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FISCAL FAIRNESS AND GENDER
A CRITICAL EVALUATION OF POLICY ALTERNATIVES

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ABSTRACT

This paper aims to enlighten what fairness means for women in terms of fiscal policies. Women's standing within taxation is analysed, first, via the personal income tax filing unit along with the tax policy instruments which promote women's inclusion into the paid labour market. Then, the paper adopts a wider point of view in order to unfold the concept of fair taxation for women, and examines the horizontal and vertical equity principles from a gender equity perspective. Subsequently, tax design's gendered outcomes, the progressiveness of a tax system, its redistributive capacity, and reliance on consumption taxes are reviewed. Finally, budgeting as the second pillar of fiscal policies is inspected from a gendered perspective. In the light of these, looking at the broader picture, including economic growth; globalization; and democracy aspects; promoting women's political representation and increasing corporate tax compliance appear as significant policy recommendations. Alongside ensuring the enforceability and effectiveness of existing international and/or supranational institutions, including CEDAW and EU, further policy efforts on corporate social responsibility are found necessary.

Keywords: *fiscal policy, gender equality, tax fairness, gender-sensitive budgeting.*

TABLE OF CONTENTS

1. INTRODUCTION	3
2. THE SECOND GENDER: WOMAN AS OTHER IN TAXATION	7
2.1. Policy Choices and the Male Breadwinner Model	8
2.1.1. Individual vs Family: Challenging the Taxing Unit	9
2.1.2. Capital vs Women: The True Beneficent	12
2.2. Punishing Differences	16
2.2.1. Pink Tax	16
2.2.2. Tampon Taxes	17
2.3. Conclusion.....	20
3. FISCAL STRUCTURE AND ITS IMPACTS ON WOMEN.....	21
3.1. Gendered Dimensions of Taxation.....	21
3.1.1. Vertical Equity	22
3.1.2. Horizontal Equity	23
3.2. Tax Mix and Its Gendered Outcomes.....	26
3.2.1. Progressive vs Regressive Taxation	27
3.2.2. Reliance on Indirect Taxes	29
3.3. Spending the Tax Revenue: Gender Budgeting	32
3.4. Conclusion.....	34
4. CONCLUDING REMARKS AND POLICY RECOMMENDATIONS	36
4.1. Synopsis of the Thesis.....	36
4.2. Women's Paradox and Fiscal Policies	37
4.3. Conclusion.....	41
REFERENCES.....	42
a. Primary Sources	42
b. Secondary Sources	42

1. INTRODUCTION

Although *fairness* is a key concept for fiscal policies, what it stands for in our gendered world remains a mystery. Covering taxation and budgeting, both aspects of fiscal policies are expected to be fair. However, fairness neither has an absolute definition nor a single perception from the gender equality perspective. Therefore, this paper aims to unfold what constitutes a fair fiscal policy for women by reviewing different policy alternatives.

First introduced by Adam Smith (1776), today the principle of fairness maintains its fundamental place within fiscal policies. Since fair taxation is indispensable for governments to collect revenue which ought to cover public expenditures, it is doubtless that taxation and budgeting are embedded in each other (Cedro, Kristoffersson, Aricha, and Živković, 2023, p.377). However, being called an ‘ambiguous idea’ (Fredman, 2019, p.83), searching for a definition of fairness is an overwhelming task due to the nature of the concept itself.

Considering the complexion of taxation, Bankman and Griffith (1987) suggest that fair tax should take into account economic, philosophical, political and practical elements. Intricate to and perhaps even beyond all these elements, however, a fifth element which fair tax should take into consideration is the legal aspect. There is no single policy which can be thought of apart from the legal discussion, as different forms of laws constitute the ground for modern constitutional states as well as supranational and international organizations. Indeed, tax fairness and equity are regarded as part of a broader fundamental democratic issue: social justice (Gunnarson, 2011, p.78).

The welfare state, in turn, is an even wider term which is seen as the provider of social justice for over a century. Today, most states acknowledge that women and men as well as third genders are equal at the constitutional level, which encompasses benefiting from and contributing to the welfare state equally on the grounds of equal citizenship. Such acknowledgement is mostly followed by the neutralization of laws. Yet if different subjects with differing characteristics (either attributed by society or factual ones) are treated equally, can we say that a such policy engenders an actual, substantial equality?

In the Social Institutions and Global Index (SIGI) 2023 Global Report, the Organization for Economic Co-operation and Development (OECD) provides a global outlook on gender equality by revealing how it is influenced by formal and informal laws alongside other social institutions

by calculating the gender discrimination ratio (OECD, 2023a). Accordingly, the world average SIGI score is 29 on a scale from 0 to 100; which implies that we still have to put much more effort into eradicating gender bias at all levels, from formal laws to social institutions. Indeed, women's poverty also requires broader efforts to be addressed, including but not limited to fiscal policies.

Taking a closer look into gender equality and fiscal policies, the recent OECD report shows that 73% of the participatory countries have stated that they pay regard to gender considerations. However, more than 60% of them noted that they do not undertake an analysis of the implicit gender bias of their fiscal policies (OECD, 2022). As Young (1995, p.127) noted, the 'invisibility of the inequalities' is the most suffering aspect of tax laws for women. Therefore, it can be concluded that different fiscal policies around the world are likely to generate different forms of gender bias as well as regenerate pre-existing gender bias. If so, where did fairness go? Is it an issue that is overlooked or perceived differently? In order to reveal so, I seek to analyse different fora in which such bias may arise, and examine different fiscal policy responses addressing fairness and gender equality questions.

The United Nations General Assembly's adoption of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1979 stands for a significant effort to put women into the heart of a comprehensive human rights discussion. Today ratified by almost all countries around the world¹, CEDAW does not only establish the details of the principle of equality of rights but also calls for a rather concrete agenda for action to alleviate any distinction, exclusion or restriction in the political, economic, social, cultural, civil or any other field as per Article 1. Furthermore, according to Article 3 of CEDAW, fiscal policies fall under the state parties' duty to take all appropriate measures, including legislation. In addition to the formal equality, CEDAW calls for further policy efforts in order to achieve substantial equality; insofar as allowing different treatment of women and men may, in many cases, be necessary to tackle any existing gender bias (Grown, 2010, p.7).

Despite the upward tendency of regulating different policy areas by international and supranational organizations, today taxation and budgeting still represent a relationship between states and individuals; in other words, fiscal policies make part of state sovereignty. With regard to that,

¹ There are six countries that did not take any action upon CEDAW (Vatican, Iran, Niue, Somalia, Sudan, and Tonga) while the US and Palau are not state parties but only signatories (The Office of the High Commissioner for Human Rights, 2023).

revisiting the social justice question that arose after the intricateness of fiscal policy and the welfare state, I propose to apply T.H. Marshall's (1965) rights and obligations-based equality suggestion which covers both taxation and budgeting aspects of the fiscal policy. In that context, it is stressed that fiscal policy lacks the social justice ground, which hinders the 'fairness' of egalitarian fiscal policies (Gunnarson and Lind, 2023, p.9).

Considering the complementary role of the welfare state especially in cases where markets fail, as Mumford suggested (2010, pp.26-28), Polanyi's famous argument on the embeddedness of markets and social institutions also provides a well-describing theoretical ground to argue that social institutions as well as the welfare state can address market failures on delivering gender equality (Polanyi, 1944). Indeed, even though the markets themselves are not always responsible for delivering gender equality, welfare states can tackle these shortcomings of markets by virtue of using fiscal policy, as in the case of redistribution.

Fiscal policy is often criticized for being an insufficient social policy method; accordingly, it is argued to be less efficient yet more convenient since it allows in-cash, instant solutions rather than resolving the essence of the problem (Mumford, 2010, pp.15-17). However, despite that neither tax laws nor budgeting constitute the principal reason for women's poverty, both contribute to it either explicitly or implicitly. Hence, analysing the fairness of fiscal policies for women and exploring a variety of policy responses appear to be relevant.

The state of the art of this paper manifests itself from a further perspective: a brief overlook of the literature demonstrates that the large share of the recent studies is focused on women's perception of tax fairness regarding tax compliance and tax evasion, or tax morale in general². For that reason, this paper aims to deliver a comprehensive examination of the fiscal fairness for women by combining and, where necessary, comparing different perspectives, analyses and policy alternatives.

Seeking to portray gendered fairness in fiscal policies, this paper is comprised of four chapters. Following this introductory chapter, Chapter 2 delves into tax policies in order to reveal their gendered outcomes in light of Simone de Beauvoir's famous opus 'The Second Sex' and inspects the fora where tax laws create and/or regenerate all sorts of (positive and negative) gender bias. To

² Among others see: Febrian and Islami (2020); Journey, Rupert and Wartick (2017); Kastlunger, Dressler, Kirchler, Mittone, & Voracek (2010); Hasseldine and Hite (2003); Fallan (1999).

do so, I designed a two-pillared analysis: the first part examines how tax policies are involved with the male breadwinner model by virtue of a two-fold examination of women's interaction with society and capital; the second part inspects the policy areas where taxes become a 'penalty' for women (Haddad, Hoddinott, & Alderman, 1997).

Chapter 3, in turn, proposes a broader inspection by unfolding the gendered dimensions of taxation; *i.e.*, vertical and horizontal equity. Aimed at understanding the tax structure's impacts on women, Chapter 3 analyses progressive and regressive taxation as well as reliance on indirect taxes; and applies the gender equality lenses to budgeting, *i.e.*, the second pillar of fiscal policy.

Finally, Chapter 4 presents conclusive remarks along with policy recommendations. Accordingly, Chapter 4 embraces a wider perspective in the search for gender and fiscal policies' place within a larger picture and applies Dani Rodrik's (2011) famous trilemma of economic growth, globalization, and democracy.

2. THE SECOND GENDER: WOMAN AS OTHER IN TAXATION

Elevating Simone de Beauvoir's (1949) conception of 'second sex' and applying it to the day, it is impossible to deny that we still live in a world where women are the second gender. With regard to that, this chapter aims to bring into light the areas where tax laws treat women as the secondary gender. Yet following the neutralization of all laws in the 20th century, identifying gender bias that is and/or may arise from tax policies is harder than before. Indeed, due to the neutralization efforts of the last century, it could be thought that the explicit biases within the tax laws have disappeared. However, in addition to the provisions that are now fewer yet still in force that give rise to explicit gender bias, the main problem is that they did not disappear but melted in the tax law and now they occur in an implicit manner. Thereupon, in the search for what is 'fair' taxation for women, there is an obvious benefit to inspecting gender bias originating from tax law and examining policy alternatives around the globe addressing these biases.

Seeking substantial equality (Fredman and Glodblatt, 2019), CEDAW requires state parties to alleviate both explicit and implicit gender bias arising from tax policies. In line with that, running the tape slightly back, Stotsky (1997) defines explicit gender bias as directly deriving from the wording of the legal provision that anticipates the tax, whereas implicit bias refers to the abstract biased result which occurs due to the social and economic structures in addition to the law itself. Similarly, Mumford (2010, p.6) stresses the significance of the 'gendered nature of the economic structure' as it constitutes a fertile environment for the implicit gender bias. Moving from this idea, the male breadwinner model is the first thing that comes to mind. Indeed, how tax policies situate women regarding this old-dated socio-economic premise is of great importance to assess the gendered implications of taxation.

The male breadwinner model has various implications based on women's different roles within the society and market. Yet reminding Polanyi's argument embeddedness of market and social institutions, it should be noted that these differing roles of women are embedded, as well. The first gender role that the male breadwinner suggests is women's place within the family; which chiefly interacts with tax policies in terms of taxing unit. The second implication, on the other hand, is on women's secondary place within the formal economy from labour market inclusion to their relationship vis-à-vis capital, in general. Based on these implications, the first part of this chapter

seeks to reveal how the male breadwinner model interacts with tax policies in terms of taxing unit and inclusion into the formal economy.

Borrowing Haddad et al.'s (1997) 'tax penalty' expression, the second aspect of the gendered economic structure is using gender differences for profit-making and taking it a step further, punishing these differences via taxes. Applying different tax rates to the same good or service that is available in the market for both genders, *i.e.*, pink tax, and taxation of feminine hygiene products that are compulsory for women's health, *i.e.*, tampon tax, constitute demonstrative examples to grasp how tax policy alternatives may punish women simply for being women. Indeed, can we talk about fair taxation where women are taxed solely because they were born in the female body?³ Therefore, the second part of this chapter aims to assess different policy responses towards pink tax and tampon taxes.

2.1. Policy Choices and the Male Breadwinner Model

Although some scholars argue that the male breadwinner model is declining amongst the OECD countries (Von Gleichen & Seeleib-Kaiser, 2018), Ciccia and Bleijenbergh's empirical study demonstrates the opposite regarding most of the European countries by revealing that women's intrahousehold unpaid care work endures without a significant shift (2014, pp.29-30). In other words, despite the fact that women are more included in the paid labour market than before, they are now working more due to the well-established work they carry within the household. Considering that the latter is very often unpaid (Grown, 2010, p.5), how it should be taxed evokes a paradoxical question. On the other hand, this conclusion implies the lack of accessible care services; which could have been perhaps achieved and/or eased by adequate and appropriate tax policies⁴.

The International Monetary Organization (IMF) states that when compared to men, women's entry into the labour market is more likely to be hindered by tax policies (IMF, 2012). Looking at the

³ I sincerely acknowledge that neither all persons who were born in the female body define themselves as women nor all persons who define themselves as women were born in the female body. The above-stated expression is solely used for the purposes of this paper.

⁴ Even though recent child-centric policies such as increased childcare support through taxation are in accordance with feminist goals, it is argued that these policies have shifted the focus from women's unequal position within the gendered economic structure to the childcare itself and narrow prospect pro-feminist policy alternatives (Mumford, 2010, p.109).

gender gap in the labour market entrance, according to the International Labour Organization (ILO), women's labour force participation is only 47% whereas men's labour market participation is almost 50% higher, with a participation rate of 72% as of 2022 (ILO, 2022). Therefore, in order to promote women's further inclusion into the labour force, taxation can play an important role alongside other policy areas.

Given that most tax systems overlook that women allocate their time differently than men in terms of the labour market (2010, p.5), this chapter aims to analyse how tax policies treat women within the household, and within the labour market. On the former, this paper will engage with the socio-legal literature gathered around the taxing unit for the personal income taxes. Considering the taxing unit's significance regarding the male breadwinner model (Wersig, 2006, pp.5-6), inquiring into different policy responses and their gendered influences is crucial. Following that, regarding the latter issue, different tax policy tools such as tax incentives and tax allowances as well as their impacts on women's inclusion into the formal economy as a labour market actor will be inspected.

2.1.1. Individual vs Family: Challenging the Taxing Unit

Most simply, a taxing unit can be described as the unit on which the income tax will accrue. Today three main modes of unit exist across the world regarding the taxation of personal income. The first mode is joint filing, where all taxable personal income that the married couple earned are taxed together. The second mode is individual taxation; accordingly, the principle is taxing the personal income of each individual regardless of the household they make part of. The final mode is combining these two modes by allowing people to opt between individual or joint filing. Yet even when the personal income taxing unit is the individual, certain tax policy tools such as tax deductions and tax allowances regarding the children can be still applied to the household rather than the individual (Coelho, Davis, Klemm, & Osorio-Buitron, 2022, p.42).

All three of the abovementioned modes are considered to contain different risks of gender bias (Cedro et al., 2023, p.386); which deems the search for the 'fair' mode of taxing unit more and more complex. For instance, Nelson (1996) suggests that in countries where Islamic law, *i.e.*, Sharia, is in force, since the law allows men to have up to four wives, using household-based personal income taxation would constitute an explicit gender bias. However, she also highlights that individual taxation of personal income in such societies may also exacerbate women's

financial situation by disregarding social dependencies. This suggestion of Nelson provides a good example of how there is no absolute ‘fair’ and how each tax policy should be examined with consideration of the sociocultural ecosystem they exist in.

Looking at the joint filing system, the main issue is referred to as secondary-earner bias: when the incomes of spouses are combined, the final income of the couple falls within the higher income tax bracket; which often deters the secondary earner from entering into the labour force (Cedro et al., 2023, pp.387-388). It is also noted that this bias occurs in progressive income tax schemes rather than flat rate taxes. Considering that women tend to be the secondary earners within the household, in most cases secondary-earner bias occurs as a gender bias (Gunnarson, 2017, p.4). Combining the secondary-earner bias with the intrahousehold caregiver role which is often attributed to women due to societal gender norms, it can be concluded that the joint filing system discourages women’s entry into the labour market; which is referred to as the ‘lock-in effect of marriage’ (Christl, De Poli, Ivaškaitė-Tamošiūnė, 2022) or ‘marriage penalty’ (Alstott, 1996, p.2010). Furthermore, it is revealed that even the women who enter into the paid labour market perform part-time and/or low-paid work more than men, indeed with a higher turnover rate which results in women’s precarity (Fredman, 2019, p.81).

A comparative study across the European Union (EU) member states examining the gender equalising effects of the tax-benefits system reveals that especially in countries with individual filing, income taxes reduce gender inequality within a couple; whereas joint filing reduces the overall redistributive impact of the taxes (Figari, Immervoll, Levy & Sutherland, 2007, p.23). Indeed, Belgium, Ireland, Italy, Luxembourg and Spain noted that even when joint filing is optional, the implicit gender bias in the form of secondary-earner bias can still exist (OECD, 2022). On the other hand, in Estonia, for instance, even though married couples cannot opt for joint filing since 2017, they can still benefit from certain tax allowances together (Masso, Leppik, Paulus & Piirits, 2017, p.6).

Considering that the bias is acknowledged by many countries, then why is joint taxation still popular amongst them, both in mature welfare states and developing countries? Searching for an answer, Mumford (2010, pp.126-136) examines the case of the United Kingdom (UK) by referring to a famous court case, *Arctic Systems (Jones v Garnett)* (2007) UKHL 35). Accordingly, it is argued

that following the introduction of the optional individual taxation regime, husbands were reallocating the family business income to their wives due to tax efficiency.

Comparing with the United States (US), Mumford then specifies two cases⁵ in which joint taxation has emerged as a policy response. Arguing that distinct treatment of the sum household incomes in common law states and community property states affecting the tax liability of couples in different states is ‘unfair’, the US Congress is called to enact a federal tax liability regime (LaLumia, 2008, p.2). Interpreted together, both policy responses considered the individual taxation ‘unfair’ for someone; *e.g.*, employees, without considering how joint taxation may be unfair for women in general as the secondary earner.

Looking from the other side, on the other hand, Christl et al.’s empirical study (2022, pp.12-13) shows that some of the European Union member states favour married couples over cohabiting partners by virtue of joint taxation and/or tax allowances. According to this finding, we can reverse the previous claim on the unfair treatment of certain sections of society and argue that in some cases, joint taxation treats unmarried couples unfairly. Based on that, it could be even asserted that in the systems where same-sex marriage is not legal yet, those couples are affected by tax policy because of their sexual orientations, whether they raise a child together or not.

According to Mumford (2010, p.134) the most optimal (in a socio-legal sense rather than economic) policy alternative is the child-centric families; which admits that any adult (from single adults to married couples) who financially commits to a child constitutes a family yet taxes are filed separately. Considering that single mothers are the worst-offs in any mode of taxing unit (p.164) along with the same-sex couples who are not or even worse, cannot get married, this suggestion seems ‘fair’ from a wider perspective.

For instance, Ireland has introduced a 10% higher personal income tax rate for singles and two-earner couples; then, to redress the unfavourable position of single-income families, a home carer’s tax credit is introduced, targeting couples both in marriage and civil partnership (OECD, 2022). Following these reforms, Ireland has experienced a 5% increase in labour market participation of married women as well as a two-hour increase in the weekly working hours which corresponds to a decrease in unpaid childcare.

⁵ *Poe v. Seaborn* (1930) US Supreme Court; *Lucas v. Earl* (1930) US Supreme Court.

Deconstructing the familial norms within the tax system, Hungary went a step further: in addition to individual filing, even childcare allowances are not provided on the household level but rather to the parents without establishing a link between the marital status (OECD, 2022), which is not only beneficial for women but also for same-sex parents. Furthermore, we see an example of an explicit gender bias regarding personal income taxes, favouring women: accordingly, women who have four or more children are entitled to receive special tax allowances, which are not available for fathers.

Another policy alternative is the ‘Nordic’ dual income tax system, where capital income and other incomes, *e.g.*, wages, governmental transfers, and pensions, constitute two separate taxable bases. Accordingly, whereas the other incomes are taxed progressively, capital income is subject to flat-rate taxation. However, the flat rate taxation of the capital income raises ‘fairness’ questions: while noting that it may create disadvantages on the ‘equity’ ground, Broadway (2004, p.6) also argues that tax evasion and/or tax avoidance risks offset the equity concern. Gunnarson (2017, p.5), on the other hand, insists on the fact that the dual income tax system aggravates the gender gap in the distribution of capital incomes instead of tackling it.

Looking at how taxation affects women vis-à-vis families, recent data on France provide a good instance: accordingly, it is noted that as of 2018, more than 80% of single-parent families were comprised of single women (OECD, 2022). Furthermore, the joint filing regime is found risky for increasing the marginal tax rate up to 6% when compared to individual taxation by stating that over three-fourths of secondary earners are women. Qualitatively describing the areas where tax policies may engender gender bias, these findings on France are also important for being analysed after the request of the Parliament as well as the circular calling for gender impact assessment for all legislative efforts issued by the Prime Minister.

2.1.2. Capital vs Women: The True Beneficent

Referred to as an ‘incomplete revolution’ by Esping-Andersen (2009), although women’s role has changed for the better, inequalities still exist; which is proved by empirical data. Accordingly, the recent OECD data shows that there is an 11.9% gender pay gap across the OECD countries (OECD, 2023b), while the gender pay gap is referred to as one of the main reasons for the feminization of poverty (Morrissey, 2017, p.41).

Addressing these inequalities and promoting women's entry into the labour market require broader policy efforts than taxing the best possible taxing unit. Given that women can interact with the labour market in two different ways, *i.e.*, as a waged employee or a self-employed business person, tax policies aiming to improve women's position within the gendered economic structure can be classified under three categories: the ones i) that directly target women employees such as tax credits, ii) tax incentives that seek to lower the women employees' cost for employers to make them more attractive to hire, iii) tax policy tools which incentivise women-led businesses.

Tax credits targeting women employees refer to the tax deductions which aim to encourage women to work. Indeed, it does not only aim to attract non-employed women but also to alleviate the secondary earners to withdraw from the labour market. Mumford (2010, p.121) argues that the tax credits are the fruit of a vision of an 'ideally motivated mother' and criticizes that vision since it puts the male breadwinner model in the centre once again. Although it is hard to argue against such a point of view, its comprehensiveness may raise questions: despite the employment status of most women raising children in the UK, how they are doing that remains important. Especially considering the different intersectionalities of women⁶, this question gains importance; even a woman's migration status can alter her employment choices depending on the family support and employment type that she can access. Nevertheless, even such considerations leads us back to Mumford's point: introducing policies with broader substantial impacts by facilitating the lives of women in the labour market and reducing their care burden can be more efficient than tax credits. For instance, Elson (2006) suggests providing tax allowances for women in the labour market who often should substitute 'their' care duty by paying extra amounts.

Looking at the tax incentives, Mumford (2010, p.176) insists that even though a tax incentive can succeed in including women in the labour market, it does not resolve the intrahousehold unpaid care work duty. It is seen that regarding all sorts of policy alternatives, the main problem arises after the grey area that hardens to make a clear-cut distinction between marketplace and intrahousehold care work for women (p.184). Similarly, Alstott (1996, p.2007) underlines the

⁶ Williams (2018) asserts that the roots of social inequalities are fluid rather than static, and intertwine with differing backgrounds of women. In line with the development of feminist theory over time, scholars perception of intersectionality have shifted from the redistributive function of the welfare state (Fraser, 1989) to understanding the complex identity structure of women (Butler, 1993).

importance of supporting family labour rather than changing women's behaviour and preferences on entry into the labour market.

Revisiting the Polanyian point of view, given the market's insufficiency to correct the overburden on women's shoulders, it could be concluded that broader policy efforts are required to change the male breadwinner model to establish true gender neutrality. On that account, Lahey (2018, p.36) who examines gender equality and taxation in developing countries, presents to-the-point policy examples such as providing tax rate reductions for employers providing childcare facilities at the workplace or maternity leave allowances as well as breast milk extraction and storing facilities and childcare contributions.

Jaumotte's study (2003) reveals that tax incentives which reduce the employer's total cost and relatively more neutral tax laws enhance the women's employment rate. However, given that the tax incentives which are deemed necessary to persuade employers to hire women establish a gender bias in favour of women, it is unclear how a tax law favouring women can be referred to as neutral. This simple scrutiny itself helps grasping how gender neutrality does not necessarily cover gender equality when it comes to fiscal policy analysis. Similarly, Mumford contests gender neutrality especially where it is thought of as an indicator of equality (2010, p.172).

Another prevalent occurrence in developing countries is that the majority of women fall outside the income tax net since they are unemployed or employed in low-paid and/or informal jobs. At first glance, one can easily call them lucky for not carrying the personal income tax burden. However, being out of the income tax bar also implies that these impoverished women cannot benefit from the tax allowances, including childcare allowances (Cedro et al., 2023, p.388). Similarly, businesses owned and/or run by women often remain within the informal sector or constitute small businesses, which leaves them out of the corporate income tax threshold (Barnett and Grown, 2004). Therefore, Joshi, Kangave & van den Boogaard (2020) stress that taxation of these small businesses and understanding the tax-related dynamics of the informal sector are of great importance.

As part of a broader policy effort, the global trend of bringing the informal economy into the tax system in order to reach a broader taxable base and increase governmental revenue, *e.g.*, women who run small businesses (Itriago, 2011, p.6). This implies that even in the 'insufficient' case of

promoting women's inclusion into the labour market, the initial goal is not to empower women but rather raise revenues.

In terms of informal economic activities that women conduct, Lahey (2018) suggests three different tax regimes used by governments: fixed tax rates, *e.g.*, the stamp tax, turnover taxes, and presumptive taxes applied on the estimated income of a business. All three tax regimes are found risky since they may result in over-taxation instead of protecting the after-tax profits of these disadvantaged businesses, insofar as Lahey (p.39) refers to these taxes as 'punitive taxes'. However, to promote both economic growth and women's market access, instead of punishing small enterprises, tax policies should support all these initiatives from women-led micro businesses to women's cooperatives.

With regard to capital, Joshi et al. (2020) emphasize another important matter: tax benefits and incentives which allow corporations to avoid taxation, and aggressive taxation schemes where personal income taxes are higher than corporate taxes. Although the influence of tax mix and tax progressiveness will be discussed in detail in the following chapter, it should be noted that these may have broader effects. First, given that the aforementioned women-led small businesses are often not incorporated, they cannot access these incentives and/or benefits in the first place. Indeed, even the incorporated ones are often too small to benefit from these incentives and/or benefits. Secondly, the unincorporated ones are also subject to higher income tax under aggressive tax schemes; which again advantages capital over women.

As revealed in my previous case study on Turkey (Aydogus, 2023, p.71-73), tax exemptions, relieves and benefits provided for women selling homemade goods and services constitute a risky grey area. Despite that such benefits promote women's inclusion into production, they also limit women's economic activities to the house. When combined with other aspects of the Turkish tax policy, such type of provision is likely to discourage women from joining the labour market and rather choose to stay home, where they can keep carrying the intrahousehold care work alongside their small, homemade businesses. Looking from that point of view, it can be said that again and again, the initial goal of the policymaker is broadening the formal economy rather than empowering women; which portrays the ultimate political (and economic) choice of male breadwinner model and capital over women.

Levying taxes on investment tools constitutes the final challenge that will be addressed in this part. Tax expenditures often benefit the investment capital, which is mostly owned by men (Lahey, 2018, p.21). Furthermore, it is revealed that the riskier the investment tool, the lower the tax rate; however, empirical evidence suggests that women tend to invest in less risky tools (Bhushan and Medury, 2013, p.148). Therefore, in addition to women's deficiency to access to the capital to invest, even when they invest we see that their behaviour is drawn back by taxes.

2.2.Punishing Differences

Punishing women for being women constitutes another important component of the male-dominance thinking over taxation. Referred to as 'gender tax', Mumford (2010, p.181) argues that admitting the norm quality to the male experience privileges men over women within the markets. In addition, Grown (2010, p.5) emphasizes that women also tend to consume more considering the household purchase burden they carry, which results in women spending a higher share of their income on consumption taxes.

Taking into account the suggestion of equality arising from the rights and obligations-based citizenship of T.H. Marshall and Polanyian institutional complementation of the areas where the market remains insufficient, in theory, taxes shall have a corrective function regarding these male privileges within the market. In reality, it is seen that taxes rather exacerbate these male privileges. Pink tax and tampon tax provide demonstrative examples of how taxes 'unfairly' situate women as the second gender.

2.2.1. Pink Tax

While pink tax is also used to describe extra amounts which women pay for their consumptions (Lafferty, 2019; Kaufman, Polack & Campbell, 2018), for the purposes of this paper, the term pink tax is used to describe taxes imposed on women's products on purpose (Betz, Fortunato & O'Brien, 2020). Covering a wide range of areas, the pink tax is mostly found in 'beauty' products; for instance, the most common example within the literature is razors (Jacobsen, 2017, p.245; Crawford, 2023, pp.91-94.); which implies that governments somehow punish women for trying to meet the social norms that dictate women to look in a certain way.

In most cases pink tax is applied to the consumption of women; which is collected via different methods like Value-Added-Taxes (VAT) in most tax systems, or Goods and Services Tax (GST) as in countries like the USA or Australia. Yet today we see that such explicit gender bias that can be identified at first glance does not exist. Instead, tariffs, *i.e.*, tax and duties applied to the import or export of a good, play a significant role, which requires looking beyond domestic markets.

Assuming that women's and men's products whose initial prices were the same become subject to different tariffs, then the import price of the women's product becomes higher for the trader. Thus, the end price of the product for women is likely to be higher in order to compensate trader's tariff costs, which causes a price dispersion caused by tariff rates. For instance, in my previous study I found that while domestic taxes on apparel do not contain any pink tax, import taxes are more prone to pink tax (Aydogus, 2023, pp.88-89). Combining this finding with Turkish import and export rates of garments and textile products over time, I have uncovered that due to the external dependence, Turkey's export-import coverage ratio has fallen to 0 per cent. Therefore, I conclude that alongside fiscal policies, even foreign trade policies can result in aggravated gender bias.

Even though the economic rationale behind such price dispersion of traders that are related to tariffs can be understood from an economic efficiency point of view, as Mumford states, (2010, p.182), in cases where the basic principles of equality, equity and more specifically, fairness are at stake, tariffs should not be defined merely according to what is economically efficient. From a similar perspective, using taxes as a corrective tool rather than just a revenue collection mechanism by abandoning any further considerations to the market is not in line with Article 2 of CEDAW, which enacts state parties' duty of ensuring the elimination of all sorts of gender discrimination.

From a comparative perspective, looking at the pink tax in the European Union, Betz et al. (2020, p.3) present that the average pink tax in tariff rates for apparel products amongst the member states is 0%. This empirical finding in a way provides a good example of how the European single market regime can function in favour of women.

2.2.2. Tampon Taxes

Punishing women's consumption expands to their compulsory purchases, including menstrual products which they have to obtain for their health as well as to continue their day-to-day lives and participate in social and economic life. These 'punitive' taxes that are applied to menstrual products

are called by a variety of names within the literature such as menstrual taxes (Coelho et al., 2022) or tampon taxes (Crawford & Spivack, 2017; Joshi et al., 2020). Advocacy for the abolishment of tampon taxes aims to tackle the period poverty and challenge the stigma against menstruation (Steele and Goldblatt, 2020, p.83). Furthermore, the ‘relative fairness’ of menstrual taxes is brought into the discussion, as the same consumption tax bracket is applied to the non-compulsory goods from caviar to elective medical concerns of men (Buettner, Hechtner & Madzharova, 2023, p.6).

Even though some scholars argue against the abolishment of tampon taxes insofar as referring to the anti-tampon tax campaign as a ‘burgeoning menstrual rights movement’ (James, 2022), period poverty is neither fictional (Tull, 2019, pp.3-4) nor cornered by the bourgeoisie. Considering that the World Health Organization (WHO, 2022) refers to menstruation as a healthcare issue rather than a hygiene issue, menstrual products are indeed compulsory healthcare products rather than optional hygiene products. Indeed, any women who cannot access these goods cannot perform their daily tasks, including education and work-related ones. Therefore, in addition to the fairness concern, taxing menstrual products can also result in the violation of basic human rights including the right to non-discrimination, sanitation, healthcare, work, education and dignity (Crawford and Spivack, 2019, p.2).

Parallel with the pink tax discussion on the taxes’ effect on end prices, Moffatt (2021) stresses that even in the absence of tampon taxes, considering that these products are market goods, other taxes that are applied throughout the supply chain can still exacerbate women’s access to these goods by influencing the end price of them. At that point, one policy response can be the universal free provision of these goods, which aims to equip all women with these compulsory healthcare products as in Scotland (Chen, 2022, p.115). Such alteration, on the other hand, could reverse the whole fiscal system by diminishing the tax revenue and increasing expenditures by adding up a new budgetary item. At that point, the policymakers should first decide on what to prioritize while defining the ‘fair’: economic efficiency or right to health among other human rights. Indeed, as will be discussed in detail in the next chapter, gender-sensitive budgeting requires the consideration of all these matters.

In recent years, many countries have introduced lower VAT rates to be applied to menstrual products or even repealed them totally, as is the case for Australia (Chen, 2022, p.118). In this regard, the European Union constitutes a unique case since member states’ tax sovereignty is

limited by the Union rules to a certain extent. In 2022, the European VAT Directive has been amended in order to allow zero-rating of menstrual products which could have been subject to the reduced VAT rate, which is, as a rule, of at least 5% (Council Directive 2022/542, EU). This amendment went in line with the reclassification of menstrual products by numerous member states. However, even the ones that reclassified the VAT tax bracket that menstrual products are subject to, have faced delays caused by counter-arguments based on two main claims: economic efficiency concerns, and governmental revenue losses (Buettner, Hechtner & Madzharova, 2023, p.7). Yet many EU member states still apply the non-essential luxury good VAT rates to menstrual products; for instance, in Latvia, they are subject to 21% VAT (Buettner et al., p.7).

Likewise, economists were suspicious about the success potential of the abolishment of the consumption taxes applied to feminine hygiene products to pursue policy goals. Considering the inelasticity of the demand for such goods due to their compulsory nature, it was dubious whether the end price would decrease in the absence of consumption taxes and women's access to these goods would improve in real terms (Kinnl and Wohak, 2022). In other words, the efficiency of such change was questioned. Additionally, taxing such inelastic demand to broaden the tax base and increase efficiency (Elkins, 2008, p.50) is a clear example of how economic efficiency alone is not sufficient to establish a fair tax policy. Indeed, pure efficiency concerns would call for added taxation on menstrual products, due to their inelastic consumption nature, what would be clearly unfair, in the light of the discussion held up to this juncture.

Following the European reclassification of menstrual products, empirical evidence from a case study on Germany has shown that in the medium run, reducing the consumption taxes can contribute to the accessibility of these goods and alleviate period poverty (Buettner, Hechtner & Madzharova, 2023, p.27). In any case, if the free market's pricing is found suspicious to be efficient for the end consumer of a compulsory healthcare product, then perhaps the main problem is overreliance on the market itself rather than economic efficiency.

In addition to the mature welfare states, within the last decade, developing countries also reduced the consumption tax rates on menstrual products, *e.g.*, Rwanda, South Africa, and India (Joshi, Kangave, & van den Boogaard, 2020, p.19); Turkey (Aydogus, 2023, pp.89-91). This is not only significant for decreasing tampon taxes but also for signalling less reliance on indirect taxes, which

is often associated with the development level of a country as it will be discussed in detail under the next chapter.

Speaking of developing countries, Colombia recently provided a promising analysis of the fairness and constitutionality of tampon taxes. Following the VAT rate decrease on menstrual products in 2016 (Barbosa, 2019), the Colombian Constitutional Court has ruled that tampon taxes are unconstitutional for being discriminatory against women (Colombian Constitutional Court Decision C-117, 2018). The essence of the Colombian Constitutional Court's ruling lies in the political representation: since the ratio of the women deputies within the Parliament is not sufficient to adequately represent Colombian women, the Colombian Constitutional Court resolved that such a discriminatory tax cannot be legitimate.

2.3.Conclusion

Aiming to portray the tax-related challenges that women face, this chapter analysed how women's social and economic inclusion is affected by the male breadwinner model dominating taxation based on the taxing unit. Revealing that the joint filing method is riskier than individual filing, in all cases single mothers appear as the most vulnerable group. On the other hand, neither tax credits addressing women employees nor tax incentives deeming women employees attractive for employers have been found fully effective since none of them targets the unpaid care burden that women still have to carry.

The second part of the chapter examined consumption taxes and how they punish women for no other reason than being women by a detailed analysis of pink tax and menstrual taxes. In terms of the former, tariffs were found prone to engender gender bias. On tampon taxes, global efforts to decrease the consumption tax rate have been analysed together with efficiency and budgetary concerns. On that account, political representation and fairness as well as the enjoyment of fundamental rights came forward.

3. FISCAL STRUCTURE AND ITS IMPACTS ON WOMEN

To provide a comprehensive portrayal of the relationship between gender and fiscal policies, the interaction of different fiscal policy tools should be portrayed. Scaling up to grasp what is ‘fair’ for women, this chapter starts by analysing the dimensions of equitable taxation, *i.e.*, vertical equity, and horizontal equity. After revealing how this two-fold definition of equity influences gender equity, tax structure in general is examined. Looking at the large picture, the progressivity and regressiveness of a tax system, and more specifically reliance on consumption taxes are examined to enlighten different tax combinations’ gendered outcomes.

In addition to the controversy of designing an efficient and fair tax structure to raise revenues, defining the proper way for public expenditures and whether to use tax expenditures or direct public spending is also a stressful duty (Weisbach and Nussim, 2003, p.955). Considering that the second tier of fiscal policies is indeed budgeting, the last part of this chapter focuses on the emerging framework of gender-sensitive budgeting as well as gender mainstreaming.

3.1. Gendered Dimensions of Taxation

Tax policies shall seek to generate revenue while being equitable; however, how the latter should be interpreted does not have a single answer. Tax equity is often used as a forum to assess fairness and address critical discussions in tax policy debates (Infanti, 2008, p.1196). Horizontal and vertical equity principles are considered to be two pillars of tax fairness (Grown, 2010, p.8); not only among tax law theorists but also among public finance scholars (Musgrave and Musgrave, 1989). Gender equity, on the other hand, is considered as another perspective which should be covered under tax equity (Argirò, Harding and Jarrige, 2023, p.251). The principle of ability to pay, on the other hand, is deemed as the key element to establish tax equity alongside being beneficial for fair taxation of women (Lahey, 2018, p.17).

Coming along with many controversies, tax equity and its appropriate use to establish an ideal tax system has been contested by many scholars: while some argue that in order to establish a progressive tax system vertical equity should be achieved, others claim that the horizontal equity is critical for the proportional taxation or even for regressive taxation (Infanti, 2008, pp.1193-

1194). Accordingly, while vertical equity aims to reduce differences between different income levels horizontal equity seeks the equitable treatment of individuals with different characteristics within the same income bracket (Berg, 2021, p.22).

The income-based dimensions of tax equity, on the other hand, have been criticised regarding different intersectionalities of non-income characteristics, such as gender. For instance, Infanti (2008, p.1201) argues that this vague distinction implies an effort to break any ties with these intersectionalities and close the taxation debates in favour of the wealthy, in general. From a similar point of view, so-called neutral fiscal policies are blind to these intersectionalities, too. In light of these, this part aims to unravel gendered dimensions of tax equity by analysing how horizontal and vertical equity may affect women and men differently.

3.1.1. Vertical Equity

Initially introduced to refer to wealth transfer via taxation, vertical equity is also taken into account for how it may ameliorate women's status (McKeen, 1999, p.78). Considering how it is intricate with the redistributive functions of a welfare state, vertical equity is found strictly related to the progressiveness of a tax system (Grown, 2010, p.11); insofar as Ordover (2005, p.271) argues that vertical equity is actually injected into the tax system by progressive taxation.

Emphasizing that neither equality nor equity are static concepts, Mumford (2010, p.99) underlines the need for corrective action by referring to Rawlsian equality. Revisiting the embeddedness of vertical equity and redistribution, by aiming the post-tax equity of different income groups, vertical equity in a way calls for the wealthy to finance underprivileged ones; *e.g.*, wealthier individuals finance disadvantaged groups by paying more tax, or multinational corporations pay more corporate income tax so the ones in need have access to a post-tax income amount which they can survive on.

Looking at developing countries, however, Lahey (2018, p.21) found that even in the presence of a progressive tax scheme, tax expenditures may reverse the vertical equity and the principle of ability to pay. In that case, no underprivileged group including women benefits from tax expenditures but instead corporations and capital, in general, benefit from these expenditures; sometimes even more than their tax revenue corporations as is the case for China. Hence, we can

conclude that if it is not complemented with appropriate tax policy tools, progressive tax schemes may still fail to establish vertical equity.

In line with the main classification of taxes, we can also inspect the relationship between vertical equity and gender equity. Regarding personal income taxes, for instance, McKeen (1999, p.82) emphasizes how vertical equity can contribute to the financial (and tax-related) individualization of women alongside addressing women's poverty, especially in terms of the poverty of single mothers (McKeen, p.86). Indeed, taking into account how the social, legal and economic culture of patriarchy left women out of the paid labour market, we cannot blame women who cannot enter the market because of the secondary-earner bias; women who do not earn as much as men today, especially given the wage gap; or the ones who are stuck with part-time jobs in order to make time to carry the care burden. By acknowledging all these highlights, today we can apply these lenses to even broader areas of taxation which tend to engender and/or exacerbate gender bias.

Ordower (2005, p.280), on the other hand, compares the German and the US tax systems and concludes that despite the adoption of progressivity which induces vertical equity, combined effects of different taxes often result in considerable regressiveness. Based on that, he claims that perhaps fairness shall be established via horizontal equity instead of vertical. But if vertical and horizontal equity are two sides of the taxation coin, cannot we have them both, depending on which perspective we are looking at?

3.1.2. Horizontal Equity

Taking into account that horizontal equity stands for formal equality as per CEDAW (Grown, 2010, p.8), is it possible to have a tax policy that succeeds in establishing both horizontal and vertical equity? In the search for a legal ground for horizontal equity, Elkins (2006, pp.88-90) argues for a need to divide tax theory in two, based on (re)distributional choices: the stream which finds the market distribution appropriate and endeavour to preserve it, should embrace horizontal equity as the basis; while others who call for the redistribution of wealth shall adopt vertical equity.

With regard to the women's poverty and secondary-earner bias that women face among other taxation-related issues, vertical equity is necessary to achieve gender equitable taxation. In that case, following Elkin's suggestion, should we leave horizontal equity? In Australia, for example, the First Main Report dated 1975 of the Commission of Inquiry into Poverty has recommended

increasing child endowment and revoking regressive tax deductions; which is found in accordance with vertical equity by promoting progressive taxation and income redistribution, and horizontal equity by differentiating same income families with different sized ones, *i.e.*, different number of children (Cass and Brennan, 2003, p.42). Thus, it is actually possible to have a tax policy that is both horizontally and vertically equitable which is also gender responsive.

It is argued that tax policies do not treat underprivileged groups and privileged ones equitably. In other words, it is suggested that white males and women and/or minorities who are similarly situated are not treated the same (Livingston, 2000, p.757). Elkins (2008, p.64) asserts that considering all laws somehow distinguish individuals, the main issue to be resolved is how they do so. Then, how should a horizontally equitable tax policy treat gender? As Infanti (2008, pp.1210-1211) notes, gender discrimination can be relevant for horizontal equity discussion to the extent that there is quantifiable economic harm and criticizes the shift towards the gender-neutral forum by reducing gender discrimination to a ‘cost’.

Moving away from the historical example from Australia, we can suggest that there must be a distinction between the non-income characteristics of an individual. For instance, while height⁷ of an individual probably does not harm either her taxable income or her access to this income, *i.e.*, entry into the labour market, the number of the children that a woman has (and is “expected” to provide care for) indeed affects her entry into the labour force, as explained in the previous chapter. Then wondering why all these characteristics are often overlooked, the most common answer appears as ‘the complexity’ of these thin-ice discussions, even if the cost of this bluntness is often unfair fiscal policies; which then recalls the complexity of capital gain taxes (Infanti, 2008, pp.1240-1241). Calling for the need for a flexible utilitarian criterion, Berg (2021, p.4) claims that making different characteristics subject to different tax rates is beneficial to balance marginal taxes and address inequalities.

Different modes of income tax units, *i.e.*, individual taxation, and joint filing, also require different analyses of horizontal equity. On that account, Nelson (1996, p.97) emphasizes that in addition to determining what the same situation refers to, the unit to compare should be defined, as well. How should a single mother and a family of three be treated horizontally equitably under the joint filing

⁷ Elkins (2008, pp.60-62) suggests the example of taxing individuals with different incomes based on their heights rather than their pre-tax incomes to prove that addressing different characteristics of individuals via tax is neither economically efficient nor in conformity with horizontal equity principle.

regime? It is revealed that such policy rhetoric conforms with neither horizontal nor vertical equity in addition to discriminating gender and sexual orientation (Cass and Brennan, 2003, p.50-58); which makes it nearly possible to call it fair. Berg's quantitative research, on the other hand, concludes that horizontal equality is likely to aggravate inequalities while increasing the redistribution costs for the government (2021, p.10).

From a similar perspective, which well-being should we look for, makes for a question (Elkins, 2008, p.45). In other words, should we assess the horizontal equity based on equal earners or equal consumers? With regard to the substantial equality that CEDAW sets forth, distinct tax treatment of goods and services can be appropriate to establish the equal well-being of individuals (Grown, 2010, p.16).

Even though indirect taxes are often considered to be horizontally equitable (Grown, 2010, p.14), to address this question, one should first establish what constitutes an equal earner or consumer. Conversely, we can imagine two individuals with the same amount of wage (within the same personal income tax bracket) who buy a good of the same price and are subject to the same VAT rate: one of them buys herself one piece of the menstrual product while the other gets himself an elective men's health product⁸. Given that they both purchase these products because of their characteristics, *i.e.*, their genders, to argue that a such consumption tax could be horizontally equitable, requires that either the latter good should be indispensable for the buyer's health, and/or he shall purchase it solely because of his gender. However, very often this is not the case. Thus, menstrual taxes, for instance, appear to be prone to violate the horizontal equity principle, as Berg has concluded.

Last but not the least, note that tax equity is interconnected with the neutrality of tax policies. Similar to the discussion on indirect taxes, given that horizontal equity refers to equal treatment of individuals who are similarly situated, is it possible to call gender-neutral taxation horizontally equitable? This again, as was the case for the debates mentioned above, is a question of perspective: who are the individuals that we are seeking to establish horizontal equity in between; to put it differently, what is the horizon?

⁸ This example is based on the Turkish case, where male potency pills and menstrual products are subject to same VAT rate (Aydogus, 2023, p.90).

Nelson (1996) claims that the legal theory often interprets the horizontal equity principle from a patriarchal perspective; which then results in a gender-blind horizon aiming to preserve male acquirements. Such a point of view does not fail to reflect the perspective of ‘right-wing’ scholars who seek to conserve their privileged status, yet it overlooks the possibility of re-thinking horizontal equity by flipping the coin. If nothing, one can also argue that a neutral tax law provision is not adequate to ensure horizontal equity by stressing that the pre-tax positions were not similar for women and men, in the first place. This suggestion, however, then recalls the theoretical background of horizontal equity by revealing that, in fact, vertical and horizontal equity are interwoven matters. By changing our standpoint towards dimensions of tax equity, as per Article 5 of CEDAW, a fair tax policy shall not require women to conform to male norms but rather transform the existing male-oriented norms into a gender-equitable institutional and social structure (Fredman, 2019, p.88).

3.2. Tax Mix and Its Gendered Outcomes

Tax fairness is emphasized for being pluralistic, which calls for welfare states to collect revenue via a mix of taxes (Duff, 2008, p.2). Noting that in general all countries use the same sources to generate tax revenue, Grown (2010, p.3) states that the tax system of each country depends on numerous variables from their legal tradition to the political structure; which influence the tax structure. She points to the tax mix differences between high and low-income countries by referring to the counter-tendency of reliance on direct and indirect taxes: while the former group often relies on direct taxes such as personal income tax or capital taxes to generate tax revenue, the latter’s tax mix is often based on the consumption taxes.

OECD (2022) reveals that over half of the respondent countries reported that their tax mix was neutral while forty percent of the respondents noted that their fiscal structures have gendered outcomes. Underlining that a ‘gender neutral’ tax mix can be risky for being rather gender blind, the composition of different types of taxes is indeed likely to have gendered outcomes due to the varying effects of different taxes on tax equity and the financial incentives of a taxpayer.

Despite the absence of a clear tax mix gender impact assessment, some countries indicated that the tax mix can exacerbate the existing gender bias (OECD, 2022). Indeed, a difference in the nature of income of women and men is likely to contribute to aggravating the tax burden on women. For

instance, Estonia asserted that due to the male dominance of business and investment assets, women who mainly pay personal income taxes arising from their labour market activities tend to carry a higher tax burden. Some countries such as Germany and Italy, on the other hand, indicated that the main reason for gender bias arising from the tax structure is tax design rather than the tax mix; meaning that the reason is not the proportion of direct and indirect taxes but rather the flatness and/or progressivity of tax rates of a given tax type. Therefore, this part aims to reveal gender equality outcomes of differently composed tax systems, analysing both the progressiveness of tax schemes and reliance on indirect taxes such as consumption tax.

3.2.1. Progressive vs Regressive Taxation

A tax can be described as progressive or regressive based on the comparison of the income of an individual and the tax paid by her (Varela, 2016, p.1). Progressiveness of the tax-benefits system is found crucial to diminishing the gender earnings gap; for instance, the progressiveness of the taxes can contribute to narrowing the gender wage gaps (Doorley and Keane, 2023, p.2). Therefore, understanding the gender impacts of progressive and regressive taxation as well as determining the most gender equitable and fair policy alternative are of great importance.

To grasp the redistributive performance of taxes across the world, one method is comparing pre-tax and post-tax Gini coefficients (Woolard, Metz, Inchauste, Lustig, Maboshe, & Purfield, 2015). Accordingly, data from 2019 shows that across the world, before tax the Gini coefficient is 0.66 whereas the after-tax Gini coefficient is 0.62; which sets out a 0.04 redistributive effect of taxes (Income inequality: Gini coefficient before and after tax, 2019).

In essence, progressive taxation is a policy tool which aims to address inequalities by applying increasing tax rates to higher income brackets (Duncan and Peter, 2016). Personal income tax, for instance, can be a redistributive tax policy tool by virtue of progressive taxation; low, regressive or flat tax rates, on the other hand, can result in the opposite way, as is the case for developing countries, in general (Piketty, 2014).

On the contrary, Gaines claims that income tax should be low and flat rate in order to be 'fair' (2017, p.103). However, given that he suggests a zero tax for the poorest and slightly higher tax rates for the wealthier, it is seen that even though he argues against egalitarian fairness, he is still on board with a modest level of progressiveness.

Yet progressiveness of a tax system is not limited to income taxes; collecting the same amount of tax from any individual who falls under any income bracket may also result in regressive taxation, as is the case for reliance on indirect taxes. In other words, along with the low levels of capital taxes, high levels of consumption taxes can have a regressive impact (OECD, 2022). Levying higher tax rates on the goods and services that are more commonly used by the wealthier, as occurs in the case of luxury consumption taxes, is also deemed progressive (Varela, 2016, p.1). On a similar policy vein, the inheritance tax, depending on its design, should also generally have progressive characteristics. For instance, Akgün, Cournède and Fournier (2017, p.8) conclude their quantitative research by stating that a lower tax wedge on lower-middle incomes and higher use of inheritance taxes are significantly beneficial for both redistribution and economic growth.

Progressive taxes on income and wealth contribute to the fair distribution of economic resources and mitigate inequalities (Duff, 2008, p.8). However, Livingston (1998, p.739) notes that economic inequality is not only growing but also its nature is changing. It is argued that this aggravated economic stratification is concentrated among women as well as minorities, *i.e.*, ‘feminization and minoritization of poverty’ (p.732). Along with this changing nature of economic inequality, Livingston states that the globalization of the economy and the upward trend of conservative politics contribute to the counter-progressive discourse.

Alongside globalization, the liberalization of trade within the last decades has resulted in the reduction of trade taxes and a tax burden shift from capital (and business) owners towards workers. Çağatay (2004, p.17) suggests that this fiscal shift has aggravated women’s economic position, given that compared to men, women own and/or control less property.

Another significant matter is defining the unit for comparison; for example, if the tax system is based on individuals whereas transfers are carried out at the household level, examining progressivity can be complicated (Varela, 2016, pp.5-6). Looking through similar lenses, one can also conclude that a tax and transfers system which appears to be progressive for the household can still have regressive effects on women, especially considering the secondary-earners bias.

Portraying the relationship between democracy and the progressive or regressive taxation, Kato and Tanaka (2014, p.3) note that, most especially in developing countries, regressive taxation is more popular among politicians since they seek to secure and/or enhance their wealth, *i.e.*, ‘representation with regressive taxation’.

Looking at the European Union, Gunnarson and Spangenberg (2019, pp.142-143) highlight that over the last decades, the tax burden has shifted towards women. This is not solely because of the reduced progressivity of income tax schemes but also due to the higher share that consumption taxes have within the tax mix. According to the authors, even though Article 2 and Article 3 of the Treaty of the European Union list non-discrimination, which may serve as a measure to access the EU and realisation of the internal market, the EU's legislative competencies remain limited. Indeed, Article 311 of the Treaty on the Functioning of the European Union stipulates that member states shall have fiscal sovereignty.

3.2.2. Reliance on Indirect Taxes

The ability to pay principle is one of the key features of tax fairness (Lahey, 2019, p.435). Looking from that point of view, consumption taxes are contested for imposing the same tax burden on both the poor and the wealthy. Therefore, understanding the trend of reliance on indirect taxes or, more specifically, consumption taxes, constitutes an important step to grasp the concept of a 'fair' tax for women. Indeed, considering that this trend alters the tax structures in general by decreasing the share of wealth taxes, such policy actions are contested by many scholars; *e.g.* Çağatay (2004, p.20) states that since income taxes are more progressive than user fees or consumption taxes, indirect taxation is class-biased in addition to being gender-biased.

With regard to the ability to pay principle, Lahey (2019, p.436) suggests that according to the empirical evidence, consumption taxes reduce the actual capacity of consumption while imposing a higher burden on women-led households which often have tighter budgets to consume. It is noted that a such result can be changed by exempting fundamental needs from VAT. This, on the other hand, generates new questions –or takes us back to our prior questions- by asking what should constitute a fundamental need so as to be exempted from consumption taxes in line with basic human rights concerns such as health.

Itriago (2011, pp.4-6) claims that, especially in terms of developing countries, the IMF and World Bank among other international financial institutions are responsible for the increased share of consumption taxes. It is claimed that consumption taxes are found to be more convenient since they are easier to collect while creating a broader tax base; since they do not have a great impact on the productive processes, they are also considered to have lower political costs. In a such case,

international finance doctrine calls for public spending for wealth redistribution instead of tax policy. This, however, is criticized for short-term effectiveness instead of establishing long-term equity across society, including gender equity.

Calling it the ‘taxing for growth’ formula, Lahey (2019, p.430) suggests that it has three main goals in respective order: reducing income tax rates (both personal and corporate) as well as tax expenditures in general; shifting the tax burden to consumption in order to broaden the tax base while reducing the benefits and other tax expenditures; and increasing women’s paid labour participation by revoking the secondary-earner bias. Considering it as a means of enhancing economic growth, economic inequality of women and how it is influenced by fiscal policies became more and more important before international and/or supranational organizations, starting with the EU and OECD, in the first place (Lahey, p.31); which Mumford (2010, p.25) refers as ‘gender mainstreaming’.

Applying this gender mainstreaming perspective to the reliance on the VAT, the UN Special Rapporteur’s findings are significant (Lahey, 2019, p.432): she concluded that the increasing use of VAT and other consumption taxes are replacing the progressive income tax scheme which has the risk of aggravating the financial situation of underprivileged groups including women. In the light of this, Lahey (p.433) states that even though most states recognize the gendered economic effects of tax shifts towards consumption taxes, these are often tolerated in exchange for economic growth. Furthermore, she compares VATs and goods and services taxes (GSTs); accordingly, the former is deemed more ‘business friendly’ by only reflecting all taxes to the end consumer while the latter is more popular among the US, Australia and New Zealand.

Another issue is the disappearance of the middle class: even though the suggested VAT exemptions provide relief for the poor, in the case of a tax shift towards consumption with exemptions, the tax burden shifts through the middle class while the rich’s position is preserved (Lahey, 2019, p.438). Therefore, we can conclude that VAT exemptions on fundamental needs should be complemented with progressive income taxes in order to establish a fair tax system not only for the least wealthy but also to preserve the middle class.

In addition to a call for progressive corporate income tax schemes, measures to strengthen tax compliance can be thought of in the first place. For instance, on their submission to the CEDAW Pre-Sessional working group in 2016, several civil society organizations claimed that Swiss

secrecy laws on taxation are not in conformity with CEDAW since they pave the way for the outflow of tax revenue by allowing for tax avoidance (Alliance Sud, Berne Declaration, Center for Economic and Social Rights, the Global Justice Clinic at New York University School of Law, and the Tax Justice Network, 2016). It is stated that this outflow actually depletes the resources that may be otherwise used by state parties to fulfil their obligations to gender equality under CEDAW.

From a similar standpoint, Fredman (2019, p.82) argues that by relying on indirect taxes, states in a way seek to compensate their losses from trade-related taxes including corporate income taxes. Likewise, Lahey (2018, p.38) notes that transnational corporate tax practices are also likely to cause tax profit losses towards low or no-tax countries; which give rise to wealth imbalances around the world. By reversing these arguments, increasing corporate income tax revenues can be suggested instead of heavily relying on indirect taxes to enhance revenue collection. According to that, Lahey (2019, p.433) notes that the Committee's Concluding Observations emphasize that the extraterritorial results of its corporate citizens are of great importance, and including trade and investment agreements Switzerland shall strengthen the governance of corporations to ensure the fulfilment of women's human rights. Such a point of view is also in line with the emerging legal framework of business and human rights; which requires businesses to conduct human rights due diligence assessments.

How VAT can be challenged before judicial authorities constitutes another area for reflection. Colombian Constitutional Court judgements stepping up once again, the 2003 VAT Decision sets forth that the principle of ability to pay and fundamental needs should be taken into consideration while designing all sorts of fiscal tools (Colombia Constitutional Court Judgement C-776-03, 2003). In addition to challenging before domestic courts including constitutional monitoring, CEDAW provides another forum; however, it raises questions on its enforceability.

Finally, as another issue that falls under indirect taxes, user fees are found prone to cause gender bias (OECD, 2022). Especially in countries with high levels of informality, since user fees often function as informal taxes financing fundamental goods and services including healthcare and education, they increase the burden on the household; which is often carried by the women.

3.3. Spending the Tax Revenue: Gender Budgeting

Taxes constitute the greatest part of governmental revenues, how to allocate them is an essential matter, not only for financial purposes but also by laying out the policy preferences and priorities of a government. For that reason, examining budgeting from a gender-equality perspective has a crucial place in grasping the policy agenda of a government; notwithstanding that gender equality often does not occur as the primary consideration for public policy design (Downes, Von Trapp & Nicol, 2017, p.2).

Looking at the gender equality efforts regarding budgeting, it is seen that scholars and policymakers use a variety of terms including gender budgeting (Stotsky, 2006; Downes et al., 2017; Downes and Nicol, 2020; Swedish Ministry of Employment, 2021), gender-responsive budgeting (Elson and Sharp, 2010; Rubin and Bartle, 2023) and gender-sensitive budgeting (Budlender, Sharp & Allen, 1998; Hofbauer, 2002; Galizzi, 2010). Even though all these terms have their nuances, since they all reflect the gender equality efforts in the budgetary processes, they will be used interchangeably for this thesis. Walby (2005, p.321), on the other hand, criticizes gender budgeting by arguing that it may lead to the neutralization of feminist claims; although, she admits that gender budgeting introduces a new forum to pursue feminist goals.

According to Mumford (2010, p.28), gender budgeting may cover various aspects. She refers to the United Kingdom's gender budgeting definition which emphasizes the analysis of the gendered impact of expenditure and revenue streams. In other words, gender budgeting is the central governmental action to initiate any policy by allocating expenditures (Edwards and Stewart, 2017, p.327) as well as tracking and monitoring these expenditures (Morrissey, 2017, p.47).

Elson and Sharp (2010, p.522) highlight that similar to taxes, budgets also are likely to have gender equality outcomes both in direct and indirect manners: while the former refers to the explicit revenue allocations targeting women or gender equality; the latter often stands for the budget's impacts on the growth. By that, Çağatay notes that gender-sensitive budgeting shall not solely cover the expenditures allocated to women but men too, as well as portraying the gendered outcomes of the budget as a whole (2004, p.21).

Noting that there is no standard model of gender budgeting across the OECD countries, Downes et al. (2019, pp.2-3) emphasize three main aspects of gender-sensitive budgeting: allocating resources

with consideration of gender equality; conducting a gender assessment on the impacts of the budget; and underpinning differing needs of genders for a fair resource allocation.

According to the OECD survey (OECD, 2022), one-third of all respondent countries noted that they conduct ex-ante gender impact assessment for legislative processes including budgeting; whereas only six of these countries have specific requirements for the budget office to issue documents, *e.g.*, circulars, directives, on the gender impact assessment of fiscal policies, alongside other measures to implement gender equality objectives as a part of the budget. While some of these countries like Austria and Belgium note that this is based on the constitutional principle of (gender) equality as well as CEDAW, other countries which embrace a variety of fiscal cultures like Canada, Argentina, Spain and Sweden, state that the legal ground for gender budgeting is stipulated under budget law to meet *de facto* equality in line with the CEDAW.

Regarding the EU in general, thanks to the gender mainstreaming, gender equality is considered for gender budgeting by acknowledging the economic disparities between women and men, as they neither earn nor spend the same money (Mumford, 2010, p.47).

In our modern world in which most states embrace the principle of equality on many levels, why do we need gender budgeting? Mumford answers by referring to the Polanyian embeddedness and suggests that from time to time, the power of markets may exceed the institutions (Mumford, 2010, p.31). However, reaffirming the overall importance of strengthening women's economic position, the call for gender-sensitive fiscal policies is not only beneficial for women but also promotes growth, in general, as the 'women in development' discourse suggests (Ertürk, 2004, p.5).

Stotsky (2016, p.13) highlights two prevalent issues which should be taken into account for gender-sensitive budgeting: efficiency to ensure positive externalities and equity to enhance the redistributive function of fiscal policies. To achieve so, regulating the market for a planned economy which promotes gender equality and growth is suggested (Mumford, 2010, p.56). From a similar perspective, Palmer (1995, p.1984) notes that states should invest in human resources and infrastructure to promote gender equality to transform the areas of trade-off between growth and gender equity into complementing private markets. The term of infrastructure that Palmer refers to (p.1985), in turn, covers a wide range of areas of 'social' investments from social security insurances to extended maternity leaves and childcare benefits for self-employed women; which differs from the common use of infrastructure that is often used for public spending endorsing

private investment (Çağatay, 2004, p.18). Highlighting this difference gains importance to understand the long-term policy goals of a government, as the underprivileged groups often benefit more from the former which aims to reduce the social and economic stratification.

To improve gender budgeting efforts, Downes et al. (2019, p.4) make the following suggestions: availability of gender-sensitive and gender-specific data; clear identification of gender-responsive budget allocations; deeming gender assessment a routine part of the budgeting; substantial and broader policy efforts to enhance gender equality alongside growth; and efficiency assessments.

In line with Downes et al.'s proposal, France reported that as a part of the gender budget statement, they conducted a three-pillared evaluation of expenditure performance: gender equality impact assessment on the budgetary expenditures; defining gender equality performance indicators and integrating them into the budget; and raising awareness (OECD, 2022). Likewise, the Swedish budgeting tool BUDge which was introduced at the beginning of the millennium assists officials in conducting gender impact assessment for budget proposals in five steps (Swedish Ministry of Employment, 2021): determining whether the proposal is relevant for gender equality; if yes, how; drawing the expected gender-wise conclusions; indicating gender patterns that are likely to emerge after the proposal; and considering alternative proposals.

3.4.Conclusion

In order to examine fairness and gender from a wider perspective, this chapter first delved into vertical and horizontal equity, which make part of the taxation from an equity-based point of view. Accordingly, it is revealed that vertical equity is necessary for taxation to perform its redistributive function and to establish gender-equitable taxation. Horizontal equity, on the other hand, is more controversial on many levels. Accordingly, this chapter has portrayed the legal, political and economic debates on it from a gender perspective, and it concluded that with its both pillars, tax equity is like a coin: what we see depends on which side we look from, yet both sides are embedded to each other.

Moving forward, this chapter looked for an answer to how different tax structures may vary in terms of their gendered outcomes. With consideration of women owning and/or controlling less capital than men (and therefore, most of their income is wages), progressive taxation is found beneficial to meet the gender equality agenda. Furthermore, it is noted that a progressive tax system

should be complemented by the tax design in general, including the share of indirect taxes. The risks of the taxation for growth formula are revealed by highlighting the feminization of poverty.

Finally, examining the second pillar of fiscal policies, this chapter aimed to portray the relationship between gender equality and budgeting. Accordingly, different policy efforts towards gender-equal budgeting were analysed with an emphasis on the gender impact assessment.

4. CONCLUDING REMARKS AND POLICY RECOMMENDATIONS

Throughout the paper, I aimed to describe alternative policy responses to the challenges arising from the tension between fairness, gender equality and fiscal policies. With regard to these policy alternatives, with this concluding chapter, I anticipate to discuss legal frameworks and their capacities to address the gender equality and fiscal policy question. By embracing a wider perspective rather than a specific policy challenge, along with the legal theory this chapter will engage with the literature of political economy. In the end, there is no policy or law which can be thought of apart from political economy, considering how politics, economics, and law are in fact entrenched.

4.1. Synopsis of the Thesis

So far, this paper has aimed to unfold the multifaceted gender bias that is engendered and/or aggravated via fiscal policies. In a nutshell, it is revealed that in terms of the taxation of income, the joint filing regime is found prone to give rise to gender bias by deterring women's entry into the labour market due to secondary earner bias. Feminization of poverty taken into account, it is enlightened that in terms of wages, women tend to earn less while they also own and/or control less capital when compared to men. In light of these, the importance of a progressive income tax scheme is highlighted, including taxation of capital, wages, and corporate income.

To complement the progressiveness of a tax scheme, it is also suggested to rely less on consumption taxes since they put a greater burden on women when compared to men. Instead, increasing tax compliance is proposed, especially for large multinational corporations that operate in various tax jurisdictions, which increase the tax avoidance and/or tax evasion risk.

Regarding tax fairness, while vertical equity is found necessary to enhance the redistributive function of the welfare state, horizontal equity appears as a more controversial issue. However, it is found that in order to ensure a gender-equitable tax policy both sides of the coin are crucial. Accordingly, even when comparing single mothers and two-income couples, it is seen that the main discussion is gathered around horizontal equity.

After portraying the governmental revenue collection, looking at the second pillar of fiscal policies to establish how to spend these revenues, gender-sensitive budgeting and different policy practices on gender impact assessment of budgeting were examined. It was revealed that while assessing the gendered impacts of budgets, it is important to monitor not only what is allocated to women but also what is allocated to other parties which may have conflicting interests with women on different levels from men to multinational corporations.

In order to achieve, or at least pave the way, for gender equity, fiscal policies should be designed to equally distribute the financial and time-wise cost of the care burden; not only between women and men but also across society from waged employees to multinational corporations (Edwards and Stewart, 2017, p.335). To address all kinds of policy alternatives, Ertürk (2004, pp.17-18) stresses the importance of admitting that any form of gender inequality does not arise from natural characteristics of women but rather from the unequal political, economic and social structures throughout time.

4.2. Women's Paradox and Fiscal Policies

In his brilliant opus, Dani Rodrik (2011) puts forward a trilemma and suggests that economic growth, globalization, and democracy cannot coexist. Is there a chance that this trilemma is valid in terms of women and fiscal policies? In a way, this chapter aims to review what is unfolding until that point by referring to how legal frameworks fiscal policies operate by using Rodrik's paradox as a departure point.

Starting with economic growth, the taxation for growth formula appears to be in line with pursuing feminist goals; especially considering the importance of revenue collection to fund social policies addressing women's needs. For instance, promoting women's entry into the labour market by individualizing the personal income tax to alleviate the secondary-earner bias is indeed in line with taxation for growth. However, we saw that this formula does not always benefit the underprivileged groups including women but rather it enlarges the gap between rich and poor. In other words, given the feminization of poverty, taxation for growth agenda promotes reliance on consumption taxes which puts a greater burden on women.

Furthermore, it is revealed that over time, in order to promote economic growth, the progressiveness of the tax systems is hindered by favouring capital over labour; and business over individual. On that account, a corporate social responsibility framework is proposed to curb tax avoidance and/or tax evasion in order to increase revenue; both on national and international levels (Mumford, 2010, pp.61-78). In light of the developing legal framework on businesses' human rights due diligence, ensuring corporations' tax compliance contributes to economic growth alongside increasing governmental revenues which can be allocated to women as well as other groups in need. This is also in line with the emerging sustainability concerns, which leaves the door open for further research on how gender, taxation and sustainability are interrelated to each other.

Considering how today's economic activities are globalized, globalization constitutes the second pillar to be examined. To ameliorate women's position in the globalized world, tax schemes like the Tobin tax are suggested by scholars (Çağatay, 2004, p.22; Mumford, 2010, pp.75-77). Although globalization can have distorting effects on gender equality of fiscal policies as seen in the Switzerland cash outflow case, it still has positive outcomes, too. For instance, as gender budgeting increases attractiveness and stability, it has been supported as part of the policies aiming to enhance international trade in developing countries (Mumford, 2010, p.51). Notwithstanding such political gain aroused after growth concerns rather than gender equity in the first place, the outcome is indeed strengthening women's status within the economic structure. Thereupon, a global authority for taxation is called for (Çağatay, 2004, p.22).

Given that both taxation and budgeting constitute two key aspects of state sovereignty, then how such a global mechanism could function remains a mystery, as is the case for many international organizations and the soft law framework they stipulate. Considering the absence of a such global authority today, I proposed to examine several international and/or supranational legal frameworks, *i.e.*, the European Union, and CEDAW, regarding their capacities to tackle gender bias and fiscal policies.

Looking at the European Union, scholars point out that it lacks the capacity to install gender-equitable fiscal policies. Yet it is noted that the European Commission has already initiated a discussion on altering the tax policy decision-making across the EU (Gunnarson and Spangenberg, 2019, p.146). From a similar point of view, the European Parliament's resolution on gender equality and taxation (2018/2095(INI)) stands for a significant policy effort. In the example of

menstrual taxes, for instance, the European Union has succeeded in paving the way for member states towards fair taxation for women with respect to fundamental rights by amending the European VAT Directive to allow menstrual products exemption from VAT, notwithstanding the belatedness of this development. European Court of Justice's case law, in turn, provides insights into the European notion of fair taxation for women by admitting that gender equality does not call for formal neutrality but substantive equality. In the *Molinari case*, gender-biased tax laws favouring women over men are found to conform with the Union law by revealing that the European concept of equal treatment does not apply to tax laws (Mumford, 2010, p.23), which is in accord with both principles of vertical and horizontal equity.

Regarding the CEDAW, several cases on gender equality and fiscal policies are seen. For instance, under the decisions of *2014 Blok v Netherlands*, and *2015 Canada Inquire*, it is emphasized that the state parties are bound to implement the Convention and introduce restorative policy changes to ensure gender equality in all fields from taxes and transfers to budgeting (Lahey, 2019, p.432). Notwithstanding these decisions, CEDAW's enforceability and effectiveness are still challenged. Englehart and Miller (2014, p.23-24), for instance, note that given that CEDAW sets ambitious goals, its enforcement remains weak since it is mainly based on the self-monitoring of states. They also emphasize that in terms of women's economic rights, CEDAW is less effective when compared to social rights. Notwithstanding that, O'Rourke (2018, p.29), who is more optimistic, states that the upward trend in the use of public inquiry procedures reflects the widening societal influence of the CEDAW.

From a different standpoint, especially in terms of developing states, this paper has revealed that the taxation for growth agenda which comes along with regressive taxation and reliance on consumption taxes is actually introduced by international organizations, namely IMF and World Bank. Global problems require global solutions; but when it comes to fiscal policies, sovereignty and legitimacy questions may arise. Calling these organizations 'top-down institutions of global governance', Tully, Dunoff, Lang, Kumm, & Wiener (2016, p.9) argue that this is nothing but capital limiting state sovereignty.

That being said, democracy appears as the third and final piece of the puzzle. Revisiting the equal citizenship of T.H. Marshall, women are referred to as the least represented social group in Western politics (Morrissey, 2017, p.42); which suggests that women should enjoy equal and equitable

democracy with men. If today's democracy remains incomplete since states no longer enjoy their monopoly position over governance (Walker, 2010), how can we ensure that fiscal policies do not harness women to enjoy equal citizenship?

Lahey (2019, p.435) proposes that one reason for heavy reliance on indirect taxes rather than income taxes can be the economic and political power of wealthy taxpayers, which is called 'representation with regressive taxation' by Kato and Tanaka (2014, p.3). This suggests that we should perhaps examine women's political representation in order to grasp the democracy pillar of this trilemma. Accordingly, 'no taxation without representation' is an old expression which found itself a place within almost all democratization movements within the last millennium, from the Magna Carta to the French Revolution (Kato & Tanaka, 2014). Women's political representation, on the other hand, has been subject to long debates, *e.g.*, the case of women suffragists in the United States.

Looking at the global data on women's political representation, as of January 2023, while only 23 countries around the world have succeeded in achieving the 40% threshold, in only six of them the majority in the parliament are women (Inter-Parliamentary Union, 2023). However, the World Bank data puts forward that, as of 2022, 49.7% of the world population are women (World Bank, 2022). Then why half of the population is not represented within the parliaments? Jones (1997, p.364) states that different groups framing the fiscal legislation have different access to legislative power. This combined with women's minority position (Thomas, 1996) and feminization of poverty as well as the high financial burden of running for electoral seats, results in women being left out of the public and political sphere once again, as Philips (1998, p.5) suggested.

Women's political representation and its legitimizing effects are also brought into discussion before judiciary powers. The Colombian Constitutional Court, for instance, rules that if women were adequately represented, then we could have said that menstrual taxes are legitimate since then women would have consented to these taxes (Colombian Constitutional Court Decision C-117, 2018). Yet political representation shall not be limited to women's access to the political sphere. On the contrary, given the gender gap in political representation, further political efforts are required. For instance, in France, both legislative and executive powers are entitled to call for budgetary gender impact assessments (OECD, 2022); which increases the visibility of women and gender equality, in general.

4.3. Conclusion

In the search for what makes a fiscal policy fair for women, this paper aimed to analyse different aspects of fiscal policies. Various policy responses from the world were inspected in order to provide a comprehensive examination on multiple levels. These findings on the fairness and fiscal policies regarding women were complemented with a broader analysis by looking through the lenses of economic growth, globalization and democracy.

Given how all these macro dimensions are embedded in each other, this paper reveals that this embeddedness actually can benefit all aspects. Although the agenda of taxation for growth is prone to aggravate the existing gender bias, it is also in line with pro-women goals considering its efforts to include women in the formal economy by promoting their inclusion in the paid labour market. In order to ensure the revenue collection and redistributive effect of the fiscal system in general, ensuring large corporations' tax compliance is found necessary, and the emerging corporate social responsibility framework is suggested to establish that. Indeed, this also complies with the sustainability goals, which actually opens the door for further research to achieve a sustainable fiscal policy which respects gender equality.

Furthermore, scholars called for a global tax authority. In light of the globalization of economic activities as well as the regulatory authorities, existing international frameworks and their capacities were examined. Even though both CEDAW and EU still have a long way to go, they were both found beneficial to achieve further policy goals.

Finally, with regard to the enjoyment of equal citizenship, women's lack of political representation appears to be crucial in order to secure the legitimacy of taxes. Reminding the famous principle of no taxation without representation, the best possible (and most democratic) way to ensure that women are subject to fair fiscal policies is by ensuring women's participation in the legislative processes. Yet promoting women's political participation requires further policy efforts.

REFERENCES

a. Primary Sources

1. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
2. Colombian Constitutional Court Decision C-117 of 2018. (2018).
<https://www.corteconstitucional.gov.co/relatoria/2018/C-117-18.htm>
3. Colombia Constitutional Court (2003). Constitutional Review Judgment C-776-03, per Espinosa, J., paras. 4.5.6 and 4.5.3.2.1. Available at www.corteconstitucional.gov.co/relatoria/2003/C-776-03.htm
4. Council Directive (EU) 2022/542 of 5 April 2022 amending Directives 2006/112/EC and (EU) 2020/285 as regards rates of value-added tax
5. European Parliament resolution of 15 January 2019 on gender equality and taxation policies in the EU (2018/2095(INI)) Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52019IP0014&rid=4>
6. *Jones v Garnett* (2007) UKHL 35.
7. *Lucas v. Earl*. (1930) 281 US 111 (US).
8. Molinari et al. v. Agenzia delle Entrate, European Court of Justice Joined Cases C-128/07 to C-131/07
9. *Poe v. Seaborn*. (1930) 282 US 101 (US).
10. Treaty of the European Union, Article 2, 3.
11. Treaty on the Functioning of the European Union, Article 311.

b. Secondary Sources

1. Akgun, O., B. Cournède and J. Fournier (2017), "The effects of the tax mix on inequality and growth", *OECD Economics Department Working Papers*, No. 1447, OECD Publishing, Paris, <https://doi.org/10.1787/c57eaa14-en>.
2. Alliance Sud, Berne Declaration, Center for Economic and Social Rights, the Global Justice Clinic at New York University School of Law, and the Tax Justice Network. (2016). 'Swiss

- Responsibility for the Extraterritorial Impacts of Tax Abuse on Women's Rights'. (Submission to the Committee on the Elimination of Discrimination against Women 65th Pre-Sessional Working Group Geneva, March 7–11, 2016). Retrieved from <http://www.cesr.org/downloads/Switzerland CEDAW Submission TaxFinance 1mar2016.pdf>.
3. Alstott, A. L. (1996). Tax Policy and Feminism: Competing Goals and Institutional Choices. *Columbia Law Review*, 96(8), 2001–2082.
 4. Argirò, L., M. Harding and J. Jarrige (2023), "Tax systems and gender", in *Joining Forces for Gender Equality: What is Holding us Back?*, OECD Publishing, Paris, <https://doi.org/10.1787/e36238c4-en>.
 5. Aydoğuş, D. (2023). *Gender Equality and Taxation: A Critical Analysis of Turkish Tax Policy*. (10580195). Master's thesis, Bogazici University. *Forthcoming*.
 6. Bankman, J., & Griffith, T. (1987). Social welfare and the rate structure: a new look at progressive taxation. *Calif. L. Rev.*, 75, 1905.
 7. Barbosa, I. (2019) Taxes, Development, and Human Rights: Reflections from Colombia, O'Neill Institute for National and Global Health Law Georgetown University Law Center, <https://oneill.law.georgetown.edu/taxes-development-and-human-rights-reflections-from-colombia/>
 8. Barnett, K. & Grown, C. (2004). "Gender Impacts of Taxation: A Review of the Literature". Gender Impacts of Government Revenue Collection: The Case of Taxation, Commonwealth Secretariat, 26-49.
 9. Beauvoir, S. d. (1949). *The Second Sex*. Paris: Gallimard.
 10. Betz, T., Fortunato, D., & O'Brien, D. (2021). Women's Descriptive Representation and Gendered Import Tax Discrimination. *American Political Science Review*, 115(1), 307-315.
 11. Bhushan, P., & Medury, Y. (2013). Gender differences in investment behaviour among employees. *Asian Journal of Research in Business Economics and Management*, 3(12), 147-157.
 12. Budlender, D., Sharp, R., & Allen, K. (1998). *How to do a gender-sensitive budget analysis: Contemporary research and practice*. Commonwealth Secretariat.

13. Buettner, T., Hechtner, F., & Madzharova, B. (2023). Taxes and Gender Equality: The Incidence of the 'Tampon Tax'.
14. Butler J. (1993). *Bodies That Matter*. London: Routledge.
15. Cass, B., & Brennan, D. (2003). Taxing Women: The politics of gender in the tax/transfer system. *eJournal of Tax Research*, 1(1), 37-63.
16. Cedro, M., Kristoffersson, E., Aricha, T. P., & Živković, L. (2023). Gender Equitable Taxation. In *Gender-Competent Legal Education*, 375-404.
17. Chen, S. C. (2022). Discourses in the Tampon Tax Campaign. *AnALize: Revista de studii feministe*, (17 (31)), 114-130.
18. Christl, M., De Poli, S., & Ivaškaitė-Tamošiūnė, V. (2022). *The lock-in effect of marriage: Work incentives after saying, "Yes, I do."* (No. 1142). GLO Discussion Paper. <https://doi.org/10.3390/socsci11110493>
19. Ciccia, R., & Bleijenbergh, I. (2014). After the male breadwinner model? Childcare services and the division of labour in European countries. *Social Politics*, 21(1), 50-79.
20. Coelho, M., Davis, A., Klemm, A. & Osorio-Buitron, C. (2022). Gendered Taxes: The Interaction of Tax Policy with Gender Equality, IMF Working Paper No. 22/26.
21. Crawford, B. J., & Spivack, C. (2017). Tampon taxes, discrimination, and human rights. *Wis. L. REv.*, 491.
22. Crawford, B. J., & Spivack, C. (2017). Human rights and taxation of menstrual hygiene products in an unequal world. *Tax, Inequality, and Human Rights* (Philip G. Alston and Nikki Reisch eds., Oxford University Press 2019).
23. Crawford, B. J. (2023). Pink tax and other tropes. *Yale Journal of Law and Feminism*, 34(1), 88-175.
24. Çağatay, N. (2003). Gender budgets and beyond: feminist fiscal policy in the context of globalisation. *Gender & Development*, 11(1), 15-24.
25. Doorley, K., Keane, C. (2023). Tax-benefit systems and the gender gap in income. *Journal of Economic Inequality*. <https://doi.org/10.1007/s10888-023-09594-6>

26. Downes, R., & Nicol, S. (2020). Designing and implementing gender budgeting—a path to action. *OECD Journal on Budgeting*, 20(2).
27. Downes, R., Von Trapp, L., & Nicol, S. (2017). Gender budgeting in OECD countries. *OECD Journal on Budgeting*, 16(3), 71-107.
28. Duff, D. G. (2008). *Tax Fairness and the Tax Mix*. Oxford: The Foundation for Law, Justice and Society.
29. Duncan, D., & Sabirianova Peter, K. (2016). Unequal inequalities: Do progressive taxes reduce income inequality?. *International Tax and Public Finance*, 23, 762-783.
30. Edwards, M., & Stewart, M. (2017). Pathways and processes towards a gender equality policy. In *Tax, Social Policy, and Gender: Rethinking Equality and Efficiency*, 325-348. ANU Press. <http://www.jstor.org/stable/j.ctt1zgwj9q>
31. Elkins, D. (2006). Horizontal equity as a principle of tax theory. *Yale Law & Policy Review*, 24, 43-91.
32. Elson, D. (2006). *Budgeting for Women's Rights: Monitoring Governance Budgets for Compliance with Cedaw*. New York: UNIFEM.
33. Elson, D., & Sharp, R. (2010). *Gender-responsive budgeting and women's poverty* (pp. 522-527). London: Edward Elgar.
34. Englehart, N. A., & Miller, M. K. (2014). The CEDAW effect: international law's impact on women's rights. *Journal of Human Rights*, 13(1), 22-47.
35. Ertürk, Y. (2004). Considering the role of men in gender agenda setting: Conceptual and policy issues. *Feminist Review*, 78(1), 3-21.
36. Esping-Andersen, G. (2009). *The Incomplete Revolution: Adapting to Women's New Roles*, Cambridge, UK: Polity Press, Introduction.
37. Fallan, L. (1999). Gender, exposure to tax knowledge, and attitudes towards taxation; an experimental approach. *Journal of Business Ethics*, 18, 173-184.
38. Febrian, Y. B., & Islami, I. N. (2020). Gender, trust, and tax compliance: the mediating effect of fairness perception. *JAAF (Journal of Applied Accounting and Finance)*, 4(2), 131-145.

39. Figari, F., Immervoll, H., Levy, H., & Sutherland, H. (2007). Inequalities within couples: market incomes and the role of taxes and benefits in Europe. EUROMOD Working Paper, No. EM6/07, University of Essex, Institute for Social and Economic Research (ISER).
40. Fraser, N. (1989). *Unruly practices: Power, discourse, and gender in contemporary social theory*. U of Minnesota Press.
41. Fredman, S. and Goldblatt, B. (2015). Gender Equality and Human Rights, Discussion Paper (4). New York: UN Women. Available at: www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2015/goldblattfin.pdf?vs=1627
42. Fredman, S. (2019). Taxation as a human rights issue. in Philip G. Alston, and Nikki R. Reisch (eds), *Tax, Inequality, and Human Rights*. <https://doi.org/10.1093/oso/9780190882228.003.0004>
43. Galizzi, G. (2010). The formulation of gender sensitive budgets: Integrating gender into the balanced scorecard. *Economia Aziendale Online*, 1(3), 335-343.
44. Gaines, B. J. (2017). Flat Is Fair: American Public Opinion on Taxes and the Myth of Egalitarianism. *The Independent Review*, 22(1), 93–104. <http://www.jstor.org/stable/26314759>
45. Grown, C. (2010). Taxation and gender equality. *Taxation and Gender Equity: A comparative analysis of direct and indirect taxes in developing and developed countries*. 1-22.
46. Gunnarsson, Å. (2011). Challenging the Benchmarks in Tax Law Theories and Policies from a Gender Perspective—The Swedish Case. *Challenging Gender Inequality in Tax Policy Making: Comparative Perspectives*, 75-92.
47. Gunnarsson, Å. (2017). Taxing for equality: a re-emerging tax policy trend in Europe. *FairTax policy brief* (1).
48. Gunnarsson, Å., & Lind, Y. (2023). Swedish (Tax) Constitutionalism. Through the Lens of Equality and Fairness. *Review of International and European Economic Law*, 2(3).
49. Gunnarsson, Å., Spangenberg, U. (2019). Gender Equality and Taxation Policies in the EU. *Intereconomics*, 54, 141–146. <https://doi.org/10.1007/s10272-019-0812-5>
50. Haddad, L. Hoddinott, J. & Alderman, H. (1997). *IntraHousehold Resource Allocation in Developing Countries*, Baltimore, MD: Johns Hopkins University Press.

51. Hasseldine, J., & Hite, P. A. (2003). Framing, gender and tax compliance. *Journal of Economic Psychology*, 24(4), 517-533.
52. Hofbauer, H. (2002). Gender-Sensitive Budget Analysis: A Tool to Promote Women's Rights. *Canada Journal of Women & Law*, 14, 98.
53. ILO. (2022, February). *Info Stories: The gender gap in employment: What's holding women back?* ILO website: <https://www.ilo.org/infostories/en-GB/Stories/Employment/barriers-women#intro>
54. IMF (2012). Fiscal Policy and Employment in Advanced and Emerging Economies.
55. *Income inequality: Gini coefficient before and after tax, 2019*. (2023). Retrieved from OurWorldInData: <https://ourworldindata.org/grapher/gini-coefficient-after-vs-before-tax-wid-scatter>
56. Infanti, A. C. (2008). Tax equity. *Buffalo Law Review*, 55, 1191-1260.
57. Inter-Parliamentary Union. (2023). *Women in national parliaments as of 1 January, 2023*. <https://data.ipu.org/women-ranking?month=1&year=2023> (Accessed on 16.12.2023)
58. Itriago, D. (2011). Progressive Taxation Towards fair tax policies. Oxfam Research Report.
59. Jacobsen, K. A. (2017). Rolling back the pink tax: Dim prospects for eliminating gender-based price discrimination in the sale of consumer goods and services. *Cal. WL Rev.*, 54, 241.
60. James, K. (2022) Removal of the Tampon Tax: A Costless or Pyrrhic Victory?, *Australian Feminist Law Journal*, 48(2), 193-220. <https://doi.org/10.1080/13200968.2022.2138189>
61. Jaumotte, F. (2003). Female Labor Force Participation: Past Trend and Main Determinants in OECD Countries. OECD Economics Department Working Paper Series, 376.
62. Joshi, A., Kangave, J., & van den Boogaard, V. (2020). Gender and tax policies in the global south.
63. Journey, S., Rupert, T., & Wartick, M. (2017). Generational differences in perceptions of tax fairness and attitudes towards compliance. In *Advances in Taxation* (pp. 163-197). Emerald Publishing Limited.
64. Kastlunger, B., Dressler, S. G., Kirchler, E., Mittone, L., & Voracek, M. (2010). Sex differences in tax compliance: Differentiating between demographic sex, gender-role orientation, and prenatal masculinization (2D: 4D). *Journal of economic psychology*, 31(4), 542-552.

65. Kato, J. & Tanaka, S. (2014). Representation with Regressive Taxation: State Revenue Production and Democratization Revisited. Conference paper: 2014 American Political Science Association Annual Meeting. DOI:10.13140/2.1.3646.7849
66. Kaufman, S. M., Polack, C., & Campbell, G. (2018). The pink tax on transportation.
67. Kinn, K., & Wohak, U. (2022, April). Taxation of menstrual hygiene products: evaluating reforms within the European Union. In *Momentum kongress web site*: https://www.momentum-kongress.org/system/files/congress_files/2022/momentum_kinnl.pdf
68. Lahey, K. (2018). Gender, taxation and equality in developing countries: Issues and policy recommendations. *UN Women*.
69. Lafferty, M. (2019). The pink tax: the persistence of gender price disparity. *Midwest Journal of Undergraduate Research*, 11(2019), 56-72.
70. LaLumia, S. (2008). The effects of joint taxation of married couples on labor supply and non-wage income. *Journal of Public Economics*, 92(7), 1698-1719.
71. Livingston, M. A. (2000). Blum and Kalven at 50: Progressive Taxation," Globalization," and the New Millennium. *Florida Tax Review*, 4, 731-768.
72. Masso, M., Leppik, C., Paulus, A., & Piirits, M. (2017). EUROMOD Country Report. Estonia (EE) 2014-2017.
73. McKeen, W. (1999). Vertical Equity versus Women's Autonomy: The Politics of Feminism in Canadian Income Security Policy in the 1970s. *Canadian Review of Social Policy*, 43, 77–99. <http://www.jstor.org/stable/45407649>
74. Moffatt, M. (2021). The 'tampon tax' is gone, but the 'tampon tariff' lives on. *Macleans.ca*, <https://www.macleans.ca/economy/economicanalysis/the-tampon-tax-is-gone-but-the-tampon-tariff-lives-on/>
75. Morrissey, S. (2017). Implicit Gender Bias in GST Systems. *New Zealand Journal of Taxation Law and Policy*, 23, 37-48.
76. Mumford, A. (2010). *Tax policy, women and the law: UK and comparative perspectives*. Cambridge University Press.

77. Musgrave, R. and Musgrave, P. (1989). *Public Finance in Theory and Practice*, New York: McGraw-Hill.
78. Nelson, J. (1996) 'Feminist theory and the income tax'. In *Feminism, Objectivity, and Economics*. New York: Routledge.
79. OECD (2022), *Tax Policy and Gender Equality: A Stocktake of Country Approaches*, OECD Publishing, Paris, <https://doi.org/10.1787/b8177aea-en>
80. OECD (2023a). *SIGI 2023 Global Report: Gender Equality in Times of Crisis, Social Institutions and Gender Index*, OECD Publishing.
81. OECD (2023b), Gender wage gap (indicator). DOI: 10.1787/7cee77aa-en (Accessed on 09 December 2023)
82. Ordower, H. (2005). Horizontal and vertical equity in taxation as constitutional principles: Germany and the United States contrasted. *Florida Tax Review*, 7, 259.
83. O'Rourke, C. (2018). Bridging the Enforcement Gap-Evaluating the Inquiry Procedure of the Cedaw Optional Protocol. *Am. UJ Gender Soc. Pol'y & L.*, 27, 1-30.
84. Palmer, I. (1995). Public finance from a gender perspective. *World Development*, 23(11), 1981-1986.
85. Phillips, A. (1998). 'Introduction'. In *Feminism and politics*. OUP Oxford. pp.1-20.
86. Piketty, T. (2014). *Capital in the 21st Century*, Cambridge, Mass: The Belknap Press of Harvard University Press.
87. Polanyi K. (1944). *The great transformation*. Farrar & Rinehart.
88. Rodrik, D. (2011). *The globalization paradox: Democracy and the future of the world economy*. WW Norton & Company. New York.
89. Rubin, M. M., & Bartle, J. R. (2023). Gender-responsive budgeting: a budget reform to address gender inequity. *Public Administration*, 101(2), 391-405.
90. Smith, A. (1776). *An Inquiry into the Nature and Causes of the Wealth of Nations*, Indianapolis: Liberty Classics.

91. Steele, L., & Goldblatt, B. (2020). Engaging with Law's Menstrual Moment. *Australian Feminist Law Journal*, 46(1), 83-113.
92. Stotsky, J. G. (1997). How tax systems treat men and women differently, *Finance and Development*, March, 30–33.
93. Stotsky, J. G. (2006). Gender Budgeting, *IMF Working Papers*, 2006(232), A001. Retrieved Dec 13, 2023, from <https://doi.org/10.5089/9781451864922.001.A001>
94. Stotsky, J. G. (2016). *Gender budgeting: Fiscal context and current outcomes*. International Monetary Fund.
95. Swedish Ministry of Employment. (2021). *BUDGe for gender equality - A Swedish tool for gender budgeting*. Regeringskansliet. <https://www.government.se/information-material/2021/12/budge-for-gender--equality/>
96. The Office of the High Commissioner for Human Rights. (2023). <https://indicators.ohchr.org/> (Accessed on 03.12.2023)
97. Thomas, S. (1996). Why Gender Matters, *Women & Politics*, 17(1), 27-53. DOI: [10.1300/J014v17n01_02](https://doi.org/10.1300/J014v17n01_02)
98. Tull, K. (2019). Period poverty impact on the economic empowerment of women. K4D Helpdesk Report 536. Brighton, UK: Institute of Development Studies.
99. Tully, J., Dunoff, J., Lang, A., Kumm, M., & Wiener, A. (2016). Introducing global integral constitutionalism. *Global Constitutionalism*, 5(1), 1-15.
100. Varela, P. (2016). What are progressive and regressive taxes. *Tax and Transfer Policy Institute*.
101. Von Gleichen, R. D., & Seeleib-Kaiser, M. (2018). Family policies and the weakening of the male breadwinner model. *Handbook on gender and social policy*, 153-178.
102. Walby, S. (2005). Gender mainstreaming: Productive tensions in theory and practice. *Social Politics: International Studies in Gender, State & Society*, 12(3), 321-343.
103. Walker, N. (2010) Constitutionalism and the Incompleteness of Democracy: An Iterative Relationship. University of Edinburgh School of Law Working Paper No. 2010/25
104. Weisbach, D. A., & Nussim, J. (2003). The integration of tax and spending programs. *Yale Law Journal*, 113, 955-1033.

105. Wersig, M. (2006). Legal and social dimensions of the male-breadwinner model in Germany.
106. WHO statement on menstrual health and rights. (2022, June 22).
<https://www.who.int/news/item/22-06-2022-who-statement-on-menstrual-health-and-rights>
107. Williams, F. (2018). Intersectionality, gender and social policy. *Handbook on gender and social policy*, 37-54.
108. Woolard, I., Metz, R., Inchauste, G., Lustig, N., Maboshe, M., & Purfield, C. (2015). How much is inequality reduced by progressive taxation and government spending. *Econ 3x3*.
109. World Bank. (2022). Population, female (% of total population). Retrieved from:
<https://data.worldbank.org/indicator/SP.POP.TOTL.FE.ZS> (Accessed on 16.12.2023)
110. Young, C. F. (1995). (In) Visible Inequalities: Women, Tax and Poverty. *Ottawa Law Review*, 27, 99-127.