicing in the exports of soybean and related products.

Thus, the role of enablers does not only limit itself to the articulation of the contracts, or the design of the GWC, the registration of the companies, the protection of the beneficial owners; but on occasions, it is even necessary for the actual trafficking of persons. In a case in Argentina of girls who were introduced in the country as refugees, enablers had been used for the paperwork involved at the initial stage.<sup>49</sup>

In another atypical case in Argentina, accountants and lawyers were used in order to launder the money of the sexual exploitation of trafficked women via the payments allegedly made to such girls for compensations for dismissal. Such case also involved trusts, health companies, and a coffee shop for money laundering at the end of the wealth chain; in relation to which the notaries involved were investigated regarding their role in facilitating the constitution of societies for the purpose of hiding the beneficial owners and laundering the proceeds of the crime.

However, it needs to be mentioned that the variety of facilitators related to human trafficking can actually be more extended and complex. Trafficking of humans often involves judges, police departments, migrations officials, and local government authorities.

The perpetrators and their levels of organization vary from one individual managing to traffic one victim, to large-scale networks that are able to move many victims from one continent to another, and to exploit them for years (UNODC, 2014: 45).

However, in most of the cases of trafficking in persons that have reached Argentine courts, the networks found have been precarious. This may be a problem caused by the way in which these crimes are attacked by the legal system – which tends to focus on the

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<sup>49</sup> An intermediary in the operation charged money to the women arriving in Argentina to assess them on how to make a presentation to the Refugees Selection Committee of the National Migrations Direction with the object of initiating the paper work, for which it prepared the corresponding papers with false details. (information obtained from the interviews held for the purpose of this working document, see section VI).

most vulnerable sectors - rather than a true reflection of the size and complexity of the human trafficking problem<sup>50</sup> (INECIP y UFASE, 2012: 46).

## *2. The role of financial secrecy jurisdictions*

FATF (2011) mentions the relationship of human trafficking and offshore companies. In particular, presents a case of an investigation regarding the financial affairs of a prominent brothel owner linked to human trafficking, in which the victims were trafficked from Ukraine, Romania and Bulgaria to work in a strip club that was used as a front for a brothel (p.54); and where evidence was found of off-shore investments (i.e. one anonymous investment set up under the front of a trust in Guernsey). The accused also operated two bank accounts in the USA; and the funds in the USA were also transferred to the Guernsey Trust. The accused later transferred funds from Guernsey to South Africa to set up two new enterprises.

Tax Justice Network (TJN) developed a Financial Secrecy Index (FSI), which ranks jurisdictions according to their secrecy and the scale of their offshore financial activities, in order to understand global financial secrecy, tax havens or secrecy jurisdictions, and illicit financial flows or capital flight. Global banks, legal and accounting firms design global structures using offshore jurisdictions for their tax- and law-dodging clients. Thus, secrecy jurisdictions provide secrecy to tax evaders, corruption and criminals.<sup>51</sup>

What has recently been known as the “Panama Papers”<sup>52</sup> regarding the leak of information on companies and structures in financial secrecy jurisdictions created by the legal firm Mossack Fonseca for financial secrecy and tax avoidance purposes, is a reminder of the size of the problem implied by such jurisdictions.

The role of financial secrecy jurisdictions –as well as that of enablers- is once again under the scanner; and that of Panama as a den for money laundering is highlighted. As

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<sup>50</sup> Asset researches were for some time excluded from the legal investigations. (INECIP y UFASE, 2012: 48).

<sup>51</sup> See <http://www.financialsecrecyindex.com/introduction/introducing-the-fsi>

<sup>52</sup> See <https://panamapapers.icij.org/>

described by FSI's Narrative Report on Panama (2015) *"Long the recipient of drugs money from Latin America, plus ample other sources of dirty money from the U.S.A. and elsewhere, it is one of the oldest and best known tax havens in the Americas"*.

However, it needs to be mentioned too that the United States is a big player in the game, hosting vast sums in foreign-owned assets in conditions of strong secrecy; and the United Kingdom runs a global network of Overseas Territories and Crown Dependencies that includes some of the world's biggest tax havens — including Cayman Islands, the British Virgin Islands, Bermuda and Jersey.

In this sense, the 10 main secrecy jurisdictions listed in TJN's 2015 FSI are: Switzerland, Hong Kong, USA, Singapore, Cayman Islands, Luxembourg, Lebanon, Germany, Bahrain and United Arab Emirates (Dubai).

Jurisdictions where financial secrecy prevails are used in order to hide the origin of the money and launder the proceeds of IFF, and for such reasons are used in relation to GWC.

The attractiveness of financial secrecy jurisdictions (also known as tax havens, or opaque jurisdictions) results, as is described by Rua (2014), from the existence of a beneficial tax regime, few and flexible requirements for the constitution of entities, lack of regulation of financial instruments and legal structures; and the protection provided by fiscal and banking secrecy, hiding the effective beneficiaries of the entities, their accounts and financial investments.

Rua (2014) also exposed the relationship between the international banking system and the secrecy jurisdictions. For the 4001 HSBC Swiss bank accounts that had not been declared in Argentina, the jurisdictions where offshore societies and trusts had been set up in order to obstruct the access of Argentine tax authorities to such accounts were: the United States of America, Panama, Uruguay, Switzerland, Guernsey, Jersey, British Virgin Islands, Cayman Islands, Bahamas and Spain. Today, the role of these Banks is once again exposed with the Panama Papers, and the HSBC is among the top 10 banks that have requested offshore entities for their clients.



#### IV. Final reflexions and recommendations

Illicit financial flows are a relevant feature of current stage of capitalism. Both due to tax evasion, avoidance and dodging, as well as to money laundering derived from criminal activities, the estimated figures of these flows are striking.

Along this article we highlighted the interlinkages between illicit financial flows and gender justice. We summed up the implications of the loss of tax revenue in terms of tax structure and lack of ability to fund adequate public policies aim to reduce gender gaps and to fulfill women's human rights.

We also focused on trafficking in persons as one type of criminal activity that contributes huge resources to illicit financial flows. Trafficking in persons is both a consequence and a cause of women's rights violation. The lack of resources to deliver proper public policies that guarantee access to basic living standards is one of the roots of women's vulnerability to human trafficking networks, as well as to labor and sexual exploitation.

Trafficking in persons and the associated exploitative activities represent extreme manifestations of women's rights violation. Facing this severe injustice requires political will and practical action. Profits of women's trafficking are benefited by the diverse mechanisms that allows for illicit financial flows. Fighting against those would be a reasonable step forward. For it, the following recommendations, both at national and global level might be taken into account.

	Global level	National level
Norm-setting	Review all global tax and financial policies, treaties and agreements compliance with human rights, gender equality, labour and anti money-laundering standards. Promote global standards and tax treaties to apply the source principle of taxation	Enlarge political space to implement progressive taxation on income and wealth. This will imply a radical change in tax burden and tax structure shifting the burden of taxes away from women, people living in poverty and other

<p>instead of residence principle.<sup>53</sup></p> <p>Implement automatic exchange of information with public and global access to all individuals.</p> <p>Develop an internationally legally binding instrument to regulate multinational enterprises compliance with human rights, gender equality, labour and anti money-laundering standards.</p> <p>Agree on an international standard to sanction global enablers/facilitators of tax abuse and human trafficking with special focus on banks, secrecy jurisdictions, shell companies, legal advisors and firms and corrupt government authorities.</p> <p>Reconsider the validity of arm's length principle and that of intragroup contracts, against that of economic reality principle.</p> <p>Establish international standards to protect witnesses, whistle-blowers tax and human right defenders, which expose tax abuse and report corruption.</p> <p>Put in place and harmonize legal frameworks to fully implement the Palermo Protocol and to protect the rights of migrants, and trafficked people, especially women.</p>	<p>marginalized groups towards highly profitable sectors that currently are benefiting from tax incentives and subsidies and using strategies of tax evasion and avoidance to shift their profits to low-tax jurisdictions. Progressive tax systems should also remove gender indirect and direct bias including by publicly review harmful tax incentives and exemptions especially to MNE's.</p> <p>Enlarge policy space to curtail illicit financial flows, including by implementing financial regulations, macroprudential measures such as capital control techniques, and eliminate investor-state dispute settlement clauses to ensure that the right of states to regulate and tackle illicit financial flows is protected.</p> <p>Adopt country-by-country mandatory reporting of sales, profits, assets, taxes and labour standards for all MNE's.</p> <p>Promote legal reforms to considering and avoiding cross-boarder spill-over effects of national tax policies and control transfer pricing manipulation and money laundry techniques.</p>	
<p><b>Institutional</b></p>	<p>To establish a UN intergovernmental tax</p>	<p>Strengthen the mandate and resources of</p>

<sup>53</sup> Figueroa (2005) understands that the only system consistent with an honest allocation of profits where economic activity takes place, which takes into account the role of developing countries in such income generation, is one in which tax treaties are based on the source principle, and not the residence one, which is the one that has been pushed in time by developed countries, and favoring the countries of origin of the capital, rather than that of destination. Developing countries will risk losing more and more taxable base to low and zero tax jurisdictions, but also to developed countries, affecting global inequality as well as gender inequality, if the role of source-residence taxation is not considered when addressing international tax reforms.

framework	<p>body with universal membership and equal voting rights, which is adequately resourced, providing it with gender expertise and mandating it to review national, regional and global tax policy according to gender equality and human rights obligations.</p> <p>Promote international and regional mechanisms to move from tax competition to tax cooperation.</p>	<p>tax authorities; with public administration preparation instead of rotating doors between private and public sectors which lead to corruption and internal lobby of the very wealthy and MNEs</p> <p>Establish systematic coordination mechanisms between Finance intelligence units, tax authorities, Central Banks, customs, women machineries and human trafficking prosecutors in order to eliminate illicit financial flows, human trafficking and gender based discrimination.</p>
Capacity building	<p>Design and implement capacity building programs as part of the principle of international cooperation and assistance in tax matters; including by untied, additional, predictable official development assistance and also by South-South cooperation which is based on shared experiences between developing countries</p>	<p>States need independent, well-equipped, trained and properly paid officers responsible for combating corruption and tax evasion, handling requests for mutual legal assistance and a properly functioning independent judicial system to combat illicit financial funds. (A/HRC/28/60, 2015, Para 32)</p>
Data, evaluation and accountability	<p>Design and harmonize comprehensive cross-border methodologies to collect and analyze comparable data on tax evasion, avoidance, gender biases of tax structures and links between human trafficking and IFFs.</p> <p>Conduct multi-jurisdictional research and investigations on cross-boarder spill over effects of tax policies and ex ante and periodic studies on global tax evasion and avoidance and its gender equality impacts.</p> <p>Ensure public access of financial, fiscal,</p>	<p>Design comprehensive methodologies to collect and analyze data on tax evasion, avoidance, gender biases of tax structures, links between human trafficking and IFFs and cross border spill over effects of national tax policies.</p> <p>Promote joint data collection and analysis between Tax authorities, National Statistics Offices and Women machineries.</p> <p>Conduct mandatory ex ante and periodic human rights and gender equality impact assessment of all trade, investment and tax agreements and policies.</p>

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beneficial ownership and HR assessment data.

Conduct research connecting money laundry techniques with human trafficking, linking crimes that generate the assets (i.e human trafficking) with money laundering of the assets.

Ensure public access of financial, fiscal, beneficial ownership and HR assessment data.

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#### VI. Interviews held

Juan Agustín Argibay Molina (Coordinator of the Money Laundering and Terrorism Funding Unit of the Prosecutors office on Economic Crimes and Money Laundry – PROCELAC, in Spanish-, of the General National Prosecutors of the Fiscal Public Ministry)

Marcelo Colombo (Head of the Prosecutors office on Trafficking and Exploitation of Persons –PROTEX, in Spanish-, of the General National Prosecutors of the Fiscal Public Ministry)