tax justice network

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The Tax Justice Network

Tackling secrecy in the interests of democracy

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tax justice network[1]

Background

In 2000 the United Nations adopted the Millennium Development Goals[2]. Their annual cost is estimated to be not less than US$40 - $60 billion a year[3].

In the same year Oxfam, the UK based NGO, published its report 'Tax Havens: Releasing the hidden billions for poverty eradication'[4]. By chance, this suggested that tax havens had contributed to revenue losses for developing countries of at least US$50 billion a year.

The Oxfam report was powerful. No one had linked the issues of poverty and tax havens together before this happened. But the report came out at a time when the OECD[5], FATF[6] and EU[7] were all targeting the issue of tax haven abuse, with apparent success. Neither Oxfam or any other NGO had the expertise to take the issue forward at that time, and nor did they see the need to do so when what appeared to be a deeply technical and complex issue already appeared to be on the international agenda.

The Millennium Development Goals:

US$50 billion a year to alleviate poverty

[1] http://www.taxjustice.net

[2] http://www.un.org/milleniumgoals/
[3] http://www.worldbank.org/html/extdr/mdgassessment.pdf
[4] http://www.oxfam.org.uk/what_we_do/issues/debt_aid/tax_havens.htm
[5] https://www.oecd.org/dataoecd/33/0/1904176.pdf
[6] http://www.fatf-gafi.org/pages/0,2987,en_32250379_32235720_1_1_1_1_1,00.html
[7] http://ec.europa.eu/taxation_customs/taxation/company_tax/harmful_tax_practices/index_en.htm

Things changed though. First of all, some of those involved in writing the Oxfam Report felt there was more to do, as did some of those who worked in the NGO world who read it. Secondly, the Center for Freedom and Prosperity[8] in the USA launched a powerful attack on the OECD initiative on tax havens, and seriously harmed it, so showing the power of civil society groups in this area. Lastly, Jeffrey Owens[9] at the OECD let it be known that he felt that civil society did have a role in campaigning on this issue. These in combination were catalysts for action.

The Tax Justice Network

The Tax Justice Network (TJN) was founded at the European Social Forum in Florence in November 2002 and was formally launched in the House of Commons in the UK in March 2004. The network comprises individuals, academics, professional people, journalists, NGOs, church organisations, trade union affiliates and others, and anyone may indicate their support on our web site.

At a practical level, the international secretariat of TJN is based in London. The secretariat reports to an international board, constituted through a not-for-profit company registered in Belgium. Meetings, decision making and accounting are very transparent, as you might expect. My own role is as a senior adviser to the Network and as research director of TJN UK. I would stress, I am one of a range of experts who undertake this type of work, paid and unpaid from around the world.

Given the importance of transparency in what we do let me be upfront about our funding. We have enjoyed a grant from the Joseph Rowntree Charitable Trust which is well known for working on social innovation projects in the UK. In addition, the network's initial core funding came from an individual but we now have, or expect to receive in the near future core funding from Oxfam Novib in the Netherlands, Christian Aid in the UK and the UK based Network for Social Change. In addition, specific projects have been funded by Christian Aid and CAFOD. It is apparent that we have gone back to the roots of this campaign in the Oxfam report of 2000 in pursuing the work we undertake. I would stress, we have had no government funding for the work we do.

TJN philosophy:

1. Justice for poor people
2. Business is vital
3. Government create value
4. Tax binds these issues together

TJN's philosophy

TJN's philosophy is based on the following core principles:

1. Justice for the poorest people, wherever they might be, is essential;

2. Business is vital, but is about much more than shareholder value, instead being one of the mechanisms by which value is created in society for the benefit of all participants and society itself;

3. Government also creates value, and business cannot work without it;

4. Tax is the glue that binds these issues together.

[8] http://www.freedomandprosperity.org/
[9] http://www.ineko.sk/euroreform/menu4_owens.htm

What TJN wants

The Tax Justice Network has eight main areas of interest. Examples are given for each, but it is stressed that these are merely indicative.

1. Transparency:

    a. All company details are available for inspection free of charge, wherever the company is incorporated in the world. This would include details of its constitution, ownership, management and accounts. This requirement would extend to all other entities created by law including charities, foundations, trusts, partnerships with limited liability as well as material entities run by individuals and partnerships without limited liability;
    b. The use of all nominee arrangements whether for ownership or management to be banned;
    c. All groups of companies to disclose the accounting information referred to later in this paper;
    d. All tax accounting to be made available to tax authorities;
    e. All tax disclosure to be consistent and to be made on the basis that all 'cards are face up on the table'.

2. Progressive taxation

    a. Income taxes should have progressive rates;
    b. Value Added Taxes must operate with exemptions to protect the least well off in any society;
    c. Social security contributions must not be capped;
    d. Capital gains taxes are part of all tax regimes, and do not offer significant tax incentives when compared to income taxes;
    e. Wealth or inheritance taxes are in operation;
    f. Tariffs and trade taxes are used when needed to protect fledgling industry, natural resource exploitation or when they are cost effective alternatives to charges on the poorest members of a society, as is often the case.

3. Tax compliance

    a. Taxpayers should seek to comply with the spirit of the law when managing their affairs;
    b. Full voluntary and consistent disclosure should be made by tax payers to all tax authorities with interest in their affairs;
    c. Taxpayers seek to declare their income in the territory where it can be best determined that the economic benefit of the transactions they undertook arose, irrespective of the tax consequence;
    d. Tax payers do not use tax havens, trusts or other artificial structures to manipulate their taxation liabilities.

4. Tax cooperation

    a. Automatic information exchange on income earned in one country attributable to a taxpayer in another country;
    b. The sharing of data to ensure tax is assessed e.g. on transfer pricing issues;

TJN is for:

1. Transparency
2. Progressive taxation
3. Tax compliance
4. Tax cooperation
5. Simplicity in tax legislation
6. A culture of citizenship
7. Objective government reporting
8. Ethically motivated professionals

c. An assumption that all income is taxable giving rise to cooperation to tackle tax arbitrage;
d. A mutual intolerance of states that will not cooperate on taxation matters;
e. Cooperation on international tax collection;
f. Development, where appropriate, of international bases of taxation to assist mutual tax collection.

5. Simplicity in taxation legislation (a general anti-avoidance principle)

    a. Tax legislation is purposive;
    b. The interpretation of taxation law is undertaken on equitable principles;
    c. A general anti-avoidance principle is in operation;
    d. Pre-transaction rulings are available (although not necessarily without charge).

6. A culture of citizenship amongst individuals and legal entities

    a. It is recognised that a taxpayer has responsibilities to the state or states that provide them with the opportunity to earn their income, part of which is discharged by the payment of the taxes requested of them by law interpreted as indicated in this paper;
    b. The duty of a trading entity extends to all its stakeholders and not just to its shareholders;
    c. Payment of tax is recognition that many actions have unmeasurable consequences that only society at large can manage.

7. Objective reporting of government finances

    a. Governments have a duty to be accountable for the income they receive;
    b. The provision of clear, easily accessed information on income received and the way in which it is expended, provided on a timely basis and in consistent and readily understood formats is an obligation of government as much as it is of trading and other entities;
    c. The individual must be able to comprehend how they relate to the activities of government and this must be explicitly highlighted in the data published by governments;
    d. Government reporting must recognise that well being matters as much as GDP;
    e. The distribution of income and the tax burden is an important issue and must be highlighted in all reporting.

8. Ethically motivated professions

    a. Professional people seek to determine their client's objectives and do not assume they wish to minimise the tax they pay;
    b. Professional people publish clear guidelines as to what they will, and will not tolerate as acceptable, compliant tax practices so that clients know what they might expect from the firms they engage;

c. Professional people encourage tax compliance and full disclosure of all transactions;
d. Professional firms refuse to act for those clients who refuse to practice tax compliance.

What this means we oppose

The corollary of TJN's aims is that it opposes certain practices which are presently prevalent in the world of taxation and related areas. These are the following and in each case examples are given, but these are merely indicative:

1. Secrecy

    a. Tax havens;
    b. Unpublished accounts, constitutions, membership information and management details for all entities created using statute law;
    c. The use of nominees;
    d. Banking secrecy when used to prevent tax disclosure;
    e. Trusts when used to create tax advantages or to recreate the effects of banking secrecy laws;
    f. Inconsistent or incomplete tax disclosure;
    g. Non-disclosure of tax accounting by legal entities;
    h. The use of consolidated group accounts to hide offshore and other transactions of which the group may not wish its shareholders and others to be aware.

2. Regressive taxation

    a. Flat taxes;
    b. Income taxes with capped liabilities;
    c. VAT without exemptions;
    d. National insurance regimes that cap contributions;
    e. Low rate capital gains tax regimes;
    f. the absence of wealth related taxation;
    g. Substantial allowances and reliefs available only to the well-off meaning that they pay lower than average real rates of taxation;
    h. Benefit systems that create high effective marginal rates of taxation.

3. Tax evasion and avoidance

    a. Taxation fraud, in all its forms;
    b. Seeking to manipulate taxation law for the benefit of the taxpayer;
    c. Taxation arbitrage;
    d. Incomplete disclosure of taxation matters;
    e. Inconsistent disclosure of transactions between differing taxation authorities;
    f. Misrepresentation of the nature of transactions;
    g. The use of tax havens;
    h. The relocation of transactions for taxation benefit;
    i. The use of artificial structures to secure a taxation benefit.

TJN is opposed to:

1. Secrecy
2. Regressive taxation
3. Tax evasion and avoidance
4. Tax competition
5. Complexity in tax legislation
6. The cult of the individual
7. Government spin its reporting
8. Profit motivated professionals

4. Tax competition

    a. Offering incentives to encourage the artificial relocation of transactions to a territory;
    b. The ring-fencing of taxation benefits from local populations;
    c. Encouraging the 'race to the bottom' in taxation rates;
    d. Refusal to share tax information;
    e. Refusal to recognise tax evasion as a crime;
    f. Non-cooperation on the recovery of tax debt;
    g. Encouraging the non-taxation of capital.

5. Complexity in taxation legislation

    a. Use of a legal basis of interpretation of tax law, so encouraging the abuse of rules;
    b. Using the literal meaning of words as the basis of taxation law, even though that meaning changes over time;
    c. The use of detailed anti-avoidance rules that result in ever escalating loopholes;
    d. The failure to recognise context as signify cant in the interpretation of taxation law;
    e. Recognition of the legal form of a contract as the only issue that matters in determining its validity for taxation purposes;
    f. Blocking the use of equitable interpretation in taxation matters.

6. The cult of the individual

    a. The belief in 'tax minimisation';
    b. The denial of the responsibility of the taxpayer to the State in which they reside or in which they transact;
    c. The denial of the existence of society;
    d. The refusal to recognise the need for corporate responsibility;
    e. Shareholder value.

7. Government spin in its reporting

    a. 'Spin';
    b. An emphasis upon GDP;
    c. Disclosure only of good news;
    d. Hard to access, or unavailable data;
    e. Information not available on line or at publicly accessible locations;
    f. Inconsistent reporting;
    g. Overly technical reporting incomprehensible even to the educated lay-person;
    h. A failure to relate accounting information to the average reader;
    i. An absence of data on the distribution of benefits and burdens of taxation;
    j. An absence of disclosure on tax not collected, and what is being done to address it.

8. The failure of professional ethics

    a. Firms act in what they believe to be the interests of clients, without checking that to be true;

b. Firms act defensively i.e. they will tax avoid because they have not eliminated the risk from clients of not doing so;
c. Ethics are considered to relate only to the relationship with clients, and not to that with other parties;
d. Tax minimisation is assumed to be normal;
e. Profit for the professional firm is the driving force behind the advice provided;
f. Tax compliance is not encouraged.

The issues TJN tackles

As a result of these interests TJN tackles the following issues:

1. Corruption, what it is and how to tackle it;
2. Aid, and how to replace it;
3. Development, and how to fund it;
4. Tax havens, and the harm they cause;
5. Tax evasion, and how to tackle it;
6. Tax avoidance, how to define it and how to change behaviour in this area;
7. The management of tax and other government income both by taxpayers and governments themselves;
8. Accounting for tax;
9. The role of professional firms in promoting various forms of tax behaviour, both ethical and otherwise;
10. The role of business in society;
11. The role of the state in society.

TJN tackles:

1. Corruption
2. Aid
3. Development
4. Tax havens
5. Tax evasion
6. Tax avoidance
7. The management of tax
8. Accounting for tax
9. The role of professional firms
10. The role of business
11. The role of the state

How we work

TJN has three primary methods of working:

1. Research

   The work undertaken is usually at a high level, should be academically acceptable, but is designed to promote change in behaviour rather than the extension of knowledge for its own sake. Notable projects with which TJN or its advisers have been associated include:

   a. Researching the impact and cost of tax havens on society at large[10];
   b. The impact of flat taxes[11];

[10] http://www.taxjustice.net/cms/upload/pdf/Price_of_Offshore.pdf

c. The role of taxation in corporate social responsibility[12];
d. Taxation and development[13];
e. The role of the Netherlands as a tax haven[14];
f. Codes of Conduct for taxation (forthcoming).

In addition TJN co-sponsors the only international academic conference on these issues in the world. This event has been held at Essex University in the UK for the last four years. The next such co9nference will be held in Nairobi, Kenya, next week (18 – 19 January 2007). This has encouraged much broader academic interest in this area than might otherwise have been the case.

2. Advocacy

TJN has made presentations to and worked with a wide variety of organisations over its relatively short life, including:

a. The United Nations;
b. The European Commission;
c. The IMF;
d. The governments of many countries including the UK, USA, most Nordic countries, South Africa, Jersey, France, Germany, a Caribbean state, and others;
e. International agencies, such as the International Accounting Standards Board;
f. International organisations, such as the South Centre in Geneva.

3. Networking

TJN has networked extensively, with a focus on:

a. The NGO community;
b. Faith groups;
c. Academics;
d. Journalists;
e. Professional people.

In doing so it has used a wide variety of tools including meetings, seminars, the Web, newsletters, blogs and frequent press releases.

TJN modus operandi:

1. Research
2. Advocacy
3. Networking

The combined consequence of this work has taken even those involved in the Network by surprise. As Judith Freedman, KPMG Professor of Law at Oxford University said in a recent academic paper[15]:

Press coverage and the activities and statements of various lobby groups support this perception that there is a considerable loss of revenue arising from 'aggressive' tax avoidance by business and

11 http://www.accaglobal.com/pubs/publicinterest/activities/research/publications/tech-ft-001.pdf
12 http://www.sustainability.com/insight/research-article.asp?id=450
13 http://www.christian-aid.org.uk/indepth/509tax/index.htm
14 http://www.somo.nl/html/paginas/pdf/netherlands_tax_haven_2006_NL.pdf
15 Freedman, Judith; **The Tax Avoidance Culture: Who is Responsible? Governmental Influences and Corporate Social Responsibility**. 2007, publication details forthcoming.

individuals. The activities of the Tax Justice Network account for much of this increased interest.

We are convinced that the loss of revenue to which we often refer is happening. As our paper 'The Price of Offshore' showed, it is likely that a figure of US$255 billion a year is lost to governments as a result of the use of tax havens by wealthy individuals[16]. When corporate activity is considered as well that estimate rises to US$385 billion[17]. As yet no one has published credible criticism of these estimates and our work is, for example, reflected in the report of the US Senate on tax havens published in August 2006[18]. That is why we believe that the issue needs to be addressed. Unless it is the funds needed for development, for developing countries to be come self-sufficient and the social programmes required to ensure the poorest people in the world enjoy at least some of the benefits considered normal by a current minority will not happen.

TJN beliefs:

1. **Change is possible**
2. **Progress is essential**
3. **We must change the terms of debate**

Our core message

In the course of our work we spend endless hours considering issues few understand, such as capital flight, information exchange, the nature and extent of double tax treaties, transfer pricing and its abuses, and so on. This is vital work. The GT-7 needs to tackle these issues. But there is at this time a critical need for progress on tackling the problems that are faced. We are, therefore prioritising the issues we are looking at and part of my reason for being here today is to highlight three particularly important issues where we think change is possible in the short term. This makes them especially important.

I would stress that we do believe change is possible. It will take time, but it can happen although there may be two pre-conditions. The first is the need for signs of progress, and these have not been as abundant as we would like. The second is the need to change the terms of this debate. I will deal with these points in the remaining time I have available, using three examples.

Example 1 – The use of language – being positive

The use of language:

We have to say what we are for, not what we are against

It is easy for any attack on tax avoidance, evasion, corruption or capital flight to be represented as an attack on business, the addition of another regulatory burden on enterprise or as a restriction of the rights of the individual. It is not. It is a step towards justice for all people. This, however, has to be carefully managed if the right impression is to be given. We have learned this from our own experience of dealing with havens, business and the lobby groups that represent them.

This is precisely why we now make clear what we stand 'for' when explaining our work, rather than what we are 'against'. It's easy to be derailed when you're opposed to tax havens or tax competition. There are some serious lobbies only too willing to defend both, and they have the ear of the media and serious financial sponsors within the business community.

[16] http://www.taxjustice.net/cms/upload/pdf/Price_of_Offshore.pdf

[17] Cobham, A. (2005) **Tax Evasion, Tax Avoidance and Development Finance** Queen Elizabeth House Working Paper Series No. 129, Oxford

[18] http://www.senate.gov/~levin/newsroom/supporting/2006/PSI.taxhavenabuses.080106.pdf

It is much harder to be derailed when promoting tax cooperation or transparency, for example. These are a bit like motherhood and apple pie i.e. things whose merit is hard to question.

I cannot stress enough that the language used in campaigning on these issues, when we debate them, when we communicate them, when we seek to persuade others, anywhere, of the importance of them is vital. What we actually have at stake here is the credibility of markets, the future of democratic government's right to tax those to whom they are responsible and the well being of the vast majority of the people of the world. Being positive about that objective is vital if we are to succeed.

Corruption is not limited to:

"the misuse of entrusted power for private gain"

(Transparency International)

Example 2 – Redefining corruption

Corruption is an impediment to development. This is obvious. When government funds are not used as those who provided them intended ordinary people suffer. Paul Wolfowitz has during his tenure at the World Bank made this a focus of his strategy[19]. In doing so he has though broadly accepted the definition of corruption promoted by Transparency International, which is[20]:

> *Corruption is operationally defined as the misuse of entrusted power for private gain*

We do not dispute that this approach to corruption has served a purpose. It has succeeded in highlighting an issue that needs to be addressed in developing countries in particular. But there are substantial problems with this definition:

1. It focuses on the symptoms and not the cause of this problem;
2. It emphasises corruption within government, or corruption as crime;
3. It ignores illicit corporate activity;
4. It specifically ignores the issue of tax evasion as corruption.

Crime makes up 35% of dirty money flows

Illicit commercial activity, including mispricing, comprise 65% of the flows from developing and transitional economies

My Tax Justice Network colleague John Christensen has pioneered thinking on tackling these inherent weaknesses in this definition of corruption. As he has written[21]:

> *In terms of orders of magnitude, the proceeds from bribery, drugs money laundering, trafficking in humans, counterfeit goods and currency, smuggling, racketeering, and illegal arms trading account in aggregate for 35 per cent of cross-border dirty money flows originating from developing and transitional economies. In contrast, the proceeds from illicit commercial activity, incorporating mispricing, abusive transfer pricing and fake and fraudulent transactions account for 65 per cent of such flows.*[22] *The very least one might expect in such circumstances, is that equal emphasis be*

[19] See for example http://www.nytimes.com/2006/09/14/business/14wolf.html?ex=1315886400&en=cb130a950d337b28&ei=5088&partner=rssnyt&emc=rss

[20] http://www.transparency.org/news_room/faq/corruption_faq

[21] Quoted from http://www.taxjustice.net/cms/upload/pdf/Follow_the_Money_-_RGS-IBG__final_31-AUG-2006.pdf

[22] Baker, R. (2005) ***Capitalism's Achilles Heel***, John Wiley & Sons, Hoboken, New Jersey, p369

given to corruption in both private and public spheres; that greater prominence be given to how corruption can reduce tax revenues by as much as 50 per cent;[23] *and that the activities of the offshore system should be more carefully scrutinised to ascertain the harmful impacts of tax havens on the functioning of global markets and on the integrity of the rule of law. As Raymond Baker notes in the concluding chapter of his book Capitalism's Achilles Heel:*

> *"Illicit, disguised and hidden financial flows create a high-risk environment for capitalists and a low-risk environment for criminals and thugs. When we pervert the proper functioning of our chosen system, we lose the soft power it has to project values across the globe. Capitalism itself then runs a reputational risk. As it is now, many millions of people in developing and transitional economies scoff at free markets, regarding the concept as a license to steal in the same way as they see other others illicitly enriching themselves."*

Regrettably, Transparency International, despite its commendable role in putting corruption onto the political agenda, has undermined the efforts of reformers through its publication of the Corruption Perception Index (CPI) which reinforces stereotypical perceptions about the geography of corruption. Africa, in particular, is consistently identified by the CPI as a nexus of corruption, accounting for almost half of the bottom quintile of countries in the 2005 index. Only one African country, Botswana, features amongst the least corrupt quintile. But closer examination reveals that about 40 per cent of the countries identified by the CPI as least corrupt are offshore tax havens, including major centres such as Singapore (ranked 5th overall), Switzerland (7th), United Kingdom (11th), Luxembourg (13th), Hong Kong (15th), Germany (16th), USA (17th), and Belgium and Ireland (jointly 19th). For good measure Barbados and Malta, both offshore tax havens, rank 24th and 25th respectively. What do these rankings tell us about the current politics of corruption? I find it hard to disagree with the prominent Nigerian who, during protracted negotiations to secure the repatriation of assets stolen by former Nigerian President Sani Abacha, commented that:

Switzerland is not the 7th least corrupt country in the world, it entices all robbers of public treasuries around the world to bring their loot for safe-keeping in their dirty vaults

> *"It is rather ironical that the European based Transparency International does not think it proper to list Switzerland as the first or second most corrupt nation in the world for*

[23] **The Other Side of the Coin: The UK and Corruption in Africa,** report by the Africa All Party Parliamentary Group, March 2006, p12

> *harbouring, encouraging and enticing all robbers of public treasuries around the world to bring their loot for safe-keeping in their dirty vaults.*[24]"

We believe that a change in our understanding of corruption is required. It has to include those illicit commercial activities most closely associated with transfer pricing and tax evasion or it is seriously deficient.

In addition, the focus must shift from the 'demand side' for corruption, which is the sole focus of attention within the Transparency International definition as used by the World Bank. The 'supply side' is important and since that is the case corruption has to be considered to include:

1. The activities of those governments who supply the secret spaces in which corruption can take place, which include (but by no means exclusively) the recognised tax havens;
2. Those who supply the services that allows such corruption to happen including the bankers, lawyers, accountants and trust companies who set up and operate such arrangements;
3. Those who undertake illicit transactions related to capital flight and tax abuse;
4. Those who ignore such transactions in the course of their duties.

These activities might fairly be called the supply of corruption services, and have to be tackled as strongly as does the use of those services. Only then, using this dual approach will this problem be effectively tackled. Until it is developing countries are being unreasonably penalised for the involvement of some in their governments in corruption whilst those who facilitate their activities are going unpunished. In addition, until corruption is categorised in this way the loss of taxation revenues from developed countries because of tax corruption facilitated by places such as Luxembourg, Switzerland and the offshore havens will be more readily tolerated by society. This cannot be ignored any longer.

We would urge the GT-7 to back this change in the perception of corruption. This will be a major contribution to changing the mind-set which is currently preventing progress on this issue of concern to us all.

Corruption includes:

1. **Supplying secret spaces, like tax havens**
2. **Supplying corruption services**
3. **Undertaking illicit commercial transactions**
4. **Ignoring these activities**

Example 3 – An International Accounting Standard to highlight the use of the offshore world

'Secret spaces' are required if corruption is to take place. Tax havens are one such space. Subsidiaries inside groups of companies are another.

No one knows if the inventors of limited liability corporations intended that limited liability should be available within groups of companies, as well as when considering a group's third party relationships but as a matter of fact limitation of liability does apply within groups. This has these consequences:

1. Multinational groups tend to be made up of hundreds, and often thousands of companies[25];

[24] Former Education Minister Professor Aliya Babs Fafunwa quoted in *This Day*, 6th June 2005

[25] I estimate there to be about 3,000 companies in the BP Group at present based upon its most recent data filed with the Registrar of Companies in the UK.

2. Most countries tax each company in a group individually, and not the group itself;
3. Many of the companies in most groups are registered in territories that do not require accounts to be made available for public inspection;
4. Group consolidated accounts only record the third party transactions of a group of companies, but it is estimated that 60% of world trade is now undertaken on an intra-group basis[26], meaning that these accounts provide no meaningful representation of much that happens in the world of commerce, or across international boundaries;
5. Group consolidated accounts do not usually require a company to disclose:
    a. Where it trades;
    b. The names of all the entities through which it trades.

Group accounts provide secret spaces for subsidiaries which undertake 60% of world trade on an intra-group basis, unaccountably.

The resulting 'secret spaces' have been little explored[27] but tax administrators around the world know the problems that this situation creates in terms of establishing group structures, internal supply chains, cross charging mechanisms and all the related issues that flow from these, with consequent opportunity for capital flight and tax abuse.

Campaigners for transparency in the Extractive Sector have been particularly aware of this issue. The Publish What You Pay coalition[28] (PWYP) helped give rise to the Extractive Industries Transparency Initiative[29] (EITI). This has developed significant awareness of the need for any government to account for the funds paid to it. But it quickly became apparent that all the EITI was doing was to account for what companies declared they owed. There was no way of knowing if this sum was what was actually due. The truth and fairness of the payment is not assessed by the EITI reconciliation process. As campaigners came to realise, knowing that 95% of the revenues companies have declared are accounted for by governments is of relatively little value if the declared payments are only half the real sum due.

Groups should disclose:

1. Where they are
2. Who they are in that location
3. Key data on their trading, profit and tax paid by country, without exception

The Tax Justice Network has worked with PWYP to tackle this issue. The first result was a proposal for an international accounting standard[30] for the extractive industries. This was then expanded to be a proposed standard that tackled the issue for all companies subject to International Financial Reporting Standards whatever sector they work in[31]. This proposed standard, which has been widely circulated calls for disclosure of the following information:

1. A list of the names of all the territories within which the group has subsidiary or associated companies, without exception;
2. The names of all subsidiaries and associates in each territory, without exception;
3. The following information on a consolidated country-by-country basis, without exception:
    a. Turnover in total;
    b. Third party turnover;

26 See http://www.oecdobserver.org/news/fullstory.php/aid/670/Transfer_p
27 A paper on this subject is forthcoming from Ronen Palan and Richard Murphy, both of the Centre for Global Political Economy at the University of Sussex.
28 http://www.publishwhatyoupay.org/
29 http://www.eitransparency.org/section/abouteiti
30 http://www.publishwhatyoupay.org/english/objectives/ias.shtml
31 http://www.taxresearch.org.uk/documents/ias14final.pdf

c. Third party costs excluding those of employment;
d. Interest, royalties and licence fees paid;
e. Profit before tax;
f. Tax charge on profits split between current and deferred tax;
g. Other taxes or equivalent charges due to the government of the territory in respect of local operations;
h. The actual payments made to the government of the country and its agencies for tax and equivalent charges in the period;
i. The liabilities owing locally for tax and equivalent charges at the beginning and end of each period as shown on the balance sheet at each such date;
j. Deferred taxation liabilities for the country at the start and close of the period;
k. Gross and net assets employed;
l. The number of employees engaged, their gross remuneration and related costs;
m. Comparative data where appropriate in each case.

This is not complete profit and loss account information, but it should be enough to ensure that questions may be asked of any group that undertakes substantial intra-group transactions giving rise to risk for taxation authorities, or shareholders come to that (a point which we think has considerable significance in view of the extensive use of offshore and intra-group transactions to distort reported results in many of the more recent significant corporate failures).

The International Accounting Standards Board is seriously considering this request.

We'd like the GT-7 countries to support it

This proposal was put to the International Accounting Standards Board (IASB)[32] last year and more than 50% of all submissions on this and related topics to be discussed by that Board were supportive of the submission. This did not mean that it has been adopted as a standard at this time, but the IASB was persuaded that the arguments submitted had merit and said in November 2006 that:

> *The Board will continue to examine the merits for a requirement of country-by-country disclosure as suggested by supporters of the Publish What You Pay campaign. A group of Board members will discuss this issue with other interested organisations.*[33]

It is our hope that the GT-7 group might back this submission in its broadest form, in which it applies to all entities subject to International Financial Reporting Standards. Put simply, there is no quicker win available in this whole arena at this time to expose data on who is trading where within groups of companies. It is our belief that this standard would radically transform the agenda of international accounting, provide data previously unavailable to governments throughout the world on the activities of groups with operations located within their territories and for both reasons would provide incentive to improve corporate behaviour at the highest level in a way that nothing else could achieve.

Put simply, we think that significant government support would help make this proposal a reality. If that were to be forthcoming one of the 'secret

[32] http://www.iasb.co.uk/
[33] http://www.iasb.org/News/Press+Releases/IASB+issues+convergence+standard+on+segment+reporting.htm

spaces' in the world would be exposed. That is the progress we all need to see at this time.

Summary

I hope I have shown that our concern is motivated by ethical considerations, for business, about which we care passionately, for the professions of which I am a member, but most of all for the people of the world and for the well-being of democratic government.

The demands we make are big. We are calling for justice and an end to secrecy. Some of this will take a long time. But what I have sought to show is that some things are possible in the short term if we are willing to change the terms of the debate and tackle the issues that engage us, even if tangentially.

I have suggested three ways in which you could help make an immediate impact. I hope you will consider them.

Thank you for your time

TJN: motivated by ethical concern, for business, about which we care passionately, for the professions of which I am a member, but most of all for the people of the world and for the well-being of democratic government.

About the author

Richard Murphy is a chartered accountant. He studied economics and accountancy at Southampton University and trained with Peat Marwick Mitchell & Co in London, qualifying in 1982. He set up his own firm of chartered accountants in 1985, which partnership grew to have 800 clients when he resigned as senior partner in 2000. In addition he has been chairman, chief executive or finance director of ten SMEs since 1985.

Since 2002 Richard has worked on taxation and accounting policy issues. He is director of Tax Research LLP. His clients include major NGOs, government agencies, think tanks, campaign organisations and overseas governments. He is senior tax adviser to the Tax Justice Network. His research has covered issues as diverse as the impact of international financial reporting standards on development; tax and corporate responsibility; the impact of the offshore economy on development and why flat taxes are not simple.

Richard has written widely on taxation, accounting and corporate responsibility issues for newspapers and professional and academic journals and contributes to BBC television and radio documentaries on a regular basis.

Richard is a research fellow at the Tax Research Institute, Nottingham University Business School and a visiting fellow at the Centre for Global Political Economy at the University of Sussex.