Global Initiative for Economic, Social & Cultural Rights

SERIES INTERNATIONAL LAW AT THE UN TAX CONVENTION

1

'Taxpayers' Rights' Under International Human Rights Law:

Addressing the Weaponisation of Privacy and Confidentiality to Reinstate Tax Transparency in Favour of Tax Justice

Fiscal Policies

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Introduction

This is an issue of a three-part series titled International Law at the UN Tax Convention. This series illustrates technical legal insights drawn from an analysis of international law instruments will be illustrated to better inform the ongoing for a United Nations Framework Convention on International Tax Cooperation (UN Tax Convention) and two early protocols. The subject of the first protocol (First Protocol) is taxation of income derived from the provision of cross-border services, and the subject of the second protocol (Second Protocol) is tax dispute prevention and resolution.[1]

The negotiations stem from the December 2023 UN General Assembly Resolution 78/230, which mandates the establishment of an inclusive and effective tax cooperation framework that aligns with international human rights obligations. The UN Tax Convention will introduce general commitments, governance mechanisms, and specific protocols addressing pressing tax matters such as digital taxation and dispute resolution. The objective of this series is to provide States with the legal tools and insights to help shape effective negotiation strategies by drawing on international legal precedents and past multilateral treaty experiences.

The need for this legal analysis arises from the recognition that framework conventions, when accompanied by protocols, offer a structure capable of addressing contentious issues incrementally. In doing so, they must carefully balance the trade-off between broad ratifiability (often achievable through vague or general obligations) and substantive commitments (which may attract fewer States but offer stronger legal clarity).

A UN Tax Convention could have an impact on 'enlarging the pie' (what gets to be taxed, how to do it and by how much) as well as on how to 'cut the pie' (distributing taxing rights and tax revenues among countries). The consequences can be enormous, both for countries and taxpayers. Unsurprisingly, intense negotiations have been taking place[2] at the UN to promote different approaches and interests in the preparatory work and agreements towards the final Convention.

Among the main provisions of the Draft Terms of Reference, Principle 9.(c) states:

> *9. Efforts to achieve the objectives of the framework convention therefore should:*
> *(...)*
> *(c) Be aligned, in the pursuit of international tax cooperation, with States' obligations under international human rights law.*

The inclusion of human rights language in the Terms of Reference was achieved after a vigorous demand from civil society organisations, as we understand that the fulfilment of human rights cannot be detached from the discussions around how States can obtain the necessary resources to fully guarantee them. However, representatives from several countries (mainly from the Global North) have argued that this should include provisions to promote privacy (including for legal persons) and other restrictions to transparency. We have also seen similar arguments in national and regional courts where this narrative has been used to hinder the collection, access and exchange of tax-relevant information.

The problem with that position is that restricting tax transparency would undermine the fight against tax evasion, tax avoidance and other illicit financial flows. In such a case, regardless of the UN Tax Convention's decision on how to distribute taxing rights among countries, there may be little collection of tax revenues to begin with.

This paper aims to re-establish the case for tax transparency. Section 2 describes how we got here, listing the evolution of tax transparency milestones and the expected forward trajectory. Section 3 explains how this tax transparency path was blocked and is now under threat because of an individualist approach to human rights. This approach focused on the so-called 'taxpayers' rights', weaponises the right to privacy and confidentiality to avoid measures that are essential to guarantee social and economic rights for all. Section 4 proposes ways to reestablish the case for tax transparency by offering three lines of arguments: tax transparency as a way to rebalance power (vis-à-vis powerful taxpayers), tax transparency to protect the human rights of vulnerable individuals in practice and tax transparency to allow States to meet their legally binding international human rights obligations. Section 5 offers a conclusion, while Section 6 lists actionable policy proposals to improve tax transparency and suggests new principles to be applied by courts.

The Evolution of Tax Transparency

Availability and Sources of Tax-Relevant Information

If the world were simple, there would be no need for a robust tax transparency framework. Authorities could easily get all the information they needed to enforce laws, if individuals owned their assets under their own name and ran businesses under their own name, all within one country's territory.

However, the current global economy is extremely complex, and information is no longer readily available or accessible. Many individuals run their businesses not directly under their name, but through companies and other types of entities that offer limited liability. Availability of information is reduced further in the context of globalisation. Businesses have expanded cross-border and became multinational corporations. They can produce goods in one place, obtain services in another one, and sell them in yet another one. This usually requires incorporating new companies in each country where they operate.

Incorporating a company usually results in their owners benefiting from limited liability, which means that they are not personally responsible for the company's debts or legal obligations. Because of this, companies are not only used to running businesses in a traditional way. Wealthy individuals can create companies to 'passively' hold their assets, including shares corresponding to other businesses, real estate or diverse kinds of wealth.

The complexity of the economy also creates the need for 'professionalisation'. It is necessary to hire lawyers and accountants in multiple countries to understand their legal, accounting and tax requirements, not only to run a business, but also for their succession and inheritance. Corporate and trust service providers offer services to manage these foreign companies, such as resident agents, nominee shareholders or directors (in case the foreign country requires a resident individual to also be involved or manage the business), trustees, etc. Financial institutions are also indispensable in running a business and managing wealth. They are needed to make and receive payments, conduct passive investments and hold wealth.

In the current context, as the next figure shows, tax-relevant information such as the wealth and income of individuals and companies is scattered among various players and in many countries. As 'sophisticated taxpayers', high net worth individuals (HNWIs) and multinational companies will likely engage with enablers such as lawyers, law firms, corporate and trust service providers (CTSPs), accountants, big accounting firms, and tax advisers for their regular operations. These enablers will likely advise them:

1. On how to structure their operations to comply with the law or pay less taxes. This advice could include suggesting how to engage in certain transactions, where to incorporate entities, where to route transactions, etc.

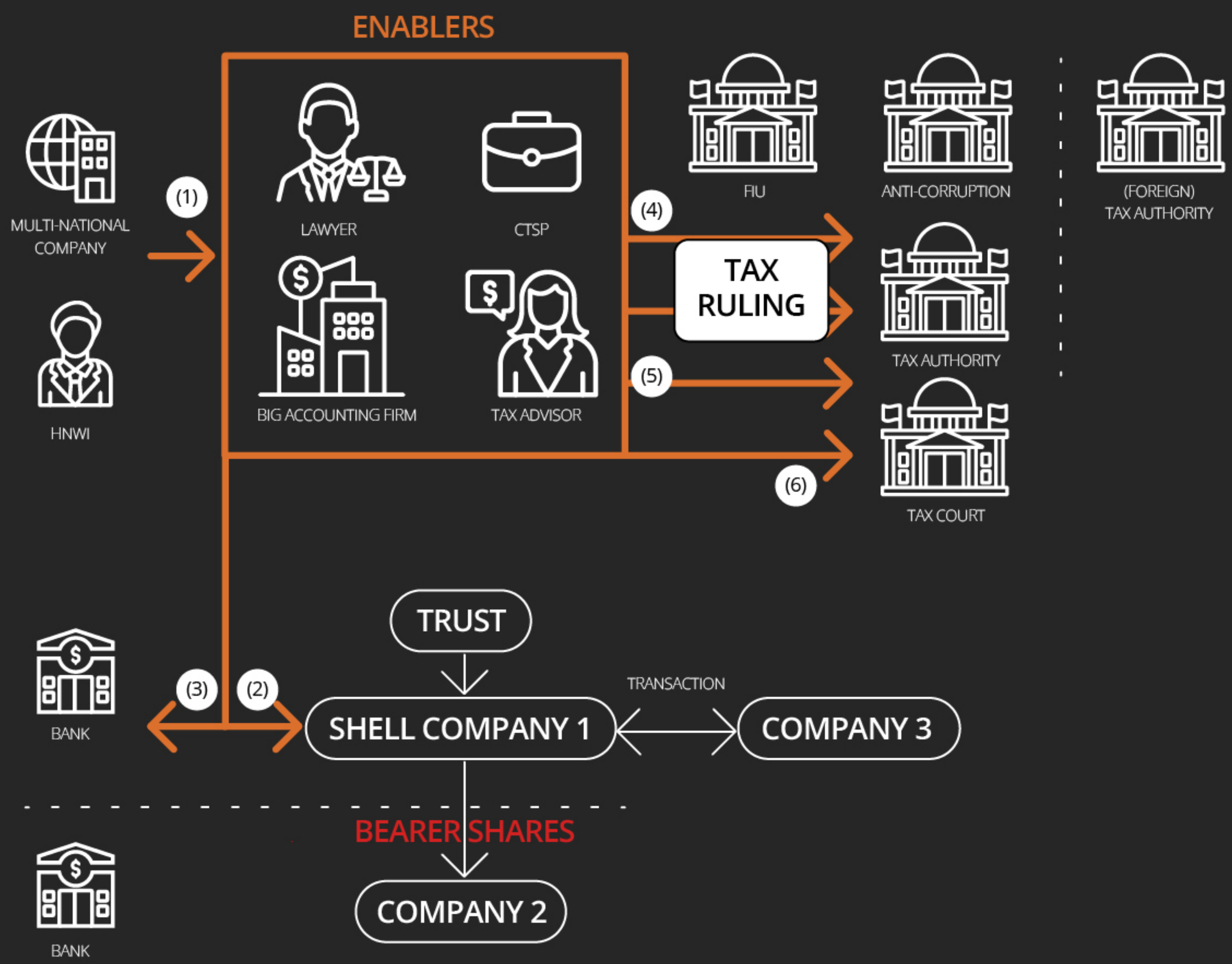
2. On the opening of bank accounts and acquisition of other types of assets such as crypto-assets, real estate, etc.

3. On how to comply with their tax obligations, including submitting tax returns and transfer pricing[3] documentation.

4. On how to engage in 'friendly' interactions with tax authorities, such as obtaining tax rulings, advanced price agreements, cooperative compliance programmes, etc.

5. Regarding litigation to oppose decisions by the tax administration when there are disagreements and tax authorities object to taxpayers' schemes or tax returns (especially tax lawyers).

Figure 1. Tax information is scattered among many players and countries



Source: elaborated by author. References: HNWI (High Net Worth Individual); CTSP (Corporate Trust and Service Provider); FIU (Financial Intelligence Unit).

Deliberate Confidentiality and Structural Secrecy

The challenges for authorities to readily access information are so important that it is safe to say that secrecy is the rule, either as a result of the deliberate creation of rules of confidentiality, or as a consequence of the complex environment in which stakeholders operate.

Some confidentiality provisions were established as a necessary measure to create trust in the system. As individuals and companies started needing more professional services from lawyers, accountants, service providers and financial institutions, they also needed assurances from these players that their information would be kept confidential. For instance, to set up a trust to determine what each of their offspring would inherit, a wealthy individual would have to share with a professional trustee information about their wealth, as well as the identity of their family members or romantic partners. Professional confidentiality ensures that these service providers will not unduly reveal personal information. The same happens when opening a bank account. To enforce these confidentiality provisions and signal it to others, some countries established them by law or even in the Constitution (e.g. banking secrecy), while others simply let it be a matter of secondary regulation or provisions to be agreed by parties (e.g. bank and customer) as part of contractual obligations.

A tax authority would also receive sensitive information about a firm's income or finances when filing their tax returns that could affect its business in relation to its competitors. 'Fiscal secrecy' would prevent it from being wrongly disclosed.

In the case of corporate secrecy, the mere act of operating a business through an entity, rather than under one's name, creates a barrier to transparency. Unlike the case of individuals running a business under their own name or establishing a general partnership, where the name of the partner is relevant because they have full liability, most businesses are currently organised as companies with limited liability which are often called 'limited' or 'anonymous companies' (e.g. société anonyme / sociedad anónima) not because we don't know who owns them, but because the names of the shareholders, who act only as investors (and don't make managerial decisions) is no longer relevant for liability purposes.[4]

There are also types of entities with limited liability that are much more complex than regular companies, creating even more barriers to transparency. For instance, companies may have issued bearer shares[5] or have nominee shareholders[6]. Trusts can also be used to run a business or to hold and protect assets. In many countries, trusts can exist and be legally valid without even registering before a governmental authority or regulatory body. Moreover, unlike companies that tend to have just shareholders, trusts have different types of parties: settlors, trustees, protectors and beneficiaries.

Finally, globalisation exacerbates both ‘deliberate confidentiality’ (e.g. banking secrecy, professional confidentiality, fiscal secrecy) and ‘structural corporate secrecy’. In a globalised world, individuals and companies can use corporate service providers and financial institutions from any country in the world. Both multinationals and passive companies used for holding assets can have complex ownership structures[7], with several layers of offshore entities. At the same time, based on State sovereignty, local authorities have powers only within the national boundaries to, for example, request information. The local police or the local tax administration cannot travel to another country to enforce its laws or demand information from a foreign bank or a foreign company. To obtain information from abroad, countries need to sign international agreements to establish a legal basis for an international exchange of information.

The next figure illustrates the confidentiality provisions and structural secrecy that restrict access to information.

- Multinational companies will likely have a right to keep their sensitive commercial information secretive (e.g. list of clients), to prevent losing market share to their competitors or suffering other negative economic consequences. Individual taxpayers will likely have a right to privacy and data protection over their personal data.

- Enablers will likely enjoy professional confidentiality, such as attorney-client privilege between a lawyer and their clients.

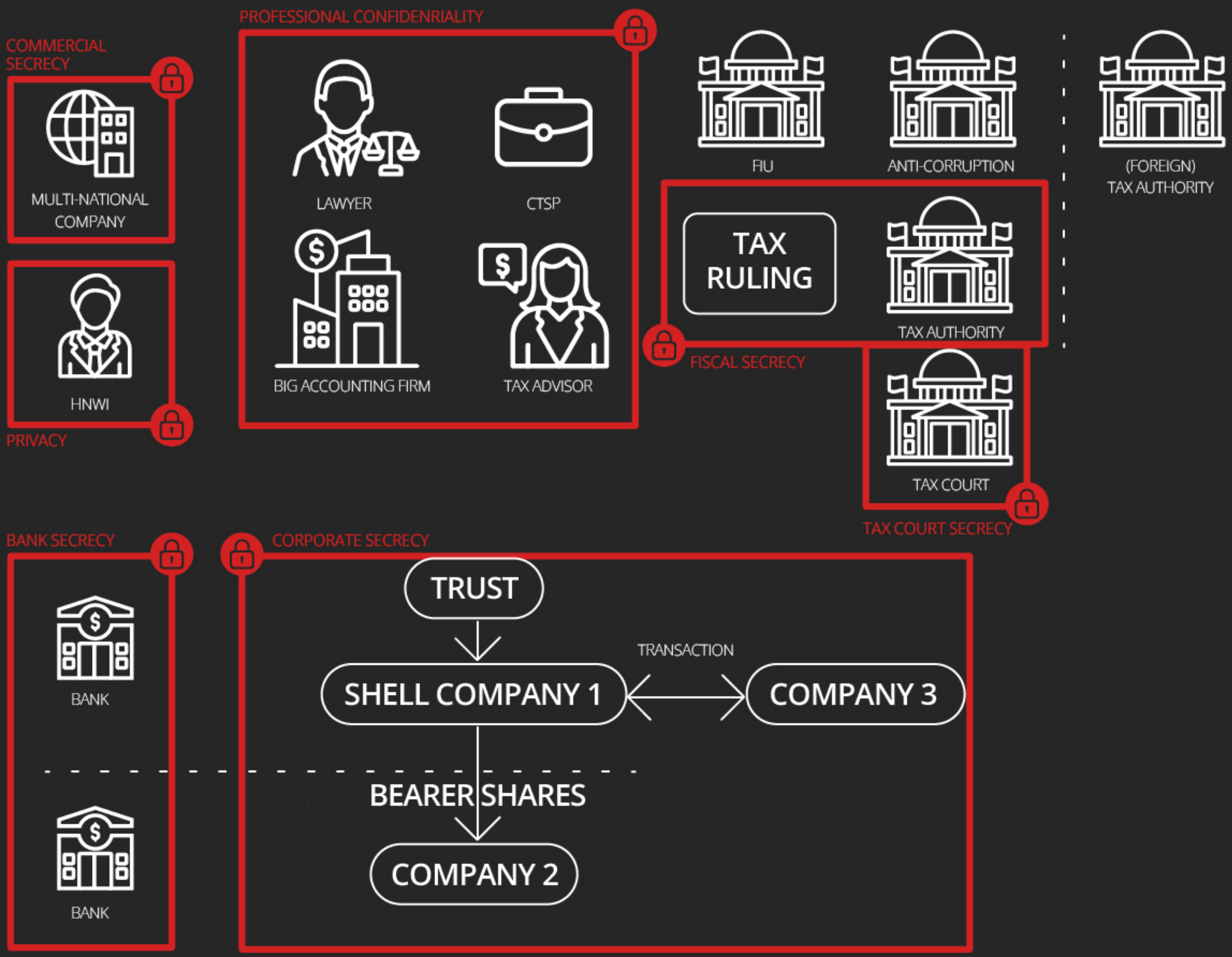
- Banks have traditionally enjoyed banking secrecy, either as part of contractual agreements or sometimes established by law or the Constitution.

- Corporate secrecy can be created through issuing bearer shares[8], setting up companies in tax havens where they do not need to register or update their owners or by creating complex ownership structures involving several layers of offshore entities to make it even harder to determine the individual behind the structure.

- Information held by tax authorities will likely be subject to fiscal secrecy, preventing its exchange with other foreign or local authorities.

- Finally, tax courts may impose different levels of secrecy, from restricting access to court proceedings and rulings, or making their rulings public but redacting the name of the involved taxpayers.

Figure 2. Secrecy affecting the flow of information



Source: elaborated by author. References: HNWI (High Net Worth Individual); CTSP (Corporate Trust and Service Provider); FIU (Financial Intelligence Unit)

The Abuse of Secrecy and Confidentiality to Engage in Illicit Financial Flows

Although structural corporate secrecy and regulatory confidentiality provisions can create trust in the system and protect sensitive information, it can also be exploited to engage in illicit financial flows such as tax evasion, tax avoidance, corruption, money laundering, etc.

Financial institutions that hold bank accounts can offer banking secrecy, not just against unrelated third parties, but also against tax and other authorities. Professionals such as lawyers and accountants hired to ensure individuals and companies comply with the law, can also offer advice on how to circumvent the law by exploiting legal loopholes.

By 2008, global secrecy scandals started revealing that tax evaders and criminals were abusing secrecy to engage in illicit financial flows, with the help of financial institutions and enablers. One of the first scandals that caused global turmoil was explained by the US Subcommittee of investigations[9], which listed many examples involving the banks LGT from Liechtenstein and UBS from Switzerland:

> *The Marshes of Ft. Lauderdale, Florida, hid $49 million in four Liechtenstein foundations over 20 years; LGT helped William Wu hide ownership of assets, including his house in Forest Hills, New York, using an elaborate offshore structure; LGT used transfer companies and a foundation with a Delaware corporation to help the Lowys hide their beneficial interest in a foundation with $68 million in assets; LGT private bankers, including Prince Philipp of Liechtenstein, met with Mr. Greenfield and his father to pitch the transfer of $30 million from Bank of Bermuda to LGT; LGT helped a Gonzalez car dealership inflate invoices, move funds offshore and, after getting sued for their pricing practices, hide assets in case of a court judgment; LGT helped Richard Chong use hidden accounts to move millions of dollars related to his business ventures, routing them through an offshore corporation to avoid scrutiny; LGT helped Michael Miskin hide assets from courts, tax authorities, and his wife; Bradley Birkenfeld, a private banker employed by UBS AG, pleaded guilty last month to conspiring with a U.S. citizen, Igor Olenicoff, to defraud the IRS of $7.2 million in taxes owed on $200 million of assets hidden in Switzerland and Liechtenstein.*

> *In reviewing these case histories, the investigation found: (1) bank secrecy laws and practices are serving as a cloak, not only for client misconduct, but also for misconduct by banks colluding with clients to evade taxes, dodge creditors, and defy court orders; (2) from at least 2000 to 2007, LGT and UBS employed banking practices that could facilitate, and have resulted in, tax evasion by their U.S. clients, including assisting clients to open accounts in the names of offshore entities; advising clients on complex offshore structures to hide ownership of assets; using client code names; and disguising asset transfers into and from accounts; (3) since 2001, LGT and UBS have collectively maintained thousands of U.S. client accounts with billions of dollars in assets that have not been disclosed to the IRS; UBS alone has an estimated 19,000 accounts in Switzerland for U.S. clients with assets valued at $18 billion, and the IRS has identified at least 100 U.S. taxpayers with accounts at LGT; and (4) LGT and UBS have assisted their U.S. clients in structuring their foreign accounts to avoid QI reporting to the IRS, including by allowing U.S. clients who sold their U.S. securities to continue to hold undisclosed accounts, and by opening accounts in the name of non-U.S. entities beneficially owned by U.S. clients'.*

Scandals also involved lawyers and other professionals exploiting professional confidentiality provisions such as professional legal privilege or attorney-client privilege for wrongdoings. The Financial Action Task Force (FATF) 2013 report 'Vulnerabilities of legal professionals'[10] listed 126 cases where legal professionals were involved in money laundering, including 45 cases where they obscured ownership through the creation of companies, trusts, use of bearer shares or acting as trustees. In one case (Case N° 59), a legal professional created complicated foreign structures and transferred funds through a client account while claiming privilege would prevent discovery.

A study[11] by Transparency International on US$3.7 billion in corruption-linked African assets found that 'in 85 percent of cases, companies and trusts were used to obscure the ownership of assets. Often, complex cross-border corporate structures or multiple shell companies were used to distance corrupt individuals – and their dirty funds – from the asset in question.'

This plurality of scandals make it crystal clear that, in order to effectively tackle illicit financial flows, authorities require tax transparency to break structural secrecy and deliberate confidentiality.

Global Tax Transparency Penetrates Structural Secrecy and Regulatory Confidentiality

The first and obvious practice that limits secrecy and confidentiality is the obligation for taxpayers to file tax returns with the tax administration for authorities to properly assess their tax liability. Nevertheless, without information from third parties to cross-check tax returns' claims, it may be difficult or impossible to detect cases of under-reporting. For that reason, countries established frameworks to access information to confirm the truthfulness of tax returns, or to detect cases where no tax returns had been filed to begin with.

Tax transparency and other frameworks to combat illicit financial flows, such as anti-money laundering regulations, started penetrating many of the secrecy and confidentiality restrictions.

- **International exchange of information to tackle structural secrecy of globalisation.** To exchange information with foreign authorities (e.g. on contracts, lists of clients or bank accounts of specific taxpayers), countries needed to lift fiscal secrecy and sign international treaties with exchange of information provisions. Originally, countries signed bilateral treaties to exchange information on request. These consisted in either tax information exchange agreements (TIEAs) or provisions for information exchange in treaties to avoid double taxation. Years later, all countries were able to engage in multilateral exchanges of information, when the OECD/Council of Europe Multilateral Convention on Administrative Assistance in Tax Matters was amended to be open to all countries. Currently, more than 100 States are parties to this Convention.[12] This highly reduced the secrecy opportunities for hiding assets and income in tax havens or any foreign country.

- **Automatic exchange of information (AEOI) and other limits to banking secrecy.** To make the exchange of information work, local authorities had to impose limits on banking secrecy. Some of these measures included prohibiting anonymous bank accounts and allowing both tax and anti-money laundering authorities to request information from banks, such as the name of the account holders and their funds. They were also allowed to exchange information with other domestic or foreign authorities. In addition, the Financial Action Task Force (FATF), an intergovernmental organisation tasked with fighting global money laundering and terrorist financing, requires banks and other financial institutions to report suspicious transaction reports (known as STRs) to the corresponding financial intelligence unit or anti-money laundering authority.

Originally, the exchange of banking information was 'upon request', and requests had to be related to specific taxpayers already under investigation. This had several shortcomings as they prohibited 'fishing expeditions' with a broader and non-individualised scope of analysis. It is also required that the information were 'foreseeably relevant', meaning that the country had to justify why they needed the information and demonstrate all the steps they had already taken to obtain it. Because of these limitations, exchanges upon request demand a high degree of resources but are only allowed to confirm previous suspicions regarding particular cases rather than obtaining new leads of wrongdoing.[13]

By 2017 there was a big leap in terms of global transparency: many countries started to exchange bank account information automatically, either with the US (based on the US Foreign Account Tax Compliance Act known as FATCA) or among each other (based on the OECD Common Reporting Standard known as the CRS). In short, information on relevant account holders is exchanged annually with their corresponding country of tax residence, without the need for a specific request of information.

- **Beneficial Ownership (BO) transparency to limit corporate secrecy.** To counter the existence of complex ownership structures, bearer shares and nominees that hide the identity of the owner of a company or trust, tax and anti-money laundering requirements included an obligation for countries to determine the identity of the beneficial owner, that is, the natural person who ultimately owns or controls a company or trust. Countries were required to establish legal frameworks that allow competent authorities to obtain this information either from the entity itself, its agents, or from financial institutions that held the data. However, enforcement became difficult. By the time authorities requested beneficial ownership information from a financial institution or service provider, it could turn out that the information had not been collected, that it was not verified, or that the service provider was no longer a resident in the country. This problem was exacerbated when authorities tried to collect information directly from the company or trustee. In this case, in addition to the above challenges, the entity would discover that it was being investigated, having time to rearrange its affairs and delete evidence.[14]

The challenges to obtain beneficial ownership information from entities, financial institutions or service providers led to the development of central beneficial ownership registries, where beneficial ownership information had to be filed with a government agency (e.g. the commercial registry, the tax administration, the central bank or a newly established beneficial ownership registry). In 2015, the EU approved the 4th anti-money laundering Directive that required the establishment of central beneficial ownership registries. In addition to competent authorities, access was granted to financial institutions undertaking anti-money laundering requirements and to those who had a legitimate interest. Many countries followed suit. By 2022, close to 100 jurisdictions had approved laws to establish beneficial ownership registries[15]. This also became a requirement after the revision of FATF Recommendation 24 on beneficial ownership transparency for legal persons.

In 2016 the Panama Papers (and many leaks that followed, such as the Paradise Papers) made it apparent that secretive companies were misused to engage in illicit financial flows, and that financial institutions and enablers were not always complying with the law but turning a blind eye or directly assisting customers to engage in tax evasion or money laundering. This led, among others, to more transparency. In 2018, the EU approved an amendment to the Anti-Money Laundering Directive (AMLD 5[16]) which established public access to beneficial ownership information for legal persons. Based on this Directive, most EU countries started establishing public online beneficial ownership registries, in some cases also offering information on trusts (e.g. Denmark). Other European countries outside of the EU, especially in the Balkans, also started implementing free online publicly accessible beneficial ownership registries. Although the general rule established public access, the Directive also established exceptions to public disclosure, if the beneficial owner proved that they were at risk.

- **Country-by-country reports (CBCR) to limit commercial secrecy.** In 2015 after many scandals on tax avoidance showing major companies not paying their fair share of taxes[17] the OECD published the final reports on the 15 Action Points of the Base Erosion and Profit Shifting (BEPS) project to address aggressive tax planning (tax avoidance) mainly by multinational companies.

  BEPS Action 13 requires major multinational companies to produce a 'country-by-country report'. This report must be filed with tax authorities in the country where the multinational is headquartered, and it is then shared with other countries where the multinational has subsidiaries, via automatic exchanges. This country by country report is one of the main tax transparency policy demands. It entails a map of where multinational companies have subsidiaries, their operations, income, employees, assets and taxes paid, in order to understand the big picture of the multinational's activities and performance. (This country by country report is complemented by additional transfer pricing documentation that must be filed by multinationals).

  The EU was also at the vanguard of transparency of country-by-country reports. The Accounting and Transparency Directive (Directive 2013/34/EU), required extractive companies to publish all payments (e.g. income taxes, dividends, royalties) above a certain threshold made to government agencies of any country, and the EU Capital Requirements Directive IV, required the publication of CBCR for the banking sector (disclosing the countries where banks have subsidiaries, their employees, paid taxes, etc). In 2021, EU Directive 2021/2021 expanded these reports to other multinationals.

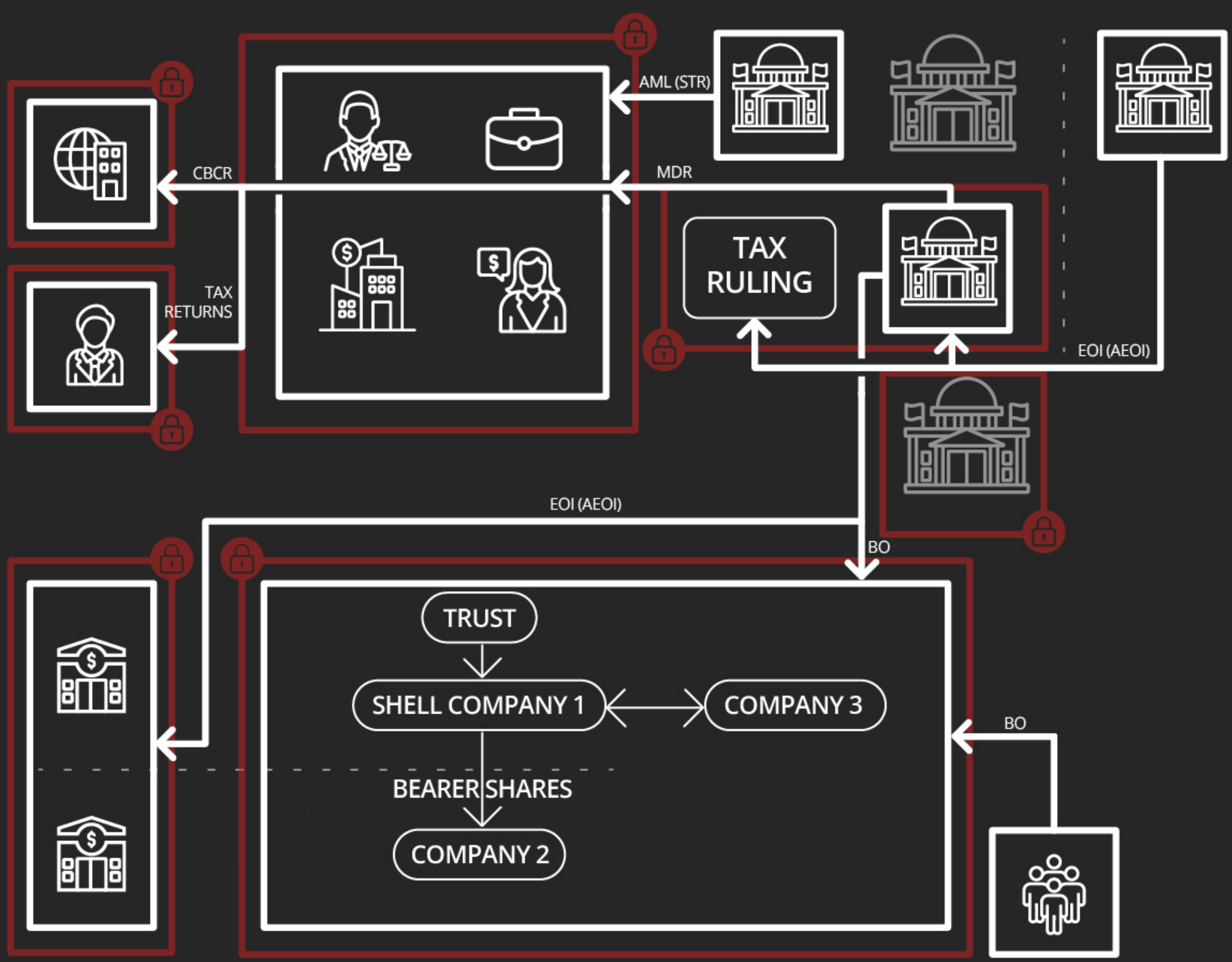
- **Exchange of tax rulings to limit fiscal and commercial secrecy**. Tax rulings are agreements between a company and a tax authority that determine how the company's taxes will be calculated. The LuxLeaks[18] scandal revealed that the Luxembourg tax administration had approved hundreds of tax rulings that allowed multinational corporations to significantly reduce their global tax liabilities by shifting profits to Luxembourg, where they benefited from extremely low effective tax rates. Since then, tax rulings have become subject to more transparency. For instance, BEPS Action 5 entails the spontaneous exchange of tax rulings with affected countries. This was also incorporated in the EU through an amendment to the EU Directive known as DAC 3.

- **Limits to professional confidentiality**. According to FATF Recommendation 22, professionals such as lawyers, notaries or corporate service providers should be subject to anti-money laundering regulations and report suspicious transactions (STRs) that could be related to money laundering. In addition, professionals should also submit beneficial ownership information if requested by the tax authority[19] or the financial intelligence unit.

  After leaks such as the Panama Papers and LuxLeaks revealed that professionals, including law and accounting firms, were engaged in assisting in tax avoidance and tax evasion, they became subject to more transparency requirements. BEPS Action 12 covers mandatory disclosure rules (MDR) on aggressive tax planning schemes. It is the most direct policy against enablers.[20] Similar to requiring a magician to reveal their (tax) tricks, mandatory disclosure rules involve requiring enablers to disclose to the tax administration any scheme that they have offered that could result in a tax advantage or benefit. Disclosure requirements usually include revealing the list of taxpayers who acquired the scheme, how the scheme works (e.g. legal frameworks, types of entities and transactions) and the value of tax benefits achieved. Mandatory disclosure rules on schemes related to tax avoidance and to avoiding the automatic exchange of information or hiding the beneficial owner were incorporated in the EU by the amendment to the EU Directive known as DAC 6.

The next figure illustrates how the new tax and anti-money laundering transparency frameworks started penetrating the structural secrecy and regulatory confidentiality barriers.

Figure 3. Tax transparency penetrates secrecy



Source: elaborated by author. References: HNWI (High Net Worth Individual); CTSP (Corporate Trust and Service Provider): FIU (Financial Intelligence Unit); AEOI (Automatic Exchange of Information); AML (Anti-Money Laundering); BO = (Beneficial Ownership); CBCR (Country by country reports); EOI (Exchange of Information); MDR (Mandatory disclosure rules); STR (Suspicious Transaction Report).

The Planned Future for Tax Transparency

Around 2020, when some of the transparency advances consolidated, it became clear that there were still loopholes to be exploited by those interested in escaping tax transparency. They could avoid exchanges altogether by investing in bitcoins, real estate, precious metals or in countries failing to join the system. Other loopholes included the ability to hide the identity behind trusts, and other types of entities exempted from beneficial ownership registration.

To address these issues, new transparency frameworks were meant to close loopholes and upgrade the system:

- **Improvements to the common reporting standard (CRS) and a new crypto-asset reporting framework (CARF).** The OECD started discussing improvements to the automatic exchange of financial information system based on the CRS), as well as developing a whole new automatic exchange framework for crypto-assets (called the crypto-asset reporting framework, also known as CARF).[21] In the EU, this was incorporated as a new amendment to the Directive on Administrative Cooperation 8 (known as DAC 8).

- **Real estate**. In 2023, the G20 asked the OECD to develop a framework for the automatic exchange of information on real estate ownership.[22]

- **Exchange of information from digital platforms**. There were also developments to extend automatic exchanges of income information from digital platforms (e.g. Airbnb).[23] The framework was incorporated in the EU as a new amendment to the Directive on Administrative Cooperation 7 (DAC 7).

- **Beneficial ownership**. The EU Commission also started discussing ways to improve and upgrade the 5th Anti-Money Laundering (AML) Directive to improve beneficial ownership transparency, especially in terms of access and verification of information. The plan was to approve an AML Package to, among others, expand information on trusts, foreign entities, lower thresholds in the beneficial ownership definition and offer more whistleblower protection.

- **Whistleblower protection**. In 2019, the EU approved the Directive on Whistleblowing (2019/1937), to protect persons who report breaches of EU law.

- **Tax and anti-money laundering cooperation**. Given the similarities of the schemes to engage in tax evasion and money laundering, international organisations including the Global Forum on Transparency and Exchange of Information (Global Forum), the Financial Action Task and the IMF[24] started working on tax and anti-money laundering cooperation to create synergies and promote domestic exchange of information between tax authorities and the financial intelligence unit. For instance, the Global Forum developed the Punta del Este Declaration[25] calling for more cooperation, especially on the use of data received via the exchange of information.

Up until this point, tax transparency seemed unstoppable, with more cooperation and expansion of the exchange of information and access to information. The situation would soon take a 180-degree turn.

Tax Transparency Takes a U-Turn: The Weaponisation of Privacy and Confidentiality

With every new tax transparency measure, the escape routes for criminals trying to launder money, and for the so-called 'sophisticated taxpayers' - high net worth individuals and multinationals - trying to evade or avoid taxes, as well as for their enablers were being reduced. Loopholes were becoming smaller. Tax havens were exchanging information with more countries, including developing countries. Leaks and public access to beneficial ownership and country-by-country information allowed journalists and civil society organisations to name and shame multinational corporations, enablers and powerful individuals. Opponents of transparency decided to fight back.

Strategies differed. In cases like big oil in the US,[26] powerful oil companies would invest in lobbying and claim that additional transparency measures, such as disclosing information on their payments in every country as an anti-corruption policy, would be too costly or burdensome for companies while putting them at a disadvantage against companies from other countries. These strategies usually led to the watering down of transparency measures or their postponing, while not dismantling them altogether.

Although lobbying and attempts to influence legislation will likely never stop, due to the many high profile scandals concerning tax evasion, tax avoidance, corruption and money laundering, it became harder for the wealthy or multinational corporations to change laws to reduce taxes or to reduce transparency.

For this reason, sophisticated taxpayers and their enablers came up with a new narrative. They started focusing on the right to privacy as a human right, as it is almost impossible for anyone to openly and explicitly oppose human rights in a public discussion. First, they needed to narrow down and tokenise the notion of human rights as equivalent to privacy rights, excluding a comprehensive understanding that would lead to the promotion of tax transparency and protection of collective interests such as the fight against tax avoidance and evasion. The goal of their narrative was, therefore, to appropriate the human rights discourse and framework, but for the specific purpose of protecting sophisticated taxpayers' interests. That is why the focus changed to 'taxpayer's rights'.

To understand the seriousness of this threat to refocus human rights towards taxpayers' rights, one may consider the article 'Public International Law And Tax Law: Taxpayers' Rights'[27], co-authored by the now Advocate General to the European Court of Justice, Juliane Kokot:

> *At present, the fight against tax avoidance and abuse dominates the development of international tax law. The reunion thus requires a comprehensive counterbalancing approach from a taxpayer's perspective...*
>
> *... the protection of fundamental collective interests must not go so far as to infringe individual fundamental rights...*
>
> *In phase 1, the research of the Committee is focusing on the protection of individual rights through human rights. This contrasts with a view that invokes human rights in the fight against tax injustice.*

To fully understand this strategy, it's relevant to consider that they could have used other human rights-based arguments to challenge tax laws, including by making reference to the right to property, which is what we call a 'substantive right'. But this would be a weak strategy if we consider that it is a prerogative of States' tax sovereignty and their legislatures to determine the tax structure of a country; taxes can hardly be considered as a violation of the right to property. Instead, the strategy could be to stop the flow of information that makes tax enforcement possible. In other words, instead of dismantling the tax machine, they could just cut off its most needed input: information.

The weaponisation of privacy and confidentiality was the best option to be successful in the court system: it went against 'procedural' aspects to undermine the power of tax authorities to collect and share information.

As described by the same article on taxpayer's rights:

> *In the case of substantive rights, strict judicial control of political decisions that may underlie tax laws is generally not possible. It is primarily for the legislator to determine how to exercise tax sovereignty…*
>
> *… [Instead] the human rights control of tax procedures can generally be stricter than the control relating to substantive rights, such as the fundamental rights of equality or property… [These procedural rights] include rules dealing with the registration and identification of taxpayers, the submission of tax returns, the conduct of tax audits, and the assessment and collection of taxes and sanctions…*

To fully undermine the collection of information by tax authorities, the weaponisation of privacy and confidentiality needed to extend human rights not just to individual taxpayers, but also to corporate taxpayers and the enablers who hold information and who may be designing tax abuse schemes. Among enablers, legal professionals were not the only ones seeking protection. All enablers needed to be protected, rather than forced to help in the fight against tax abuse. To support this goal, the narrative extends to claiming that requiring enablers to disclose tax-abusive schemes affects their freedom of profession.

As proposed by the same article on taxpayers' rights:

> *The fight against tax avoidance and a fair and effective distribution of taxing rights are not the only concerns of international importance. A fair international tax regime also and primarily includes the rights of individuals, including taxpayers and intermediaries, such as lawyers and consultants. Under certain circumstances, legal persons can also be the bearers of specific human rights…*
>
> *…whereas in the case of the intermediaries there are two dimensions: their own legal sphere and that of the taxpayer*

> *involved. The protection of professional rights is a functional extension of rights of the individual taxpayer, but also the subject of separate protection, in particular the attorney-client privilege. However, effective protection of the taxpayers' rights and the attorney-client privilege requires confidentiality protection also in relation to other professions. Otherwise, no trustful cooperation between the taxpayers, their advisers and lawyers is possible. Nor should the professions be unnecessarily and disproportionately burdened in order to protect the 'collective right' to levy taxes....*
>
> *...DAC 6 in particular now requires intermediaries (such as financial institutions, banks, or consultants) to report tax arrangements that might be illegal. This not only raises problems of legal certainty, but also affects the rights to data protection of both taxpayers and intermediaries, and strains their freedom of profession (emphasis added).*

Using tailored narratives, they focused on stopping three levels of access to information: public access, exchange of information among authorities and the very collection of information by authorities.

Against Public Access

Other than the dogmatic claim that any public disclosure of information would, by definition, violate the right to privacy, most arguments to oppose public access include:

- **Overstepping ('only authorities fight crimes, not NGOs')**. One argument to oppose public access is that only authorities are empowered and required to fight crimes. It is their job, and not the job of journalists, civil society organisations or the public at large.

- **Control over one's data**. This argument considers that unless one has full control over their data (how it is used and processed), others will or could use it inappropriately. This inappropriate use could be of low risk (e.g. gossip about a person's income or tax affairs) to high risk (e.g. kidnapping a wealthy individual). While it is possible to control and limit how authorities or licenced institutions use and process personal data, once the data is made publicly available, such possibility of control is lost altogether.

- **Negative externalities (multiple violation of rights) after affecting just one right ('slippery slope')**. According to this view, some rights are considered related, or a pre-condition, for other rights. For instance, the right to privacy can be considered related to the right to freedom, autonomy, and even to life. If someone's privacy is violated because others know where they live, their age, their income, etc, then this affects their autonomy, their freedom or their reputation. One's reputation could be affected if others find out that a person invests in fossil fuels or tobacco. Similarly, there could be family disputes (e.g. succession fights among heirs) if individuals find out the real wealth of their relative. Public access to someone's personal data could lead to stolen identities and impersonation to commit fraud. Because of the risks of kidnappings or other crimes, disclosure of personal data could also affect their life, physical integrity or their property.

Recent Case Law and Policy

The process to weaponise privacy resulted in successful case law and policy changes against public access to information, especially public access to beneficial ownership information:

- **Trusts in France.** In 2016 France established a publicly-accessible register of beneficial owners of trusts for tax abuse purposes (before the 5th EU AML Directive became applicable). However, before the registry became operational, France's Supreme Court invalidated public access to the trust beneficial ownership register because it violated the right to privacy.[28]

- **Beneficial ownership in the EU.** Luxembourg was one of the EU countries to also establish free online public access to beneficial ownership information for legal persons. However, after an individual requested to have their information exempted from public access and the national courts refused, Luxembourg referred the case to the European Court of Justice (ECJ). In 2022, the ECJ invalidated public access to information because it considered that it was a serious infringement of the rights to privacy and data protection.[29] After the uproar caused by the ruling, the ECJ clarified that the ruling invalidated the 5th AML Directive, reinstating access based on a legitimate interest established by the 4th AML Directive.

  On the same day of the ruling, several EU countries, including Luxembourg, Austria, Belgium, Cyprus, Germany and Malta, closed their public beneficial ownership registries.[30]

- **Beneficial ownership in EU-related countries**. The UK had required its Crown Dependencies to establish publicly accessible beneficial ownership registries by 2018, which was then extended to 2023. However, based on the ECJ ruling of 2022 many Crown Dependencies decided to reject public access, despite the fact that the ruling was not binding on them.[31] A similar situation occurred in Norway.[32]

Against Exchange of Information

The narrative against domestic exchange of information is similar to the case of public access regarding the risks of data abuse and crimes. As for international exchanges there are specific arguments, including that there should be no exchange with authoritarian regimes or countries that do not protect human rights. The main arguments to oppose exchanges of information include:

- **The other authority does not need the information or could abuse it.** For instance, there are attempts to prevent exchanges of information with countries that violate human rights or are not democracies, or that do not have relevant taxes (e.g. 'they have a territorial system, so foreign income would go untaxed', or 'they lack a wealth tax, so they do not need to receive information about the account balance').

- **There is a legal limitation.** Especially when the law is silent on a specific type of exchange, opponents of tax transparency would invoke fiscal secrecy, or a requirement to use information only for tax purposes as a way to prevent exchanges with other domestic authorities. In such cases, the general framework that penalises corruption or money laundering is considered insufficient as a basis to share information with other authorities, absent an explicit authorisation or requirement to do it.

- **Other agencies have fewer data safeguards than the tax administration.** This argument suggests that while one authority, like the tax administration, may be fit to receive information, other authorities have fewer data safeguards and could thus be hacked or use information for unauthorised purposes, such as political persecution.

- **It will reduce compliance.** This argument suggests that people comply with some disclosure requirements, including voluntary ones, because they trust the specific authority (e.g. the tax administration). In contrast, if information were to be shared with other local authorities, people would stop complying with information requirements.

Recent Case Law and Policy

The weaponisation of privacy was partially or at least initially successful in stopping the international automatic exchange of information in the following scenarios:

- **Belgium-USA**. In Belgium, the Data Protection Agency suspended automatic exchanges of bank account information based on FATCA between Belgium and the USA. This was later reinstated by the Court of Appeal.[33]

- **UK-USA**. In the UK, a similar attempt was made to suspend automatic exchanges of information with the USA, and obtain compensation, based on data protection violations. In this case, it was revealed that an anonymous donor was financing the campaign to reduce tax transparency.[34]

Against the Collection of Information

The narrative against the collection of information is that the State is, at its best, inefficient, and at its worst, dangerous. Privacy is therefore needed to protect the individual from being persecuted for their religion, sexual orientation, political views, or to protect their wealth from arbitrary confiscation. Privacy is thus required to protect the freedom and autonomy of the individual against the disproportionately higher degree of power that State authorities might hold against them. Professional confidentiality, especially attorney-client privilege, is an additional protection for lawyers when they are defending individuals against the powerful, dangerous or abusive State authorities.

From this perspective the concept of 'rule of law' itself is applied to tax policies as a series of provisions to protect taxpayers from the abuses of the State.

As the previously referred article on taxpayer's rights states:

> *The overarching principle of the rule of law applies to both the tax procedure and to material aspects of taxation (especially the prohibition of arbitrariness). The most important procedural expression of the rule of law is the right to effective judicial protection, which includes several specific subprinciples, such as access to justice (ubi ius, ubi remedium), equality of arms, freedom from self-incrimination (nemo tenetur), prohibition of double jeopardy (ne bis in idem), and the right to be heard (audi alteram partem). These are comprised in the right to a fair trial.*

In a recent legal opinion, the Advocate General to the European Court of Justice - one of the co-authors of the article on taxpayers' rights - stated about lawyers:

> *After all, lawyers are not only representatives of their clients' interests but also independent collaborators in the interests of justice. Consequently, LPP [legal professional privilege] protects not only the individual interests of lawyers and their clients but also the public interest in justice being administered in such a way as to fulfil the requirements of the rule of law. Thus, the special protection afforded by LPP [legal professional privilege] is also an expression of the principle of the rule of law on which the European Union is founded.*

While the general protection of attorney-client confidentiality is relevant for maintaining the rule of law and the respect for Civil and Political Rights, numerable cases of enablers facilitating illicit financial flows (see Section 2.3 above) highlight the need to address this specific angle on a more tailored and nuanced manner to prevent abuses, especially when lawyers end up promoting or facilitating tax evasion or other crimes.

The main arguments to oppose the collection of information by State authorities, in addition to those used against public access and exchange of information, include:

- **A burden and risk, despite having done nothing wrong**. This argument is based on the principle of innocence and good faith. Although it is acceptable and expected that authorities will use their powers against wrongdoers, law-abiding and compliant individuals or entities should be left alone and not be disturbed, burdened or affected by authorities. People who support this argument may accept that wrongdoers or even public officials will be subject to more scrutiny (e.g. members of parliament may have to disclose their interests in businesses and their wealth), but not ordinary people ‘who have done nothing wrong.’

- **Proportionality (‘Using a sledgehammer to crack a nut’)**. A related argument focuses on proportionality and fairness. It considers that the vast majority of individuals and entities are honest and comply with the law. Wrongdoers (tax evaders, money launderers) are the exception: a few bad apples. Consequently, applying measures that violate the right to privacy or professional confidentiality of all individuals and entities is excessive and disproportionate.

- **It endangers the rule of law and free societies**. Lawyers usually consider that anything held by them is subject to attorney-client privilege. This argument suggests that any information possessed by a lawyer, including information on the creation of companies or other corporate issues unrelated to a trial, would endanger the rule of law and free societies.

Recent Case Law and Policy

Efforts to weaponise privacy have succeeded on several occasions. They've managed to stop the collection of information from enablers, especially lawyers, and to prevent beneficial ownership from being registered - covering from specific companies to entire countries:

a) Beneficial Ownership

- In 2021, the US enacted the Corporate Transparency Act, establishing a non-public beneficial ownership register with the US financial intelligence unit (FinCen). However, in 2024, a court in Alabama ruled that beneficial ownership registration was unconstitutional (with regard to the plaintiff).[35]

- Italy was one of the last EU countries to establish a beneficial ownership registry. However, after several lawsuits against it, as of December 2024 access to the beneficial ownership register by those with a legitimate interest and obligated entities was suspended. In 2024 Italy referred a case to the ECJ against registration and access to trust beneficial ownership information.[36]

- In December 2024, a lower court in Texas suspended beneficial ownership registration across the US.[37] The plaintiffs claimed, among others, that beneficial ownership transparency affected their privacy.

b) Collection of Information Held by Enablers, Especially Lawyers

- In 2022, Spain's tax administration requested Luxembourg to obtain information from a law firm regarding the establishment of companies and investment funds. When Luxembourg's tax administration requested information from the law firm, they refused based on professional confidentiality. In 2024, agreeing with the Advocate General, the ECJ ruled that access by the tax administration violated professional privilege and the right to privacy of the law firm and the multinational company.[38]

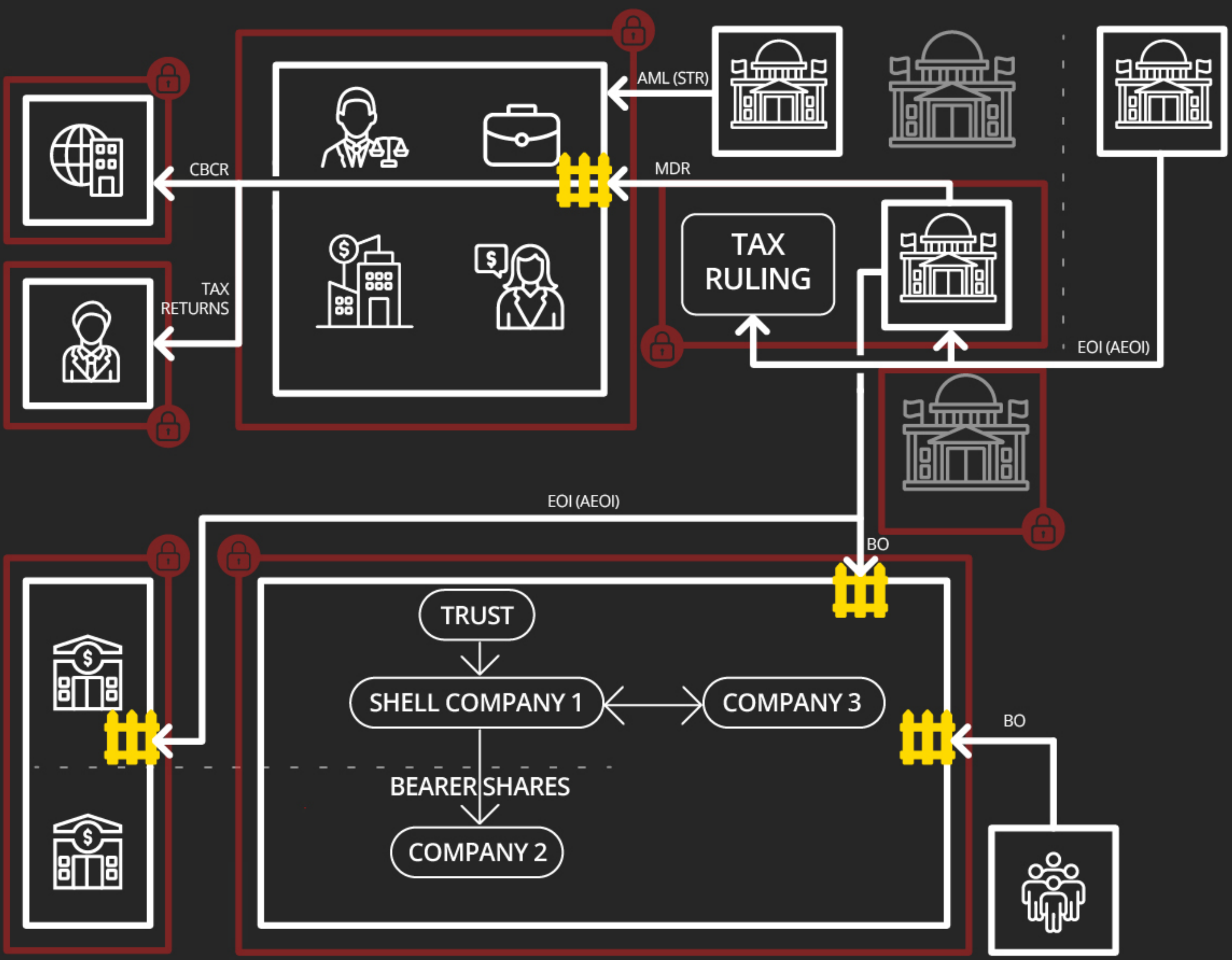
- In 2020, Argentina's tax administration Resolution 4838 established mandatory disclosure rules related to tax abuse. However, enablers filed lawsuits in every province until the tax administration decided to suspend the regime and replace it with one which exempts enablers and requires only taxpayers to disclose schemes.[39]

- Ecuador approved a law to establish mandatory disclosure rules. However, after lawsuits claimed that the measure violated the privacy of communications between a client and professionals, in 2022 the Constitutional Court declared mandatory disclosure rules unconstitutional.[40]

- After Belgium transposed DAC 6 to establish mandatory disclosure rules, the Flemish Bar Association and others filed a lawsuit against it. After Belgium referred the case to the ECJ, the tribunal ruled that lawyers under legal professional privilege should not be required to notify other intermediaries of their reporting obligations.[41]

The following figure illustrates how the weaponisation of privacy and professional confidentiality quickly halted (symbolised by a 'yellow fence') many of the transparency advances that had been made:

Figure 4. Weaponisation of privacy and professional confidentiality



Source: elaborated by author. References: HNWI (High Net Worth Individual); CTSP (Corporate Trust and Service Provider): FIU (Financial Intelligence Unit); AEOI (Automatic Exchange of Information); AML (Anti-Money Laundering); BO = (Beneficial Ownership); CBCR (Country-by Country Reports); EOI (Exchange of Information); MDR (Mandatory Disclosure Rules); STR (Suspicious Transaction Report).

Tax Transparency at a Crossroads: The Renewed Case for Tax Transparency

By 2024, tax transparency reached a breaking point. While new tax transparency frameworks keep being developed and implemented (e.g. the CARF to report crypto-assets), courts are simultaneously invalidating tax transparency measures that have been running for years. It seems as though international standards and national parliaments are forging new pathways toward transparency, while courts are systematically dismantling these efforts from behind.

This section will present three key arguments to reaffirm the case for tax transparency: the necessity of rebalancing power, the imperative to protect human rights for all—particularly for ordinary individuals—and the obligation of States to comply with their international human rights obligations.

Against the Collection of Information

a. Tax Transparency to Rebalance Power

The narrative and legal infrastructure opposing transparency is based on three assumptions that no longer apply or maybe never existed to begin with, and that focus on the rights of taxpayers against the tax administration:[42]

1. Everyone, including every taxpayer, is equally vulnerable in relation to the State and its tax administration.
2. Tax authorities are successful in enforcing the law and their only remaining challenge is to combat criminal activity.
3. Whatever happens between a taxpayer and the tax administration is a private issue. It is no one else's business.

The main problem faced by societies is not the State, or not exclusively: it is actually the fact that sophisticated taxpayers, such as high net worth individuals and multinational companies, are able to engage, undeterred, in tax avoidance, tax evasion and many other illicit financial flows.

These sophisticated taxpayers can be much more powerful than the State and its tax administration. The market cap of a company like Apple is worth more than the GDP of every country in the world except for the six richer States.[43] As we have seen, the tools of sophisticated taxpayers include hiring expensive lawyers, big accounting firms, and engaging in complex transactions using goods and services where there are no comparable prices.

In contrast to this power, tax authorities are often under-resourced, under-staffed and under-trained, sometimes even in major countries[44]. For instance, while one big accounting firm such as PwC has more than 370,000 employees[45], the staff of tax administrations is far lower: less than 1,000 employees in Costa Rica or Panama.[46] The US, the largest financial centre in the world, with more than 30 million companies, has less than 83,000 employees in its tax administration.[47] Notwithstanding a plurality of other potential factors and the impossibility to draw automatic parallelism between the situation of different countries and their bureaucracies, this may imply that even when tax authorities attempt to act honestly and enforce the law (without being subject to political pressure or corruption), they may likely fail to discover or successfully object to tax evasion, tax avoidance and other crimes.

Regarding the third assumption -that what happens between a taxpayer and the tax administration is no one else’s business- the unbalanced battle between sophisticated taxpayers and the tax administration is not innocuous. First, it is unfair. Ordinary taxpayers, such as small and medium companies or individuals who only operate within one country or whose income relies mostly on their salary, have fewer means to escape taxation. They have less technical and financial means to create sophisticated tax avoidance strategies, and less political power to oppose tax increases. In fact, in many cases their taxes are withheld by their employer or bank and paid directly to the tax administration before they even receive their salary.

Second, the fact that sophisticated taxpayers can engage in tax evasion and tax avoidance, or other crimes, means that the rest of the citizens pay the price. Whenever powerful taxpayers fail to pay their fair share, the burden is borne by the rest of contributors who cannot easily escape the tax. On the one hand, by paying proportionately much more in taxes than corporations or extremely wealthy individuals.[48] On the other hand, because they are the ones most affected by the inability of States to collect sufficient tax revenues, which leads to the impossibility of providing basic, massively available and quality public services such as housing, health, food or education, and to comply with their international obligations in terms of Economic, Social and Cultural Rights.

b. The case for Collecting Information

Tax transparency democratizes power. The target of tax transparency, especially recent advances, are sophisticated taxpayers, not ordinary citizens:

- Automatic exchange of information primarily impacts wealthy individuals with foreign bank accounts, not ordinary citizens whose financial activities are confined within their own country.

- Beneficial ownership transparency impacts powerful individuals who set up trusts or other complex ownership structures. Many ordinary citizens don't own or operate through companies. If they manage to own assets, they likely hold them under their own name. Even if ordinary individuals run a business through a company, their setup is usually straightforward: sole proprietorships or entities they own directly, without using nominees or other complicated structures like bearer shares. In this case, beneficial ownership information is already the same as legal ownership information, so it involves no cost to produce it, nor does it entail any additional disclosure that is not already available in the commercial register.

Although most transparency advances focus on sophisticated taxpayers, tax transparency requirements should apply to everyone. First, because it is impossible to pre-identify powerful taxpayers or criminals: the identification of major tax evasion schemes can only be made after all the information is available. Second, to avoid circumvention schemes. Even if the law was meant to apply only to criminals or individuals owning more than a certain amount of wealth or income, sophisticated taxpayers would have the means to use nominees to make sure to operate below the applicable threshold: they could distribute their wealth and income among many and escape reporting information to authorities.

c. The Case for Sharing Information

Illicit financial flows usually operate globally, so authorities from all countries may need access to information to levy the corresponding taxes or to enforce the law. At the same time, global exchanges of information may be needed to reveal a cross-border scheme, as every authority may see only one piece of the puzzle. Without all authorities seeing the 'big picture' of the tax abuse scheme, powerful individuals and criminals could escape the rule of law, because authorities wouldn't even be able to determine the identity of a beneficial owner behind a complex structure or recover assets hidden in a tax haven.

Ordinary citizens who have no international exposure would be unaffected by international exchanges. On the contrary, international exchange of information levels the playing field. It offers access to foreign information to local tax authorities, making powerful taxpayers face a similar situation to that of taxpayers operating only at the local level - in which case their information is readily available to tax authorities.

As for domestic exchanges of information, cooperation among the tax administration and other authorities is needed because a criminal may be violating many laws simultaneously. If a public official obtains a bribe by receiving it in a foreign bank to then purchase real estate, without declaring anything to authorities, they may be engaging in tax evasion, corruption and money laundering all at the same time. In such cases, agencies in charge of monitoring and investigating complex crimes might need access to information held by the tax administration.

d. The Case for Public Access

Public access to information prevents collusion between government authorities and powerful taxpayers and criminals.

Although the State may be less equipped than sophisticated taxpayers, this does not mean that the State is always flawless or honest. It may be the case that authorities are acting dishonestly against powerful taxpayers - for example, they can be targeted for political reasons -, or much worse, they could be colluding with powerful taxpayers to create corruption schemes or to attract or maintain investments through the creation of tax havens.

The level of access may depend on the country or culture, and some information may always be considered confidential and not subject to public disclosure. An example of this information not ever being disclosed would be information that is irrelevant to determining the tax liability or criminal activity of an individual, such as their religion, sexual orientation or their residential address. However, plenty of information that is held by authorities should be publicly accessible, at least as statistics that do not identify any taxpayer.

Here are a few instances in which public access to information has been able to hold authorities to account, as well as help solve crimes:

- The UK's public online beneficial ownership registry revealed that authorities were conducting no verification and that information was unreliable.[49] This helped advocate for policy changes to promote beneficial ownership verification.

- Statistics on the automatic exchange of information in Australia revealed that financial institutions were not complying with the standard. For instance, they had reported millions of dollars as belonging to Antarctica and other islands without inhabitants.[50]

- The information that was available in leaks, which would be similar to publicly available information, has helped reveal crimes and suspicious behaviour by politicians. For instance, the International Consortium of Investigative Journalists

> (ICIJ) responsible for the Panama Papers and other leaks reported that the impact of the leaks included: charging the chief of staff of Malta's former Prime Minister with money laundering and fraud; guilty pleas in a USA tax fraud case; the resignation of Iceland's prime minister, as well as the ousting of other politicians in Mongolia, Pakistan and Spain.[51] The Organised Crime and Corruption Reporting Project (OCCRP), a group of investigative journalists, reported that since 2009 their investigations had contributed to $10 billion in levied fines and sized monies, 414 official investigations, 663 indictments, arrests and sentences, and 135 resignations and sackings.[52]

Public access to information has also facilitated the goals of international and domestic exchange of information. Foreign authorities or local authorities without direct access to information may find it easier and faster to check a public register of information, e.g. a public beneficial ownership register, rather than wait for a specific and official request for information. For instance, it has been described that even EU authorities with special access rights to confidential beneficial ownership information would prefer to first search information in public online free registries.[53]

In conclusion, tax transparency is needed to level the playing field. It ensures that powerful individuals and multinational corporations are held to the same standards as everyone else, requiring them to respect the rule of law and pay their fair share of taxes.

The next section will offer another perspective in favour of the collection, exchange and disclosure of information: arguments and narratives that support tax transparency as a way to protect the human rights of the 'un-powerful', meaning individuals who are indeed vulnerable.

Tax Transparency to Protect The Human Rights of Vulnerable People

As described by the publication Privacy Washing & Beneficial Ownership Transparency[54], tax transparency can be justified from a human rights perspective to protect the human rights of those who do need protection: vulnerable people. Such publication includes many of the following arguments:

a. Tax Transparency Is Against Secrecy, Not Privacy

- **Secrecy Is Different From Privacy. Secrecy Should Not Be Protected**

  Although privacy and secrecy are many times used interchangeably, they are not the same. Privacy is defined as 'the quality or state of being apart from company or observation, freedom from unauthorised intrusion'[55], whereas secrecy is defined as 'the condition of being hidden or concealed'[56]. In other words, privacy can refer to personal matters that an individual keeps away from observation or intrusion of others, while secrecy refers to hiding or concealing something from others, regardless of the right of those people to access this information.

  Based on these definitions we can interpret the implications of these differences. Privacy should refer to personal issues that are intrinsic to one's identity and central for their fulfilment and realisation as an individual, but that in principle have no impact on others, such as a person's religion, race, or political views, as well as other suspect categories protected by Art. 26 of the International Covenant on Civil and Political Rights that are essential to their autonomy, and that should have no impact on other people.

  On the other hand, secrecy would refer to issues that are deliberately concealed or hidden from others, including authorities, likely because they could harm third parties. For example, tax evasion affects tax authorities, compliant taxpayers and society as a whole.

The fact that a piece of information is not covered by privacy rights does not mean that the public will necessarily get access to it. The level of access to each piece of information should depend on the circumstances. In the case of tax transparency, information on transactions, structures, income or wealth that a taxpayer obtains or creates should not be considered private because otherwise the government has no means to prevent and combat tax evasion, tax abuse, money laundering and other crimes. At least tax authorities should have access to these.

Tax transparency may require that even highly personal information, such as residential address, date and place of birth, or the identity of relatives, are disclosed to authorities. This more sensitive data may be necessary to fully determine the identity of a tax evader and, for instance, discard a false positive, when many taxpayers share the same name. It could also be used to prevent the use of family-member nominees to avoid sanctions or prevent asset recovery.

- **The More An Individual Engages With Others In The Public Sphere, the Least Expectation of Privacy They Should Hold**

There is usually consensus among countries that public officials, given the public trust placed in them and how they could affect society at large, are subject to fewer privacy provisions than ordinary citizens. For instance, their salaries may be made public, as well as their declarations of wealth and interests in different businesses. This is important to hold them accountable and to prevent cases of conflict of interest or corruption.

Similarly, tax transparency requirements also target data that is of public interest. Beneficial ownership transparency is only directed at individuals who leave the private sphere when they create companies and trusts. These created entities have legal obligations, such as paying their adequate share of taxes.

In this context, case law from South Africa may be relevant. In Arena Holdings, where the discussion dealt with access to information about ordinary citizens -not just very wealthy individuals and corporations- the Constitutional Court of South Africa declared:

One must be careful not to elevate taxpayer confidentiality to some sacrosanct place where no exception to enable public access to it is possible.... It is difficult to conceive any reasonable basis to hold that taxpayer information cannot be subject to the 'public-interest override' in circumstances where the override is potentially available to justify the disclosure of information that may relate to the life and the safety of an individual, the defence or the security interest of the country or the private information of a third party (including their medical records)...

... The override is not directed at a category of individuals but rather information that is in the public interest. An ordinary citizen would not have a claim to a higher level of protection of information that provides evidence of serious criminality or a public safety or health risk. On the contrary, the commitment to equality that our Constitution evinces must mean that when individuals engage in conduct that imperils the interests of society, and when the public interest justifies the disclosure of their personal information, it should not matter whether they are high-profile people or ordinary citizens. The law must apply equally to them in this context (emphasis added).[57]

b. The Balance of Rights

- **No Right Is Absolute**

Under International Law, few rights could be considered as absolute, meaning that they admit no derogation nor limitation in a context of collision with other normative provisions. Such rights are considered peremptory norms of international law (or Ius Cogens) and are stipulated under the Vienna Convention on the Law of the Treaties[58]. This type of rights coincides with certain human rights provisions, the determination of which is restrictive and responds to the interpretative value of legal rulings and doctrinal commentaries. Examples of Ius Cogens norms includes essential rights such as the prohibition of torture, access to justice, non-devolution in the case of refugees and the banning of slavery. The right to privacy has not been granted such status, thereby rendering it as potentially -and validly- restrictable under an international legal sense.

Therefore, even if one were to concede that tax transparency does affect to a certain degree an absolute enjoyment of the right to privacy, this should not imply an end to the discussion from a legal perspective. There are other rights at stake, such as the right to information, equality before the law, or the Economic, Social and Cultural Rights (health, education, housing, to name a few) that directly depend on addressing illicit financial flows and increasing levels of transparency for taxing revenue recollection. Such collision of rights, therefore, demands striking a fair balance which, from a technical standpoint, is not only feasible but also implies no direct violation to binding legal obligations among States.

- **Equality Before the Law**

Tax transparency requirements are in essence about equality before the law. Secrecy allows individuals not to pay their fair share, or to engage in financial crimes such as corruption or money laundering. These illicit activities affect the rule of law and other people's rights to freedom, safety, etc.

In the case of corporate structures, public beneficial ownership is what ensures equality. Most companies have very simple structures, meaning that their legal owners are the same as the beneficial owners, so their information has already been publicly available in commercial registries. Public beneficial ownership is what reestablishes equality by ensuring that sophisticated taxpayers won't enjoy more secrecy than other shareholders, only because they hide behind complex ownership structures, nominees or bearer shares.

Most ordinary citizens cannot escape tax laws because they operate under their own name and within their own country, thus finding fewer opportunities for abuse. Country-by-country reports, automatic exchange of banking information and mandatory disclosure rules also ensure equality by preventing sophisticated taxpayers from escaping the tax and other laws that apply to everyone else.

- **Right to Information For Accountability**

  Secrecy directly affects the right to information, which is enshrined in Article 19 of the Universal Declaration of Human Rights. As declared by UNESCO, 'the universal right to information is essential for societies to function democratically and for the well-being of each individual'.[59]

  Access to information is also needed to hold authorities accountable for not preventing and combating tax abuse. For instance, public access to beneficial ownership information is what allowed civil society organisations to realise and prove that beneficial ownership registries were not verifying information.

  In relation to this, case law from Kenya could be relevant. In Njoya v Attorney General, on the conflict between access to information and fiscal secrecy, the Kenyan Court of Appeal stated:

  It is true to say that traditionally confidentiality of tax information is a globally recognised and accepted concept which is meant to be an aid in compliance... Still, we entertain no doubt that the right to information is critical to the attainment of transparent and accountable government and is an enabler to the exercise and enjoyment of other rights by citizens.[60]

- **Necessity and Proportionality**

  For restrictions of rights not to imply a violation or derogation from binding legal obligations upon States, these must meet necessity and proportionality standards. Such standards have been applied by international human rights tribunals on a case by case basis after judicialisation, and tend to include a ponderation of the concrete factual circumstances surrounding the case and the restrictive measure, the relationship between the legitimate public aim pursued through the restriction and it entailing the least intrusive action by which to achieve it (failure of which renders the restriction disproportionate), and it's necessity under a democratic society.[61]

While the need for tax transparency is clear to tackle financial crimes such as tax evasion or money laundering, some consider that measures are disproportionate because it requires the collection of information from all taxpayers, including the exchange of their information and sometimes even its public disclosure.

However, given that criminals and tax evaders look, in principle, exactly the same from a technical lens (they may both be account holders, for instance), and use the same types of entities, financial institutions or enablers as honest individuals and entities, it is impossible to distinguish beforehand between the two. Granting complete and effective access to information becomes therefore a prerequisite for further differentiation and to prevent sophisticated taxpayers from exploiting the system.

c. Human Rights Should Be Guaranteed In Practice, Not Protected In the Abstract

Stopping a tax transparency measure only because it may potentially affect the right to privacy seems not to consider the injustices and crimes that this transparency measure is meant to prevent. This is especially true if the transparency measure (e.g. registration of beneficial ownership information) is the best (or only) measure available to authorities to ensure the rule of law.

- **Authorities Are Unable to Fight fFnancial Crimes**

  The protection of human rights is useful, if it results in their effective implementation and enjoyment. It is at best naïve, or worse, a case of indifference, when a court stops tax transparency because of privacy rights, with little concern on whether the human rights protected by tax transparency can be fulfilled otherwise or not.

  For instance, in 2022 the EU Court of Justice invalidated public access to beneficial ownership information and reinstated access based on a legitimate interest[62]. However, the establishment of public access had not been a casual and improvised measure. It was a deliberate and thought-through decision after years of discussions and negotiations by the EU Commission, the EU Parliament and the EU Council. Public access allowed the public to hold authorities to account and ensure that they were enforcing the law, measuring compliance and verification with beneficial ownership registration. Public access was also proposed because access based on a legitimate interest proved not to work. In this instance, when the Court reinstated a framework that proved not to have worked for years, it seemed to be indifferent as to whether the same measure that did not work in the past, would start working in the future.

One could interpret that this is a court decision to push the government to establish a better system or to properly resource its beneficial ownership registries. However, competent authorities were understaffed and lacked resources to begin with – that is why public access to information was so useful in tackling financial crimes. In this context, putting the burden on the State to make a better system (and hoping it will do it) reveals a perspective that is primarily committed to the protection of the so-called ‘taxpayer rights’ against the State, disregarding the power dynamics involved as well as the impacts of tax injustice over the rest of the society.

Powerful individuals could actually be colluding with the State (e.g. through bribes or other forms of corruption) or taking advantage of the State’s incapacity to enforce laws to engage in illicit financial flows[63]. As explained in this document, these illicit financial flows can take the shape of organized crime, tax evasion and avoidance, money laundering or corruption that affect ordinary citizens the most, either because the State is unable to guarantee their basic human rights or because they will bear the burden of the tax left unpaid by powerful taxpayers.

When attempting to protect privacy, courts should make sure that their ruling will not create even bigger problems such as more tax evasion, that violate many rights (e.g. equality, housing, food), for even more people, especially vulnerable individuals and groups.

- **The Lives of Journalists and Civil Society Organisations Can Be In Danger Without Public Access**

  Even in democratic countries, journalists and activists have been killed for their investigations on corruption or money laundering. Lack of public access to information puts a heavy burden on journalists and activists: they are either tipped off by public officials or suffer retaliation for their publications. Being a particularly exposed group with limited resources, they end up being the sole agents for transparency and access to information regarding powerful financial actors.

  In conclusion, a proper balance of rights involves realising that privacy is not the only right to consider, especially because tax transparency focuses on secrecy rather than privacy. In any case, even privacy has to be balanced with other human rights. In this context, tax transparency becomes necessary to ensure that the multiple human rights of ordinary citizens will be protected in practice.

Tax Transparency to Fulfil States' International Human Rights Obligations

The previous subsections focused on the need for tax transparency to rebalance power within society and to ensure that the human rights of vulnerable individuals will be protected in practice. This subsection focuses on international human rights obligations and principles upon States. Tax transparency can be seen as a prerequisite to comply with these international human rights obligations.

As discussed in section 4, the weaponisation of privacy attempts to reframe the narrative of human rights from the fight against tax abuse and the protection of collective interests, towards a narrow tokenisation of human rights as merely comprising those of taxpayers. From this restrictive perspective, the individual needs human rights to be protected against the State but also against the rest of society.

Contrary to this view, the International Covenant for Economic Social and Cultural Rights lists States' obligations to fulfil Economic, Social and Cultural Rights, especially for the most vulnerable individuals of society. These obligations include:

- **Progressive realisation (and its corollary, prohibition of retrogression)**. In essence, States should progressively achieve the realisation of Economic, Social and Cultural Rights by ensuring continuous and sustained enjoyment of these rights. States cannot worsen or diminish the already-achieved level of enjoyment of these rights.

- **Minimum levels**. Minimum levels of enjoyment should be guaranteed with immediate effect.

- **Equality and prohibition of discrimination**. This principle requires not to discriminate and to ensure the protection of the rights of marginalised populations as a priority, especially to protect those most at risk.

- **Maximum available resources**. States have a duty to use the maximum available resources for the progressive realisation of Economic, Social and Cultural Rights.

- **Extraterritorial obligations**. States are not just required to respect human rights locally, but also to refrain from engaging in actions that would violate human rights elsewhere.

There is growing recognition that progressive and equitable fiscal policies are fundamental tools to ensure human rights. These policies not only redistribute wealth but, more importantly, generate the resources needed to provide essential public services. Fiscal policy, therefore, must align with the international commitments and obligations that States have undertaken[64], serving as a cornerstone for international cooperation on these issues.

States have a duty to mobilize the maximum available resources to progressively realise Economic, Social and Cultural Rights. Article 2 of the International Covenant on Economic, Social, and Cultural Rights explicitly requires States to adopt both individual measures and international assistance and cooperation to achieve the full realisation of these rights. This entails expanding fiscal space through resources not currently mobilised, such as those lost to illicit financial flows, tax evasion, avoidance, and corruption, or by securing international assistance and cooperation in the form of Official Development

Assistance (ODA) and other concessionary, non-debt creating vehicles.

Various UN human rights mechanisms have emphasised the critical relationship between international assistance obligations and fiscal policy. They argue that ‘a contemporary interpretation of existing obligations of international cooperation and assistance should recast or redefine the outdated emphasis on tax sovereignty to a more modern conception of international tax cooperation in a globalised and interdependent world economy’[65]. States are also obliged to take coordinated global measures to combat tax avoidance as part of their national and extraterritorial human rights obligations. Additionally, States must safeguard individuals from human rights violations by third parties, including transnational corporations.[66]

In the ongoing negotiations around the UN Tax Convention, these principles compel States to collaborate internationally to expand resources and progressively realise Economic, Social, and Cultural Rights. The extraterritorial dimension of these obligations underscores that States’ responsibilities extend beyond their borders. Practices such as facilitating tax evasion or promoting aggressive tax competition, which trigger a ‘race to the bottom’ in multinational corporate taxation, are fundamentally incompatible with States’ human rights commitments.

An additional position could consider that, to fully enable international human rights principles to promote tax justice, these principles should also be interpreted as supporting tax transparency. After all, tax transparency is a precondition for tax justice, since without information it is not possible to enforce tax laws.

International human rights principles could be applied to strengthen tax transparency as follows:

- **Prohibition of Retrogression:** in relation to the right to access information (e.g. based on Art. 19 of the Universal Declaration of Human Rights), the prohibition of retrogression means that, once a higher level of access to information has been granted, then this level of access cannot be subsequently diminished.

This principle should apply to ensure sufficient information and prohibit retrogression in terms of access to it:

» By tax administrations to information held by taxpayers and enablers (collection of data by authorities).

» By local competent authorities in relation to domestic exchanges of information (exchange of data).

» By States in relation to global exchanges of information (exchange of data)

» By ordinary taxpayers in relation to corporate and other types of information to which they have already gained access (access to information held by authorities).

- **Equality and Non-Discrimination:** This principle should result in all taxpayers and individuals being subject to the same treatment, especially on collection and disclosure of their information. In essence, measures should be established to ensure that the transparency regarding ordinary citizens, who stay within one country and operate in the economy under their own name, is also available in relation to sophisticated taxpayers that operate abroad and through enablers.

To apply this principle, schemes that either legally or structurally create secrecy, e.g. having assets in a foreign country, setting up entities in tax havens or employing a lawyer or enabler that benefits from professional confidentiality, should be neutralised to equate it to situations where the taxpayer operates locally and without enablers.

Any user of these schemes should be required to disclose as much information as what would be available about those ordinary individuals who are unable to afford lawyers or set up foreign accounts or create offshore entities.
For instance, as described by the blog post *Protecting enablers: attorney-client privilege is just the tip of the iceberg in facilitating illicit financial flows*, a US court granted the US tax administration (the IRS) access to the Taylor Lohmeyer law

firm's list of clients after it became apparent that many of them could have acquired services to abuse taxes.

This principle of equality and non-discrimination would support:

» the collection and publication of country-by-country reports to neutralize multinational companies, in relation to small and medium companies that operate within one country.

» public access to beneficial ownership information to neutralise sophisticated taxpayers who set up offshore complex structures, in relation to ordinary taxpayers who engage in business under their own name or through local companies, where legal ownership is already publicly disclosed in the commercial register.

- **Maximum Available Resources -For Tax Authorities-:** As a direct consequence of the principle of maximum available resources, tax authorities must be properly funded to be able to efficiently collect revenues to secure the realisation of Economic, Social and Cultural rights. This entails, among other aspects, that authorities must have sufficient resources to properly collect, verify and use information regarding taxpayers. For instance:

» Tax authorities should have the legal, technological and political resources to investigate and audit any taxpayer, regardless of their sophistication (for example, by setting up a large taxpayer unit within the tax administration).

» Beneficial ownership registries should have the legal, budgetary and technological resources to apply verification, ensure compliance with the filing of information and run advanced analytics and red flagging to identify the accuracy of registered information.

» Tax authorities and financial intelligence units should have sufficient staff and technological resources to use and analyse information, including foreign information received via automatic exchange of information (e.g. matching foreign bank account information to local taxpayers), public information (e.g. from leaks) as well as information submitted by sophisticated taxpayers or their enablers (e.g. country-by-country reports, schemes disclosed via mandatory disclosure rules, suspicious transactions reports of money laundering or tax rulings).

- **Extraterritorial Obligations:** This principle requires countries not to engage in beggar thy neighbor policies that create negative externalities to other countries, particularly to lower income countries. In relation to transparency, this principle could involve a requirement for countries not to become secrecy jurisdictions, and specifically:

» **Not to Create Corporate Secrecy:** To comply with this requirement, States should prohibit secretive legal vehicles, require all legal vehicles to register their legal and beneficial owners, prohibit the issuance and circulation of bearer shares, or prohibit the use of nominee shareholders and directors.

» **Not to Enable Banking Secrecy or Other Asset Secrecy:** To comply with this requirement, States should ensure that they exchange bank account information and give foreign authorities direct access to ownership information on registered assets (e.g. real estate) at least when the legal or beneficial owner is a resident under their jurisdiction.

» **Not to Exempt Enablers From Reporting Obligations:** To comply with this requirement, States should ensure that local enablers are not offering services to non-residents, and if they are, then their corresponding State of residence should be entitled to obtain information on the enabler, regardless of professional privilege, to ensure their residents are not engaging in illicit financial flows.

Conclusion

Discussions in the UN context will need to resist a deliberately narrow interpretation of the human rights framework that could be used to undermine tax transparency and tax justice. Even if the future Framework Convention on International Tax Cooperation is approved in its current form, the challenge will be to preserve all tax transparency and tax justice gains from national and international courts that may surrender to the arguments and strategies of the weaponisation of privacy and confidentiality by extremely wealthy individuals and corporations.

This publication describes that tax transparency has come a long way to accomplish tax justice and tackle illicit financial flows. However, given the success of powerful taxpayers and enablers in using the human rights discourse against tax transparency, it is time for tax transparency advocates to fight back by reclaiming a tax justice narrative that is firmly rooted on a genuine, intellectually honest and holistic interpretation of International Human Rights Law.

First, tax transparency is needed to rebalance the power of sophisticated taxpayers that otherwise are able to escape the rule of law by overpowering tax authorities and other government agencies that fight financial crimes.

Second, tax transparency is the only way to protect the Economic, Social and Cultural Rights of ordinary citizens. If powerful taxpayers and criminals can exploit secrecy to escape the laws and taxes that apply to everyone else, ordinary citizens will pay the price: either bearing a tax burden that they cannot escape from (their own, plus the cost of taxes left unpaid by powerful taxpayers), or failing to fulfil their basic needs should States lack sufficient tax revenues to finance housing, health, education and other essential rights.

Third, tax transparency can be a means for States to fulfil their international human rights obligations. Since taxing is one of the most genuine ways in which States can amplify the number of available resources that they possess to fund public policy ('fiscal space'), increasing levels of collection and subsequent allocation through open access to income and revenue information in an amplified and egalitarian manner is critical. In a global context where austerity measures are justified on the basis of budget deficits and lack of available public funding, it is a duty upon States to effectively raise enough resources to comply with the binding legal obligations that they have committed themselves to uphold -namely, ensuring the progressive realisation of Economic, Social and Cultural Rights through the allocation of the maximum available resources-.

Tax justice would, in fact, require even more tax transparency, beyond backing the measures that have already been adopted and that are currently being challenged in court. Even the latest tax transparency achievements suffer from loopholes. Other secrecies, such as tax court secrecy, and legal professional privilege have been left intact.

Endnotes

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•Be Informed: clear explanations on rules and processes to be able to comply with the tax law (similar to the draft report's principle of simple and clear rules)

•Quality Service: courteous and professional assistance when communicating with the IRS

•Pay No More than the Correct Amount of Tax: to pay only what is legally due. (Although the IRS explains that this relates to errors or cases where a taxpayer overpaid their tax obligations, this right is sometimes invoked by taxpayers globally as a justification for tax avoidance strategies).

•Challenge the IRS's Position and Be Heard: right to object to the IRS or provide additional documentation

•Appeal an IRS Decision in an Independent Forum: right to administrative appeal as well as to go to court

•Finality: a right to know how long taxpayers have to appeal a decision, or how long the IRS may audit them

•Privacy: any IRS inquiry or examination will be as little intrusive as possible and will respect due process rights

•Confidentiality: information submitted to the IRS won't be disclosed without authorization by the taxpayer or the law.

•Retain Representation: right to be represented when dealing with the IRS.

a Fair and Just Tax System: the tax system should consider the facts and circumstances that might affect a taxpayer's underlying liabilities, ability to pay, or ability to provide information timely.

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[62] *WM (C-37/20) and Sovim SA (C-601/20) v. Luxembourg Business Registers*, ECLI:EU:C:2022:912 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62020CJ0037

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[63] For instance in Argentina, a study of 10,000 corruption cases between 1996 and 2016 revealed that in 90% of them, criminal courts would not even result in a ruling, with cases lasting more than 10 years. See (Ruiz, I. (2021, 11 febrero). Casi el 90% de las causas de corrupción no llegan ni siquiera a un procesamiento. LA NACION. https://www.lanacion.com.ar/politica/casi-el-90-de-las-causas-de-corrupcion-no-llegan-ni-siquiera-a-un-procesamiento-nid2124910/); Additionally, UNODC estimated that only 1% of money laundering is being seized and frozen. Further information can be found at (UNDOC. (2011). *Estimating illicit financial flows resulting from drug trafficking and other transnational organized crime*. https://www.unodc.org/documents/data-and-analysis/Studies/Illicit_financial_flows_2011_web.pdf); Lastly, a news article from Canada referred to a case of tax evasion by 25 wealthy individuals and a big accounting firm, where the identity of the taxpayers was kept confidential. As expressed by Canadians for Tax Fairness: 'Had we not been in the middle of an election I fear they would have settled out of court and covered it up and we wouldn't be the wiser…It's too easy for big-time tax cheats to get off very lightly … if you get caught, all you have to pay is the tax you should have paid in the first place (KPMG tax «sham» used by at least 25 wealthy Canadians, document says. (2015, 30 septiembre). For further referecence, see *CBC*. https://www.cbc.ca/news/business/kpmg-tax-sham-used-by-at-least-25-wealthy-canadians-document-says-1.3249468).

[64] *Principles for Human Rights in Fiscal Policy*. (2021). https://www.derechosypoliticafiscal.org/images/ASSETS/Principles_for_Human_Rights_in_Fiscal_Policy-ENG-VF-1.pdf

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[65] Report of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona. A/HRC/26/28

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[66] See, for example: General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities. E/C.12/GC/24; Report of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona. A/HRC/26/28; Report of the Independent Expert on the promotion of a democratic and equitable international order, Alfred Maurice de Zayas A/HRC/21/45.

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[67] House of Commons Committee of Public Accounts. (2013). *Tax avoidance: the role of large accountancy firms: Forty-fourth Report of Session 2012–13* (HC 870). https://publications.parliament.uk/pa/cm201213/cmselect/cmpubacc/870/870.pdf

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[68] International Bar Association. (2022). *IBA Statement in Defence of the Principle of Lawyer-Client Confidentiality*. https://www.ibanet.org/document?id=/IBA-Statement-in-Defence-of-the-Principle-of-Lawyer-Client-Confidentiality4jsf?text=&docid=268430&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=27401

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'TAXPAYERS RIGHTS' UNDER INTERNATIO-NAL HUMAN RIGHTS LAW:

Addressing the Weaponisation of Privacy and Confidentiality to Reinstate Tax Transparency in Favour of Tax Justice

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The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) is an international non-go- vernmental organisation. Together with partners around the world, GI-ESCR works to end social, economic and gender injustice using a human rights approach.

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