

# Joint Civil Society in submission in respect of the CERD's 2024 review of the United Kingdom of Great Britain and Northern Ireland

Dated: 5 July 2024

## 1. Introduction and Context:

In keeping with the conviction expressed in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) that "...the existence of racial barriers is repugnant to the ideals of any human society", we the undersigned institutions, some based within the United Kingdom's jurisdiction, others based outside it, seek to draw the attention of the Committee to acts and omissions by the United Kingdom of Great Britain and Northern Ireland (UK) that have extraterritorial impacts that may place the State party in breach of its obligation not to support acts of racial discrimination.

With discussions about structural racial discrimination coming to the fore globally, we appeal to the *Committee for the Elimination of All Forms of Racial Discrimination* to consider the extent to which acts, statements and behaviors perpetrated by one State party may contribute to reinforcing existing structural racial discrimination globally. In the case of the United Kingdom, as a former colonial power whose exalted position gained through a history of domination continues to be supported by present balances of power at the global level, its failures exacerbate practices that are already entrenched in slavery and colonialism. The Committee has in the past shown its willingness to consider policy decisions taken by a specific country when their racially discriminatory impact may be global.<sup>1</sup> We urge that this healthy precedent in an effort to eliminate racial discrimination in all its forms be also extended to scrutiny of the UK's behavior.

We draw the attention of the Committee to its Decision 1 (2023) taken at the 110<sup>th</sup> session (7-31 August) where the State party alongside others was requested to provide "...information on the measures taken to waive intellectual property protections for COVID-19 vaccine and healthcare products or other measures taken in order to address the high rates of COVID-19 morbidity and mortality worldwide among individuals and groups most exposed to racial discrimination".<sup>2</sup> To our knowledge, the State party failed to comply with the Decision.

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<sup>1</sup> *Concluding observations on the combined twenty-first to twenty-third periodic reports of Canada* (13 September 2017) UN Doc. CERD/C/CAN/CO/21-23, para, 21-22.

<sup>2</sup> CERD, *Decision on the lack of equitable and non-discriminatory access to COVID-19 vaccines*, Decision 1 (2023) CERD 110<sup>th</sup> session, 7 – 31 August 2023.

Many failures to act in that case are compounded by other activities of the State Party that are perpetrated within the country and have an extraterritorial effect, including the attempt to renege on its obligation under Refugee Law and its differentiated treatment of Afghan refugees as opposed to Ukrainian refugees which may violate the provisions of article 1(3). Along the same lines, our submission here focuses on the specific role that the UK has had in blocking the agreement of a UN Framework Convention on International Tax Cooperation (UNTC) at the global level which would go a considerable way in disrupting edifices of unfair colonially-inspired corporate practices which continue to have significant salience today in maintaining an edifice of entrenched structural discrimination.

It is significant to note that in 2016, in its concluding observations on its report on the UK, the Committee on Economic, Social and Cultural Rights<sup>3</sup> made the the following recommendations in respect of its fiscal policy:

(a) Conduct a human rights impact assessment, with broad public participation, of the recent changes introduced to its fiscal policy, including an analysis of the distributional consequences and the tax burden of different income sectors and marginalized and disadvantaged groups;

(b) Ensure that its fiscal policy is adequate, progressive and socially equitable and improves tax collection so as to increase resources available for implementing economic, social and cultural rights;

(c) Take strict measures to tackle tax abuse, in particular by corporations and high-net-worth individuals;

(d) Intensify its efforts, in coordination with its Overseas Territories and Crown Dependencies, to address global tax abuse.

Last December, the United Nations General Assembly passed a **landmark resolution** brought forward by the Africa Group to establish a UNTC. Member states expressed their conviction that a truly inclusive transformation of international tax rules must take place under the auspices of the United Nations. Still, the decision was far from unanimous. A powerful bloc led by the UK, the United States and other Global North countries voted against the resolution. In the waning moments before the vote, the UK **introduced an amendment** to rid the proposal of any mention of the word “convention,”

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<sup>3</sup> Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland, Committee on Economic Social and Cultural Rights, 14 July 2016, available online: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2FGBR%2FCO%2F6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2FGBR%2FCO%2F6&Lang=en)

an attempt to impede the legally binding nature of the future output endorsed by the UN resolution. An Ad-Hoc Committee has subsequently been established to take the Africa Group's resolution forward. Following a second round of negotiations on the Terms of Reference (ToR), to be held from 29 July to 16 August in New York, a final draft of the ToR will be voted upon at the UN General Assembly towards the end of this year.

The ongoing UNTC process has the potential to bring about long-awaited reforms to the international financial architecture which are rights-aligned, feminist, green and decolonial. The current international financial architecture is prejudicial to countries in the Global South. Apart from the UNTC, the primary proposal for reforms to the global financial architecture is the Organisation for Economic Cooperation and Development (OECD)'s "Two Pillar Solution". The OECD, however, largely consists of the world's richest nations and includes several former colonial powers. The Two Pillar Solution it has presented represents a neocolonial approach which will only increase racial inequality both within and between states and will undermine the realization of fundamental rights including the rights to health, education, social security and an adequate standard of living.

Notably, in January this year, a group of eight UN Special Procedures including the Independent Expert on the effects of foreign debt and other related international financial obligations on human rights, the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and related intolerance and the Special Rapporteur on the Right to Food, issued a communication to the OECD warning that its Two Pillar Solution could have a discriminatory impact on the grounds of "gender, ethnicity and race," and could widen inequality both within and between states.<sup>4</sup> The UN Special Procedures contended that the deal would reify "patterns of economic extraction with historical origins in systems of colonialism and slavery."<sup>5</sup> The UN Special Procedures thus warned that the deal has "the potential to prejudice the predominantly non-white nations of the Global South."<sup>6</sup> They highlighted that the Two Pillar Solution would erode countries' fiscal capacity to resource economic, social and cultural rights and the right to development whilst undermining the achievement of substantive racial and gender equality.<sup>7</sup> One could argue that the tax deal also erodes OECD member states' own tax base and therefore their ability to support their own social safety net programs that would benefit racialized people residing within their borders.

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<sup>4</sup> Communication from UN Special Procedures to OECD dated 22 December 2023. Available online: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28676>

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

In its 2023 State of Tax Justice report, Tax Justice Network has estimated that at the global level, some US \$480 billion of tax revenue is lost to abusive international tax practices each year.<sup>8</sup> The report highlights the significant role played by the UK in facilitating this extraction of wealth and resources. It explains that, at the global level, the UK, together with its “second empire” of Crown Dependencies and Overseas territories, is the single greatest enabler of global tax abuse.<sup>9</sup>

In this submission, we will demonstrate how and why the UK’s significant role in international tax abuse results in several human rights violations which have serious implications for the achievement of racial equality both within and between states. In doing so we will outline how the UK’s policies related to international taxation, including its push for the Two Pillar Solution and undermining UN-led tax reforms, are inconsistent with its obligation to eradicate racial discrimination in line with the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). We will argue that international tax abuse has racially disparate impacts both within the UK and abroad thus representing non-compliance with extraterritorial obligations.

## **2. Links between the history of colonialism, neo-colonialism and international tax abuse which has racially disparate impacts both within and between states**

Present-day patterns of international tax abuse including tax havens have their roots in the UK’s role in the historic legacies of slavery and colonialism whose contemporary effects remain largely unaccounted for today.<sup>10</sup>

1960 was the Year of Africa, with 18 African countries gaining independence. On December 14, 1960, the UN General Assembly adopted the Declaration on the Granting of Independence to Colonial Countries and Peoples.<sup>11</sup> That very same day, the members of the Organisation for European Economic Cooperation joined with the

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<sup>8</sup> Tax Justice Network, The State of Tax Justice 2023. Available at: <https://taxjustice.net/reports/the-state-of-tax-justice-2023/#:~:text=Key%20findings,tax%20abuse%20by%20wealthy%20individuals>

<sup>9</sup> Ibid.

<sup>10</sup> Decolonising Economics, “Tax as a tool for racial justice” (2022) Report available online: <https://decolonisingeconomics.org/wp-content/uploads/2022/09/Tax-as-a-Tool-for-Racial-Justice-report.pdf>

<sup>11</sup> General Assembly Resolution 1514 (XV) Declaration on the Granting of Independence to Colonial Countries and Peoples. Available online: <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-granting-independence-colonial-countries-and-peoples>

United States and Canada to sign the OECD Convention.<sup>12</sup> The OECD and its treaties displaced active UN global tax governance efforts with an exclusive process and regressive substantive policies to tame the perceived threat posed by those new African countries. Today's epidemic of corporate tax abuse can be traced directly to that decision.

We will briefly highlight just a few links between colonialism, the British empire and present-day international tax abuse. For instance, studies show that “tax practices in colonial India facilitated the extraction of \$45 trillion from the continent to the British State and its corporate partners, which continues to operate today in a way that directly impacts Indian households.”<sup>13</sup> Meanwhile, during the colonial era, there was a mutually beneficial relationship between Royal institutions and Royal merchants. Historians refer to this phenomenon as the “Company State” and contend that the Crown sanctioned profit-making entities such as the British East India Company and Royal Africa Company in ways which laid the foundation for the overhaul of fiscal rules and legal infrastructure.<sup>14</sup> The Slave Compensation Scheme, under which slave-owners were compensated for the loss of their “property” following the abolition of slavery, provided an additional boost to the Industrial Revolution and spurred investment in vital public infrastructure that continues to exist today.<sup>15</sup> In addition, the 20 million pounds (in today's terms) which were transferred to slave-owning families have perpetuated cycles of intergenerational wealth inequality between white families and families of color in the UK for generations.<sup>16</sup>

Some historians argue that decolonisation, that is the process by which formerly colonized states obtained independence, actually resulted in modern-day tax havens.<sup>17</sup> The reason for this was simple: during the 1950s and 1960s, following the second world war, Western nations had very high rates of taxation. For this reason wealthy individuals and families funneled their money into dependent territories and former colonies including the Bahamas, Cayman Islands, British Virgin Islands, Hong Kong, Malta, and Singapore.<sup>18</sup> In newly-independent states, especially in Africa, there was a shift towards

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<sup>12</sup> Convention on the Organisation for Economic Co-operation and Development, 14 December 1960.

Available online:

<https://www.oecd.org/en/about/legal/text-of-the-convention-on-the-organisation-for-economic-co-operation-and-development.html>

<sup>13</sup> Decolonising Economics, *supra* note 8.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

<sup>17</sup> Vanessa Ogle “How decolonisation helped create tax havens”(2020) Past and Present Blog. Available online:

<sup>18</sup> *Ibid.*

socialist and redistributive models which called for increased taxation on wealth and assets.<sup>19</sup> Wealthy families found an answer to this dilemma through tax havens.

The UK's significant contribution to the problem of international tax abuse and the phenomenon of tax havens continues unabated to this day. The State of Tax Justice 2023 reveals that over US\$309 billion in profit is shifted into the UK's second empire by multinational corporations every year, costing the world over US\$84 billion in tax lost to corporate tax abuse.<sup>20</sup> This makes the UK's second empire responsible for 27 per cent of the US\$311 billion in tax the world loses to corporate tax abuse every year. The UK's second empire is also responsible for more than half of the US\$169 billion in tax the world loses to offshoring of private wealth, and tax evasion every year, costing the world more than US\$85 billion in lost tax.

The UK is not the only OECD state that plays a crucial role in this extraction of wealth and resources. The UK, together with the Netherlands, Luxembourg and Switzerland, are collectively referred to as the "axis of tax avoidance" for their role in enabling the lion's share of global tax abuse. The State of Tax Justice 2023 reveals that US\$597 billion in profit is shifted into the axis of tax avoidance by multinational corporations every year, costing the world US\$163 billion in tax lost to corporate tax abuse. This makes the axis of tax avoidance responsible for more than half of the US\$311 billion the world loses to corporate tax abuse every year, which is also in line with the Corporate Tax Haven Index 2021's findings. When including tax losses to offshore wealth tax evasion, the axis of tax avoidance is responsible for 57 per cent of all tax losses suffered by countries around the world, costing countries over US\$274 billion in lost tax every year.

Tax Justice Network's Financial Secrecy Index highlights how the US, UK and Switzerland are among the most pernicious and influential actors in maintaining a global financial architecture that makes abusive international tax practices relatively straightforward.<sup>21</sup> The Index notes that the UK and its dependent territories are responsible for fully one-third of the revenue lost each year at the global level.

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<sup>19</sup> Ibid.

<sup>20</sup> State of Tax Justice Report 2023, *supra* note 8.

<sup>21</sup> Tax Justice Network, Financial Secrecy Index 2022. Available at: <https://fsi.taxjustice.net/>; Tax Justice Network, the State of Tax Justice 2021, 2021. See: <https://taxjustice.net/reports/the-state-of-tax-justice-2021/>.

### **3. Violations of ICERD: Impact of international tax abuse on economic, social and cultural rights, racial equality both within and between states, the right to development and the right to self determination.**

The obligations imposed by ICERD require states to ensure the achievement of substantive racial equality and combat both *de facto* and *de jure* forms of discrimination.

Article 1 defines “racial discrimination” as “any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”

ICERD envisions substantive racial equality which endorses special measures to be taken so that historically disadvantaged groups may enjoy equality in reality.<sup>22</sup>

The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, has argued that in terms of ICERD, racial discrimination, operates through both: (1) differential treatment of and outcomes for individuals and groups on the grounds of their race, color, descent, national or ethnic origin; and (2) differential treatment of and outcomes for countries and territories that were subject to prolonged exploitation and degradation during the colonial era on the basis of racist theories and beliefs.<sup>23</sup>

Article 3 of ICERD prohibits all forms of segregation and apartheid. Discrimination in terms of ICERD must be understood through the lens of intersectionality. That is to say that racially or ethnically marginalized groups can experience distinct or compounded discrimination when it occurs due to additional vulnerabilities based on one’s gender, sexual orientation or gender identity, disability, or other characteristics.

Notably, Article 5 enshrines the right of all persons to enjoy economic, social and cultural rights on an equal footing irrespective of race, color, descent, national or ethnic

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<sup>22</sup> CERD, General Recommendation no. 32 on the meaning and scope of special measures. Available online:  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGC%2F32&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FGC%2F32&Lang=en)

<sup>23</sup> Open Letter from the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to the World Trade Organization’s Twelfth Ministerial Conference (13 June 2022) Available online:  
<https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-WTO-Open-Letter.pdf>

origin. ICERD should be read in conjunction with the International Covenant on Economic, Social and Cultural Rights (ICESCR) which enshrines several important obligations.

Reading ICERD in such a light, we note that under Article 2 of the ICESCR, States parties have an obligation to take steps to ensure that they devote their maximum available resources to the progressive realization of economic, social and cultural rights. In the context of international taxation, this means that states must take effective measures to combat such conduct in order to expand their fiscal space to resource fundamental rights such as the rights to health, education, social security and so on.

We further highlight that a cardinal principle of the ICESCR is that states may not take retrogressive measures which diminish the enjoyment of economic, social and cultural rights (ESCR).<sup>24</sup> Non-retrogression means that states must adhere to the [CESCR's guidance on the narrow circumstances in which austerity measures are permissible](#).<sup>25</sup> According to the Committee on Economic, Social and Cultural Rights, austerity measures must be temporary, legitimate, reasonable, necessary and proportionate. Moreover, when implemented they must neither be directly nor indirectly discriminatory and must accord priority attention to disadvantaged groups. Furthermore, they must protect the minimum core content of rights, based on transparency and genuine participation of affected groups and subject to meaningful review and accountability procedures.

The Universal Declaration of Human Rights<sup>26</sup> guarantees everyone a social and international order favorable to realizing their rights. In terms of the ICESCR, states parties have an obligation of international assistance and cooperation to ensure that the economic, social and cultural rights of all people are realized including those beyond their borders.

The Committee may appropriately review State party's acts and omissions under the treaty that involve extraterritorial violations or impacts. [Extraterritorial Obligations](#)

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<sup>24</sup> *General comment No. 3: The nature of States parties' obligations in terms of article 2 of the Covenant*, The Committee on Economic, Social and Cultural Rights, 1990, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCESCR%2FGEC%2F4758&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCESCR%2FGEC%2F4758&Lang=en)

<sup>25</sup> *Public debt, austerity measures and the International Covenant on Economic, Social and Cultural Rights*, UN Economic and Social Council, Statement by the Committee on Economic, Social and Cultural Rights, 22 July 2016, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f2016%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f2016%2f1&Lang=en)

<sup>26</sup> Universal Declaration of Human Rights, UN, 1948, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>



(ETOs) entail the following obligations:<sup>27</sup> (i) to **respect** (not to interfere with people's rights or with another government's ability to meet its obligations) (ii) to **protect** (to prevent corporations and other non-state actors from interfering with people's rights abroad, by regulating their behavior or influencing it in other ways) **and (iii) to fulfill** (to prevent corporations and other non-state actors from interfering with people's rights abroad, by regulating their behavior or influencing it in other ways) rights).

In the context of international economic relations, the principle of extraterritorial obligations means that states must ensure that business actors do not undermine the efforts of the States in which they operate to fully realize the Covenant rights, "*for instance by resorting to tax evasion or tax avoidance strategies in the countries concerned*".<sup>28</sup> In order to do so, states must, for instance, refrain from promoting legal frameworks that allow high-net-worth individuals and transnational corporations to evade tax liabilities, such as through the establishment of tax havens.<sup>29</sup> The CESCR and other expert UN bodies further observed that practices like lowering corporate tax rates to attract investment can lead to a "race to the bottom" that is inconsistent with the States parties obligations to the Covenant. Similarly, regulations that impede revenue collection, such as excessive protection for bank secrecy and permissive rules on corporate tax, such as transfer-pricing practices, can also run counter to these obligations.

In its statement on vaccine inequity,<sup>30</sup> the CERD acknowledged the extraterritorial obligations which flow from ICERD to give effect to substantive racial equality requires countries in the Global North to regulate the conduct of multinational corporations headquartered in their countries when the conduct of such corporations may impede the realization of economic, social and cultural rights for those residing in the Global South.

In the case of international taxation, there is a strong racial character to these violations because the loss of tax revenue has disproportionate impacts on communities who already face discrimination based on their gender, race, ethnicity, descendency, and/or

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<sup>27</sup> *Topic Two | Governments' Obligation to Cooperate Internationally to Realize Human Rights, Covid-19, Recovering Rights*, CESR, June 2020, [www.cesr.org/sites/default/files/Issue%20Brief%202022\\_.pdf](http://www.cesr.org/sites/default/files/Issue%20Brief%202022_.pdf)

<sup>28</sup> Committee on Economic, Social and Cultural Rights, General Comment 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities at para 37.

<sup>29</sup> Report of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona\*, para 32. Also, para 6 of the Report, citing the Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights Principles, principles 24 and 25.

<sup>30</sup> CERD, "Statement on the lack of equitable and non-discriminatory access to COVID-19 vaccines" (25 April 2022) Available online: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fS.WA%2f9548&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fS.WA%2f9548&Lang=en)

color.<sup>31</sup> As mentioned above, the unjust international financial architecture which facilitates the unjust distribution of resources both within and between states has not occurred by accident, but arises from the structures of historical racial oppression that persist from legacies of slavery, colonialism and apartheid which remain largely unaccounted for today. Former colonial powers like the UK therefore have a particular obligation under ICERD to regulate international taxation in a way that repairs past racially discriminatory harms and addresses the factors that perpetuate them, including the tax-avoidant conduct of high-net worth individuals and multinational corporations which lead to considerable revenue losses for countries in the Global South which undermine global racial equality.

In Table 1, below, we set out what the impact of the UK's international tax abuse is on the realization of economic, social and cultural rights for countries around the world, particularly the impact on the right to life, the right to water and sanitation and the right to education.

Additional revenue is key to all governments' ability to provide quality public services and increase survival. Here, we use the 2023 State of Tax Justice (SOTJ) 2023 annual report on global tax abuse and the Government Revenue and Development Estimates GRADE to translate the impact that lost government revenue could have on people's lives<sup>32</sup>. We converted the losses expressed as a percentage of GDP in the SOTJ2023 report into a percentage of government revenue and used the GRADE tool, which translates the impact of additional government revenue on fundamental economic and social rights, while accounting for the quality of governance. We projected the increase in government revenue as a percentage over the longest period with available data (20 years). The reason for studying the impact over as long as possible is that it takes time for an increase in revenue to improve government effectiveness and because tax abuses take place over decades. We present the number of additional people who would have access to their fundamental rights if their governments had additional revenue equivalent to that lost due to tax abuse. The countries most impacted are in the Global South. We present the results for one year, and because these numbers vary over time, we present the year with the maximum numbers for each country over the study period.

We assume that the contribution to human rights deprivation of the UK, together with its network of Overseas Territories and Crown Dependencies is proportional to its responsibility for tax abuse worldwide (35 %). Table 1 shows the number of people who

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<sup>31</sup> OHCHR/A/77/169, 2022, Towards a global fiscal architecture using a human rights lens - Report by Independent Expert on Foreign Debt and Human Rights, Ms. Attiya Waris. Available at: <https://www.ohchr.org/en/documents/thematic-reports/a77169-towards-global-fiscal-architecture-using-human-rights-lens-report>.

<sup>32</sup> The Government Revenue and Development Estimations <https://medicine.st-andrews.ac.uk/grade/>

would access their fundamental rights if governments around the world had additional revenue equivalent to that lost due to tax abuse, and the UK's contribution to these deprivations.

**Table 1. Additional people who would access their fundamental human rights if their governments had additional revenue equivalent to losses as a result of tax abuse**

	<b>Additional people with basic water every day</b>	<b>Additional people with basic sanitation every day</b>	<b>Additional children in school every day</b>	<b>Additional child deaths averted</b>	<b>Additional maternal deaths averted</b>
Global tax abuse	15,274,498	31,891,152	3,204,070	36,900 per year	3,999 per year
UK's contribution	<b>5,346,074</b>	<b>11,161,903</b>	<b>1,121,425</b>	<b>12,915 per year</b>	<b>1,400 per year</b>
				<b>35 each day</b>	<b>4 each day</b>

#### **4. Link between international tax abuse and debt as well as responding to the climate crisis with racially disparate impacts**

The revenue losses faced by countries in the Global South due to abusive international tax practices and the concomitant impact on their fiscal capacity to resource rights is exacerbated by the debt crisis they face. As the Independent Expert on the effects of foreign debt and other related international financial obligations on human rights (hereinafter Independent Expert on debt and human rights) has pointed out in her report on reforms to the international financial architecture: "In 2022, low-income countries are expected to pay \$43 billion in debt servicing, an amount that exceeds spending on health care, education and social protection by 171 percent."<sup>33</sup>

Meanwhile, The Center for Economic and Social Rights' (CESR's) research highlights that "debt servicing is often undertaken at the expense of social investment. When debt payments squeeze government budgets, or debt relief comes with attached conditions, this leads to the privatization of public assets; cuts in social protection programs; and

<sup>33</sup> Independent on Foreign Debt and Human Rights, *supra* note 31.

disinvestment in essential public services. This erodes their quality and their reach and widens the gap for communities at margins.”<sup>34</sup>

The Independent Expert on debt and human rights properly points out that: “States have an extraterritorial obligation to ensure that fiscal law and policy respect and protect the human rights of people beyond their borders and to contribute to the creation of an enabling international environment and refrain from exerting undue influence on other States in ways that undermine their ability to fulfill their human rights obligations.”<sup>35</sup> She goes on to draw the link between dismantling patriarchal systems which entrench gender inequality especially through unpaid care work and how transformative fiscal systems are essential to enable gender equality.<sup>36</sup>

Research also demonstrates the colonial roots of debt and how former colonial powers including the UK used debt as a neocolonial instrument to undermine economic autonomy for newly independent states.<sup>37</sup>

Debt is therefore a racial justice issue which similarly undermines the obligation to eradicate both direct and indirect forms of racial discrimination which widen racial inequality both within and between states.

The sovereign debt crisis is closely linked to the ecological debt owed by countries in the Global North, such as the UK, to countries in the Global South.<sup>38</sup>

The [Human Rights Council](#)<sup>39</sup> and [General Assembly](#)<sup>40</sup> have recently recognized the right to a healthy environment. Realizing the right to a healthy environment and addressing the climate crisis requires sufficient resources for countries in the Global South and small island developing states for mitigation, adaptation and loss and damage. This vital right and climate justice cannot be realized without addressing international tax abuse which is facilitated by the problematic policies of global North states such as the UK.

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<sup>34</sup> Key Concepts Series: Sovereign Debt and Human Rights, CESR, 2021, available online: [https://www.cesr.org/sites/default/files/2022/Sovereign\\_Debt\\_and\\_Human\\_Rights.pdf](https://www.cesr.org/sites/default/files/2022/Sovereign_Debt_and_Human_Rights.pdf)

<sup>35</sup> Independent on Foreign Debt and Human Rights, *supra* note 31, at page 10.

<sup>36</sup> *Ibid.*

<sup>37</sup> Debt Justice “The colonial roots of global south debt” (2023), available online: <https://debtjustice.org.uk/news/new-report-the-colonial-roots-of-global-south-debt>

<sup>38</sup> Available online:

[https://www.cadtm.org/Ecological-Debt-An-enormous-Debt?utm\\_source=pocket\\_reader](https://www.cadtm.org/Ecological-Debt-An-enormous-Debt?utm_source=pocket_reader)

<sup>39</sup> “Access to a healthy environment, declared a human right by UN rights council”, UN News, 8 October 2021, <https://news.un.org/en/story/2021/10/1102582>

<sup>40</sup> ‘UN General Assembly declares access to clean and healthy environment a universal human right’, *UN News*, 28 July 2022, <https://news.un.org/en/story/2022/07/1123482>

In a [report on the link between racial justice and climate justice](#),<sup>41</sup> the Special Rapporteur on Racism points out correctly that climate change will not affect all of humanity equally and has disproportionate and racially discriminatory impacts particularly on countries in the Global South and small island developing states. In this regard, she notes the powerful role that rights-aligned fiscal and monetary policy both at the state and global level can play in fighting climate change and achieving racial equality as well. In his 2022 report to the UN General Assembly, the then-Special Rapporteur on the promotion and protection of human rights in the context of climate change, Ian Fry, meanwhile recognised the necessity to "close down tax havens as a means of freeing up taxation revenue for loss and damage".<sup>42</sup>

In its [submission](#)<sup>43</sup> to the SR on Racism's report on climate justice, CESR articulated a vision for an intersectional climate justice agenda which is anti-racist in its orientation and seeks to use transformative fiscal and monetary policy to address racial inequality whilst shoring up resources to tackle the climate crisis as well.

## 5. Conclusion

We make this appeal to the Committee to carefully scrutinize the extraterritorial activities of the State Party's acts of commission and omissions drawing on the spirit of the Convention to eliminate all forms of racial discrimination wherever they may occur. The UN Special Rapporteur on Contemporary forms of Racism, Racial Discrimination, Xenophobia and Racial Intolerance in her 2019 report emphasized how violations may be accentuated due to:

(a) The historic racial injustices of slavery and colonialism that remain largely unaccounted for today, but which nevertheless require restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition; and

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<sup>41</sup> Ecological crisis, climate justice and racial justice, Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, 25 October 2022, <https://www.ohchr.org/en/documents/thematic-reports/a77549-report-special-rapporteur-contemporary-for-ms-racism-racial>

<sup>42</sup> Report of the Special Rapporteur on the promotion and protection of human rights, 2022. <https://undocs.org/A/77/226>

<sup>43</sup> Submission to the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance in respect of her report on Ecological crisis, climate justice and racial justice, CESR, 2022, <https://www.cesr.org/cesr-calls-for-intersectional-climate-justice-which-is-rights-aligned-and-anti-racist>

(b) The contemporary racially discriminatory effects of structures of inequality and subordination resulting from failures to redress the racism of slavery, colonialism and apartheid.<sup>44</sup>

We suggest that in acting in the way that it does the State Party is not only ignoring its own historical role in perpetuating systems of racial injustice, but that it is actively acting against the mandate of the Convention in preventing the important global steps that are needed to dismantle such racial hierarchies that are perpetrated across the world.

In light of the both the UK and OECD's historic role in international tax governance and the neocolonial nature of these policies and approaches as articulated earlier in this submission, it is clear that the UK's role in international tax abuse is an example of a contemporary racial structure rooted in the unaddressed legacies slavery and colonialism. The Committee should use this as an opportunity to probe the UK's compliance with its obligation to eliminate all forms of racial discrimination to this end.

## **6. Recommended Questions**

In this respect, we recommend that the Committee ask the State party the following questions in the context of its upcoming review:

1. Has the State party conducted a human rights impact assessment including a racial and gender impact of its participation in the OECD's two pillar solution?
2. What steps will the State party take to support (and not actively obstruct) a more inclusive process for adopting global tax policy, such as the establishment of a UN Framework Convention on International Tax Cooperation (UNTC)?
3. What steps will the State party take to address the racially disparate impacts of tax havens under its jurisdiction as part of its commitment to addressing structural racial discrimination that is the legacy of slavery and colonialism in which the State party actively took part for centuries?
4. What measures has the State party taken to reduce tax avoidance and illicit financial flows and to ensure transparency in all its jurisdictions serving as major financial centers?<sup>45</sup>

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<sup>44</sup> *Report of the United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and racial intolerance* UN Doc. A/74/321 para. 6

<sup>45</sup> It should be noted that this same question was posited to the UK by the CESCR in its list of issues dated 2023.

Signed:

Sincerely,

1. Center for Economic and Social Rights (CESR).
2. Tax Justice Network.
3. Global Network of Movement Lawyers, Movement Law Lab.
4. ESCR-Net
5. Centro de Estudios Legales y Sociales (CELS)
6. Minority Rights Group International.
7. Red de Justicia Fiscal de América Latina y el Caribe.
8. The Government Revenue and Development Estimations (GRADE) initiative, St Andrew's University.
9. Steven Dean, Professor of Law at Brooklyn University<sup>46</sup>

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<sup>46</sup> Signed in his personal capacity.