

# Gender Equality and Taxation from the Rwandan Perspective

By Pie Habimana\*

## Abstract

Gender equality has attracted the attention of scholars and politicians around the world. The interest in writing about gender equality and taxation in Rwanda stems from the fact that Rwanda is seen as a country that is progressive in protecting and promoting women's rights based on the principle of gender equality. Although it is at the centre of debates worldwide, there are few academic analyses that link the principle of gender equality to taxation. This shortcoming is particularly true for developing countries, of which Rwanda is one. This paper therefore identifies the explicit and implicit gender biases in the Rwandan tax system. In doing so, it shows that Rwanda, like other modern and democratic states, has taken an important step towards eliminating explicit tax gender discrimination. However, it also highlights some grey areas that need to be addressed in order for Rwanda to remain free from implicit gender-based tax biases.

**Key words:** Gender, Equality, Taxation, Rwanda

## A. Introduction

Gender equality is an issue that attracts the attention of scholars and politicians. In recent years, gender equality has been at the centre of debate,<sup>1</sup> and meetings, forums, workshops, seminars, discussions, etc. are held daily in all parts of the world to discuss gender equality issues. Scholars have also been working intensively on gender equality and have written several academic papers on gender equality.

Studies on gender equality cross cut different areas of study. Gender equality is studied from economic, political, social, legal, etc. perspectives, to name a few. From a legal perspective, there is a variety of studies on gender equality. Examples include gender equality in the context of human rights, criminal law, international law, family law, tax law, etc.

As far as tax law is concerned, it is acceptable that analysing taxation from a gender perspective is not an easy task.<sup>2</sup> Nevertheless, there is a growing research literature on

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1 D Vujadinović, M Fröhlich and T Giegerich, *Gender-Competent Legal Education* (Springer, 2023), p. 394.

2 K Barnett and C Grown, “Gender Impacts of government Revenue Collection: The Case of Taxation”, *Commonwealth Secretariat* (2004), p. 7.

the gender equality aspects of taxation. Researchers have so far established a strong link between gender equality and taxation. Scholars have also noted the importance of taxation for gender equality. However, there has been limited research to date on gender equality and taxation in the context of Rwanda. This is the focus of this paper, which examines the aspects of gender equality in the context of taxation from a Rwandan perspective.

The inspiration for this paper came from different theoretical and practical evidence-based considerations. Rwanda has a global reputation for being at the forefront of gender equality. This reputation is based on several factors. Using figures, as of 2023, Rwanda ranks first in having a high percentage of women in the national parliament of 61.25 %, which is far above the current global average of 26.4 %. In the cabinet, there are 15 female ministers and state ministers of state compared to 18 male ministers and ministers of state, which makes a percentage of 45.45 % female ministers and ministers of state.<sup>3</sup> The current Speaker of the Parliament Chamber of Deputies is a woman, the Vice-President of the Senate is also a woman, and Rwanda had a woman Chief Justice between 2003 and 2011. In the private sector, it pleases to note that six out of twelve chief executive officers (CEOs) of commercial banks in Rwanda are women. All these figures demonstrate the extent to which gender equality is practically implemented in Rwanda.

From a legal perspective, the Rwandan legal system largely supports gender equality. As discussed in section 2.1, Rwanda has ratified several international conventions on gender equality to date. Domestically, the Rwandan legal arsenal contains several legal instruments aimed at promoting gender equality, as also described in section 2.1. Rwanda has also established several institutions whose mandate is to protect and promote gender equality, such as the Ministry of Gender and Family Promotion, the Gender Monitoring Office (GMO), etc. All this proves that Rwanda is exemplary in terms of gender equality.

Based on this inspiration, this paper analyses to what extent this gender-equality perspective is also taken into account in tax issues. Indeed, taxes have a great impact on the lives of nations and individuals. Not taking gender into account in taxation would therefore largely contradict other gender considerations. Not only that, just as gender equality matters to humanity, tax equality matters to humanity, both at the individual and national levels.

In this paper, therefore, I discuss the two important issues for humanity. I do so by linking gender equality to taxation, focusing on Rwandan law. My aim is to show how Rwandan tax law takes gender equality into account. The main objective is to prove whether Rwandan tax law is in line with the general trend in Rwanda to support gender equality or whether there is a discrepancy.

This paper is qualitative and is based on a desk review of existing laws and other relevant documents. This paper is both scientifically and socially relevant. The scientific relevance is based on the role that legal scholarship plays in strengthening nations through

3 Republic of Rwanda, “Government” available at <https://www.gov.rw/cabinet> (accessed 18/07/2023).

law and development.<sup>4</sup> In this regard, legal scholarship is helpful in building a better legal infrastructure that can improve the economic prosperity of a country.<sup>5</sup> The findings of this paper will therefore contribute to academic growth and scholarly discussion on gender equality and taxation. The societal relevance of this paper stems from its contribution to policy making. Indeed, the discussions in this paper can help policy makers and other relevant stakeholders understand the link between gender equality and taxation, especially in the Rwandan context.

This paper is divided into six sections. The current section introduces the paper by setting the scene and giving an orientation of the content of this paper. The second section provides an overview of the legal and institutional framework of gender equality in Rwanda. Based on the literature review, I discuss the relationship between gender equality and taxation in the third section. In the fourth section, I examine the presence of gender in the Rwandan tax system. In the fifth section, I commend the consideration of gender equality in the Rwandan tax system, but also identify areas for improvement. In the sixth section, I draw a conclusion with recommendations.

## **B. Legal and institutional framework of gender equality in Rwanda**

The Rwandan legal arsenal contains several legal instruments on gender equality. Various institutions and bodies are entrusted with the implementation of these legal instruments. This section provides a brief overview of the legal and institutional framework for gender equality in Rwanda.

### *I. Legal framework for gender equality in Rwanda*

The Rwandan legal system is built upon several legal instruments. The principle of gender equality is enshrined in several legal instruments. In accordance with the principle of hierarchy of laws enshrined in article 95 of the Constitution,<sup>6</sup> the supreme legal instrument in Rwanda is the Constitution, followed by organic laws, international treaties and agreements ratified by Rwanda, ordinary laws, and orders.

The current Constitution was adopted in 2003 and revised in 2015 and 2023. Article 15 of the Constitution proclaims the principle of equality before the law, including gender equality. This article reads as follows: “*All human beings are equal before the law. They enjoy equal protection of the law*”. This article is followed by article 16, which not only

4 P Habimana, *Harmful Tax Competition in the East African Community: The Case of Rwanda with Reference to EU and OECD Approaches* (IBFD Publication, 2023), p. 25.

5 R A Posner, “Creating a Legal Framework for Economic Development” p. 1 and 3 (1 Feb. 1998), available at <https://pdfs.semanticscholar.org/d859/07211bdfc039662f1d2f3d3803f69b38beaf.pdf> (accessed 20/07/2023).

6 The Constitution of the Republic of Rwanda of 2003 as revised to date, *O.G.* No. Special of 04/08/2023.

emphasises the principle of equality, but also prohibits any form of discrimination. This article states that “*All Rwandans are born and remain equal in rights and freedoms. Any form of or propaganda for discrimination, including on the basis of ethnicity, family or descent, clan, skin colour, sex, region, social status, religion or belief, opinion, wealth, cultural differences, language, economic status, physical or mental disability or any other form of discrimination are prohibited and punishable by law*”.

Other constitutional provisions emphasising the principle of gender equality can be found in the preamble itself, which sets out the commitment to build a State governed by the rule of law, based on respect for human rights, freedom and the principle of equality of all Rwandans before the law, as well as equality between men and women.<sup>7</sup> This commitment is also reiterated in article 10 of the Constitution, which proclaims the fundamental principles of the Constitution. According to this article, the State of Rwanda is committed to upholding and ensure compliance with the fundamental principles proclaimed in article 10. These fundamental principles include the principle of “*building a State governed by the rule of law, a pluralistic democratic Government, equality of all Rwandans and between men and women, which is affirmed by women occupying at least thirty percent (30%) of positions in decision-making organs*”. In terms of gender equality, it is commendable that Rwanda has not only enshrined the principle of gender equality, but has also set the indicator that at least 30 % of positions in decision-making bodies must be held by women.<sup>8</sup>

To ensure compliance with this commitment to gender equality, paragraph seven of article 80 of the Constitution explicitly mentions that at least 30 % of elected and appointed senators must be women. The same applies to paragraph three of article 75 on the composition of the Chamber of Deputies, which also requires 30 % women. It is worth noting that the percentage of women in the Chamber of Deputies is currently 61.25 % and 36 % in the Senate,<sup>9</sup> which are above the 30 % threshold. They are as well above the current global average of 26.4 %.<sup>10</sup>

The Constitution re-emphasises the principle of gender equality in paragraph two of article 2. This article concerns the right to vote and proclaims that all Rwandans, both men and women alike, who meet the legal requirements have the right to vote and be elected. Rwandan constitutional law also requires political organisations to take into account not only Rwandan unity but also gender equality and complementarity in the recruitment of members, leadership and general functioning and activities.<sup>11</sup> In addition, some bodies that enforce gender equality are enshrined in the Constitution. This is the case, for example, of

7 Constitution, Preamble, Para. 5.

8 Constitution, art. 10(1)(d).

9 Parliament, “Women Representation” available at <https://www.parliament.gov.rw/women-representation> (accessed 18/07/2023).

10 Inter-Parliamentary Union, “How Did Rwanda Become No. 1 for Gender Equality?”, 11/10/2022 available at <https://www.ipu.org/news/voices/2022-10/how-did-rwanda-become-no1-gender-equality> (accessed 18/07/2023).

11 Constitution, art. 56(1).

the Gender Monitoring Office, which is established in article 140(1)(b)(iii) of the Constitution, and the National Women Council which is established in article 140(1)(c)(i) of the Constitution. The details of these organs, among others, are discussed in the next section.

According to the hierarchy of legal norms set out in article 95 of the Constitution, organic laws come below the Constitution. There are several organic laws in Rwandan law, some of which provide for the principle of gender equality. For example, Organic Law No. 002/2022 of 12/12/2022 on Public Finance Management<sup>12</sup> introduces gender-responsive budgeting by requiring the public sector to adhere to the basic principles of public finance management including gender equality and social inclusion in public finance management, which requires the promotion of gender equality and the participation of all people in society in public finance management.

The international conventions ratified by Rwanda rank third in the superiority of legal norms. In terms of gender equality, Rwanda is party to several international conventions and treaties on gender equality. These include, for example, the International Convention on the Elimination of All Forms of Discrimination against Women;<sup>13</sup> the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;<sup>14</sup> the International Labour Convention No. 100 on Equal Remuneration for Work of Equal Value for Men and Women;<sup>15</sup> the International Convention on Women's Political Rights;<sup>16</sup> the Protocol Additional to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;<sup>17</sup> the Additional Protocol to the United Nations Convention against Transnational Organised Crime to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children;<sup>18</sup> etc.

The principle of gender equality is also found in several other legal instruments such as Law No. 003/2016 of 30/03/2016 establishing and regulating maternity leave benefits.<sup>19</sup> This law guarantees security for women's employment and for the protection of the child. Another example is Law No. 51/2007 of 20/09/2007 which establishes the responsibilities, organisation and functioning of the Gender Monitoring Office in Rwanda whose article

12 In *O.G.* No. 50 of 12/12/2022.

13 Adopted in New York on 18/12/1979, ratified by the Presidential Order No. 431/16 of 10/11/1980, *O.G.* No. 4 of 15/02/1981, p. 132.

14 Adopted in New York on 06/10/1999, ratified by the Presidential Order No. 34/01 of 14/07/2009, *O.G.* No. 35 of 31/08/2009, p. 5.

15 Adopted on 29/06/1951 in the 34th session of the ILO, ratified by the Presidential Order No. 350/06 of 10/10/1980, *O.G.* No. 21 of 01/11/1980, p. 695.

16 Adopted in New York on 31/03/1953, ratified by the Presidential order No. 160/01 of 31/12/2022, *O.G.* No. 12 her. of 15/06/2003, p. 25.

17 Adopted in Maputo on 11/07/2003, ratified by the Presidential Order No. 11/01 of 24/06/2004, *O.G.* No. Special of 24/06/2004, p. 19.

18 Adopted in New York on 15/11/2000, ratified by the Presidential Order No. 163/01 of 31/12/2002, *O.G.* No. 12 her. of 15/06/2003, p. 28.

19 In *O.G.* No. Special of 20/04/2016.

2 defines gender equality as “a situation in which women and men fully enjoy the same opportunities in fulfilling their human rights and utilizing their potential, and gain access to equal participation in all developmental activities from a political, economic, social and cultural perspective, and benefit equally from related results”.

Other laws that guarantee the principle of gender equality include Law No. 27/2021 of 10/06/2021 on Land.<sup>20</sup> This law guarantees equal rights to men and women in terms of access, ownership and use of land. There is also Law No. 32/2016 of 28/08/2016 on Persons and Family.<sup>21</sup> This law contains several provisions that guarantee equal rights and obligations for men and women. This Law on Persons and Family is closely related to Law No. 27/2016 of 08/07/2016, which regulates matrimonial regimes, donations and successions.<sup>22</sup> This law also provides for equal treatment of men and women with regard to succession and recognizes the right of succession of the surviving spouse without any discrimination.

Another example is Law No. 66/2018 of 30/08/2018 regulating labour.<sup>23</sup> This law not only provides for equality between men and women in employment, but also guarantees equal pay for men and women who perform similar work. In addition, this law guarantees a woman who gives birth during a three-month maternity leave full pay and one hour of breastfeeding time per day for one year. The law also regulates working conditions for pregnant and breastfeeding women and prohibits any form of sexual harassment in the workplace. Law No. 68/2018 of 30/08/2018 establishing criminal offences and penalties in general<sup>24</sup> is also gender-sensitive. It punishes physical and sexual violence between spouses, concubinage, bigamy, involvement in forced cohabitation, sexual harassment, including between spouses, fraudulent use of family property, denial of freedom to engage in family planning, etc. Prime Minister's Order No. 001/03 of 11/01/2012 sets out the modalities by which government institutions prevent and respond to gender-based violence.<sup>25</sup> In this way, this Order obliges all government institutions to prevent, respond to and report on gender-based violence.

The above are only examples and it would be utopian to pretend exhausting all legal instruments on gender equality in Rwandan law. These instruments are implemented by different institutions, which is the subject of the next section.

20 In *O.G.* No. Special of 10/06/2021.

21 In *O.G.* No. 37 of 12/09/2016.

22 In *O.G.* No. 31 of 01/08/2016.

23 In *O.G.* No. Special of 06/09/2018.

24 In *O.G.* No. Special of 27/09/2018.

25 In *O.G.* No. 03 *bis* of 16/01/2012.

## *II. Institutional framework for gender equality in Rwanda*

Several institutions are entrusted with the implementation of the legal instruments mentioned above. One of them is the Ministry of Gender Gender and Family Promotion. This ministry operates at the central government level and is mandated to “strategic coordination of the implementation of national policies, strategies and programs regarding the promotion of the family, gender and children’s rights’ protection to facilitate their integration in the socio-economic and political context of Rwanda”.<sup>26</sup>

In addition to the Ministry, there is the Gender Monitoring Office (GMO), an office established by the Constitution.<sup>27</sup> The GMO is affiliated to the Office of the Prime Minister and its responsibilities, organisation and functioning are defined by Law No. 51/2007 of 20/09/2007. The main role of the GMO is to monitor compliance with gender equality principles, promote gender accountability at all levels and fight against gender-based violence and related injustices.

Another institution that deals with gender equality issues is the National Women's Council (NWC). The NWC is under the Ministry of Gender and Family Promotion and is a body responsible for advocacy, capacity building, and social mobilisation. The NWC has members of the Executive Committee at national level, members of the Executive Committee at the provincial and Kigali City levels, and coordinators of the Executive Committee at district level.

Civil society organisations also play a crucial role in Rwanda with regard to gender equality. In this regard, non-governmental organisations such as Pro-Femmes Twese Hamwe (PF /TH), Haguruka, etc. play a key role in ensuring gender equality in Rwanda. For example, PF /TH, as an umbrella organisation of 53 member associations, has an objective that is closely linked to gender equality. Its objectives are divided into three areas: (a) promoting consultation and information exchange among member associations on the role of women in national development; (b) strengthening and building capacity of the umbrella organisation and member associations through networking and advocacy; and (c) consolidating efforts to effectively eliminate all forms of discrimination against women and ensure socio-economic justice, gender equality and non-violence.

That being a summary of the legal and institutional framework for gender equality in Rwanda, the following section presents the relationship between taxation and gender equality from a general perspective.

### **C. The nexus between gender equality and taxation**

In the literature, different scholars have discussed the close link between gender equality and taxation. Yet tax systems, including modern tax and budgetary systems, are far from

26 MIGEPROF, “About the Ministry” available at <https://www.migeprof.gov.rw/about> (accessed 14/07/2023).

27 Constitution, art. 140(1)(b)(iii).

being gender equitable.<sup>28</sup> This view is expressed by Caren Grown, who argues that neither the tax literature nor public debates have adequately addressed how gender differences affect tax equity considerations and outcomes.<sup>29</sup> A number of other scholars have examined the issue of gender and taxation in depth.

For example, I. P. Giokaris and M. E. Pouliasi have discussed the famous tampon tax from the perspective of Cyprus. The tampon tax levied in Cyprus and the UK was described by these authors as a tax burden on women.<sup>30</sup> In Cyprus, the 5 % tampon tax is levied in the form of Value Added Tax (VAT) on menstrual hygiene products such as sanitary pads, nappkins, washable underwear and disposable menstrual cups.<sup>31</sup> These authors criticise the fact that Cyprus imposes a tampon tax. They believe that luxury items such as tobacco, alcoholic beverages, etc. should be taxed, but not menstrual hygiene products, since menstruation cannot be avoided as it is not a matter of choice.<sup>32</sup> The mere fact of belonging to a certain category of people, namely a woman, is enough to menstruate, while the opposite is not true.

The taxation of the tampon tax does not make menstrual hygiene products accessible or affordable. The abolition of the tampon tax, as practised in Australia, India, Malaysia, Ireland, Jamaica, Nigeria, Tanzania and some states in the USA, would make these products affordable and accessible.<sup>33</sup> While Giokaris and Pouliasi concede that the tampon tax is *prima facie* a neutral tax as it does not contain gender bias, they highlight the discriminatory nature of the tampon tax with regard to the consumers of the taxed products. In fact, the consumers of feminine hygiene products are women and not men, since only women can menstruate. The tampon tax therefore constitutes indirect discrimination against women, as it is a tax that imposes an additional burden only on women.<sup>34</sup> These authors go further and demonstrate that such discrimination follows the life cycle of women who, once born as girls, first use baby nappies, then pads for menstruation and finally elderly nappies. From this, they conclude that a woman, unlike a man, always has to pay one or more taxes in any case.<sup>35</sup>

Pham Thu Hien and Kathleen Lahey have studied taxation in Vietnam from a gender perspective. These authors use figures showing that a large proportion of women perform unpaid work such as domestic work and conclude that women perform 62 % of all unpaid

28 Vujadinović, Fröhlich and Giegerich, note 1, p. 376.

29 C Grown, "Taxation and Gender Equality: A Conceptual Framework" in C Grown and I Valodia, *Taxation and Gender Equity: A Comparative Analysis of Direct and Indirect Taxes in Developing and Developed Countries* (Routledge, 2010), p. 1.

30 I P Giokaris and M E Pouliasi, "To Tax or Not to Tax? Tampon Taxes and Gender (In)Equality: The Cyprus Case-Study" *The Cyprus Review* 32(1), p. 258.

31 *Ibid.*, p. 258.

32 *Id.*, p. 259.

33 *Id.*, p. 260–61.

34 *Id.*, p. 270.

35 *Id.*, pp. 273–74.

work.<sup>36</sup> Women's performance of unpaid work is also generally recognised.<sup>37</sup> This therefore has implications for the taxation of women in terms of payroll taxes. Women also have low ownership or participation rates globally. According to the global data referred to by these authors, women's ownership of businesses worldwide is estimated at 13.3 % globally while women's participation connections is estimated at 35 %.<sup>38</sup> Based on these figures, the authors conclude that gender bias affects women not only in payroll taxes but also in income taxes. The authors consider that “*because women predominate as entrepreneurs in the unincorporated sector and men predominate in the incorporated sector, the differences in personal income tax rates that apply to women-led businesses and in corporate income tax rates that apply to male-predominated corporations result in different levels of tax liabilities, after-tax income and accumulated capital for women and men*”.<sup>39</sup>

This is a conclusion from the Vietnamese perspective, but it is important to emphasise that the situation in Rwanda appears to be different. In Rwanda, the standard corporate income tax rate is 30 %, while personal income tax has variable rates, including a portion taxed at 0 %, a flat tax rate ranging from Frw 60,000 to Frw 300,000 per year, a lumpsum rate of 3 %, etc. Assuming that women do not usually form corporations while men dominate corporations, one could conclude that most women are subject to personal income tax while most men are subject to corporate income tax. With this difference in tax rates, personal income tax rates look favourable compared to corporate income tax rates. This would hence put women in an advantageous position compared to men. However, this is not necessarily true, because personal income tax is calculated on turnover, while corporate income tax is calculated on profits. So, if most women pay personal income tax, it is obvious that women are still liable to pay tax even in case of losses, which is in contrast to losses in corporate income tax. At this level, the problem shifts from a question of equality to a question of equity. In other words, under these circumstances, would it still be possible to say that men and women are taxed equitably?

On that point of gender equity in taxation, Fragoso and González argue that when discussing tax policy from a gender perspective, “*the task is to determine whether a given tax affects women and men in a similar way, taking into account their respective economic situations, such as differences in jobs, markets and salaries, and ownership of means of production*”.<sup>40</sup> In this sense, it is important to distinguish between gender equality and gender equity in taxation.

36 P T Hien and K Lahey, “Taxation in Vietnam: from a Gender Lens” *Vietnam Journal of Family and Gender Studies* 14(1), p. 61.

37 Barnett and Grown, note 2, p. 3.

38 Hien and Lahey, note 36, pp. 63–65.

39 *Id.*, p. 65.

40 L C P Fragoso and F C González, “Gender Analysis of Taxation in Mexico” in C Grown and I Valodia, *Taxation and Gender Equity: A Comparative Analysis of Direct and Indirect Taxes in Developing and Developed Countries* (Routledge, 2010), p. 119.

In relation to Rwanda, I have not been able to find any relevant literature on gender equality and taxation. Nevertheless, there are some reflections on gender equality in the Rwandan tax system.

#### **D. Where does gender stand in the Rwandan tax system?**

In principle, the Rwandan tax system, like the tax systems of other civilised nations, applies equally to men and women. This general application follows the pattern of the characteristics of laws in general, namely impersonality and general application. These characteristics influence Rwanda's tax laws, which use general and impersonal terms such as "a person", "a taxpayer", "an individual", to name a few.

In this context, it is important to highlight two aspects of gender in taxation, namely explicit and implicit gender discrimination in tax legislation. An explicit gender aspect exists when a tax legislation is clearly written in a gender-specific way. In other words, explicit gender bias depends on the language used in the tax legislation and presupposes that the tax legislation explicitly treats men and women differently.<sup>41</sup> This makes an explicit interpretation easy to identify, as a textual interpretation of the legal provision is sufficient.<sup>42</sup>

In light of the current trend towards promoting equality at the national and global level, it is difficult to find explicit gender discrimination in a tax legislation, and most discrimination is implicit. Indeed, several modern and democratic states have so far responded to the need to design tax systems that are gender neutral in terms of tax collection and the use of tax revenues.<sup>43</sup> The concept of the taxpayer is in principle neutral and alien to gender biases, which has led states to eliminate gender bias in their tax systems. However, implicit gender bias still exists in many countries and eliminating it is far from the truth.<sup>44</sup>

Implicit gender bias occurs when a tax system that at first glance appears to be gender neutral creates and perpetuates gender inequalities due to its anachronistic design. In other words, implicit gender bias in taxation occurs when a provision in a tax law does not distinguish between men and women, but the effects are different for men and women. While explicit discrimination is always intended, implicit discrimination may sometimes not be. Moreover, implicit gender-based tax discrimination is difficult to detect in most cases, as its identification requires an assessment of its impact on the well-being of men compared to the well-being of women.<sup>45</sup>

Taking these two aspects into account, to the best of my efforts, I have not been able to identify where tax legislation specifically applies to men or women, either explicitly or

41 Vujadinović, Fröhlich and Giegerich, note 1, p. 385; Barnett and Grown, note 2, p. 26.

42 Vujadinović, Fröhlich and Giegerich, *Ibid.*; Barnett and Grown, *Ibid.*

43 Vujadinović, Fröhlich and Giegerich, *Id.*, p. 384.

44 Vujadinović, Fröhlich and Giegerich, *Id.*, p. 400 and 386.

45 Vujadinović, Fröhlich and Giegerich, *Id.*, p. 385.

implicitly. Even though, the history of Rwanda shows that there have been gender biases in tax legislation. In the past, Rwanda used to have a tax on men, i.e. a tax that applied to men. In other words, this tax was paid by men just for the mere fact of being a man. This tax was introduced by the Belgian colonial power in 1917 and was called H.A.V., an abbreviation for *Homme Adulte Valide*, i.e. [tax] on adult valid men. The rate for this tax was Frw 3.5 per year in 1917 and was increased to Frw 7.5 in 1927, Frw. 30 in 1930 and Frw 46 in 1945.<sup>46</sup> Although this tax was apparently considered good for women as they were exempt from the tax, i.e. not taxpayers, on the other hand it was a very bad tax as it did not consider women as human subjects who could be taxed.

Separate but close, Rwanda has introduced and enforced a policy of positive discrimination based on gender. This even goes beyond policy and is enshrined in several legal instruments. This is the case, for example, in article 10(1)(d) of the Constitution, which states that at least 30 % of decision-making bodies must be composed of women; Article 80(7) of the same Constitution, which states that at least 30 % of elected and appointed senators must be women; and article 75(3) of the Constitution, which states that at least 30 % of members of parliament who sit in the Chamber of Deputies must also be women. Beyond hard law, affirmative action on the basis of gender is also supported by soft law, and it is now a generally accepted practice to consider gender inclusion in all circumstances.

In this spirit of gender positivism, women's rights are given preferential consideration in several legal provisions and taxed accordingly. This is an example of several tax exemptions that apply to goods that are considered basic needs of women. This is, for example, the exemption from VAT for the women's sanitary pads. This exemption was made under the Commissioner General's announcement Ref: 796/RRA/CG/DTD/020 dated 15 June 2020, which referred to the letter No. 1032/10/19/CE from the Minister of Finance to the Commissioner General of the Rwanda Revenue Authority. The announcement clearly states that "*Sanitary Pads are VAT exempted since 21 November 2019*"<sup>47</sup>.

All these examples show how much Rwanda cares about women's rights. Sanitary pads are indeed not a luxury for women. They are the primary rights for women, as they constitute essential needs. The fact that they are exempt from VAT payment is a good step forward by the Rwandan government. However, the fact that such exemption is provided for in a letter from the Commissioner General makes it a soft matter. A letter is an administrative document and not a legal instrument. Being a letter, runs a risk that its sustainability is questionable and that it can be changed at any time without a legislative process. I therefore advocate for exempting VAT sanitary pads not by a soft instrument but by a hard instrument. Further criticisms and proposals in this regard are provided for in the next section.

46 Repubulika y'u Rwanda, Perezidansi ya Repubulika, *Ubumwe bw'Abanyarwanda: Mbere y'Abazungu n'Igihe cy'Ubukoloni – Mu Gihe cya Repubuika ya Mbere*, Kigali, Kanama 1999, pp. 30–31.

47 See Commissioner General announcement Ref: 796/RRA/CG/DTD/020 of 15 June 2020, Para. 2.

## **E. Moving forward but not yet there**

Over the past three decades, Rwanda has achieved impressive economic growth. This growth has been driven by policy initiatives and gender equality has been a key strategy.<sup>48</sup> While recognising the efforts made so far by the Rwandan government in terms of gender equality, scholars have paid a little attention to gender equality in the area of taxation. In line with the previous discussion, I praise the efforts made so far. Nevertheless, there are some things that can be done to improve the gender aspect of taxation.

With regard to tax exemption, for example, I advocate that some gender-typical goods be exempted by law, at least from VAT. These are goods that are purely a necessity for women and are needed simply because of their natural creation. These are, for example, sanitary pads, which are of utmost necessity for every woman from puberty onwards. Exempting sanitary pads from VAT would reduce their cost and thus make them affordable and available to every woman. This would further improve the health situation of women, especially women from poor families who cannot afford sanitary pads and therefore sometimes resort to other means that are not hygienically safe.

Other products in the same category are menstrual cups for women. These cups are just as necessary as sanitary pads and should therefore also be VAT exempted by law. Panty liners are also typically women's products and should therefore be exempted VAT so that women who need them biologically can access and afford them. Breastfeeding pads (or nursing pads) also fall into the same category of typical women's products that I am advocating for VAT exemption.

On the other hand, comparable to the typical products for women, circumcision is typical for men. Circumcision stands as a health concern for men. Indeed, male circumcision may be a medical necessity or a preventive health measure. From this point of view, circumcision is a concern for every man and represents a basic need for every man. However, the circumcision service itself, as well as the circumcision equipment and materials, are costly and not affordable for some men. Those who cannot afford the circumcision service simply leave it untreated, putting their health at risk, involuntarily, of course. Exempting circumcision services and equipment would therefore reduce costs and increase the number of men who can afford the service. The end result being an improvement in the quality of health and the saving of men who do not suffer some sorts of diseases or die because they are not circumcised.

Other items that can also be exempted from VAT are baby nappies (diapers). These are part of every child's basic needs and should be available at a low price to make them affordable. As far as gender is concerned, the burden of childcare usually falls on women. This does not exclude the fact that men also have a de jure obligation to care for children. However, the truth is that in practice the actual care is more likely provided by women than by men. Moreover, there are several women who have children with unknown fathers. In

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such cases, women end up raising their children alone. Therefore, taxing baby nappies leads to an increase in the cost, which is a great burden for women, especially single mothers. VAT exemption for such products would therefore contribute to a reduction in costs and thus provide relief for women in general, but especially for single mothers. In order for the exemption to be legally strengthened, the exemption of all such products should be through a hard law and not a soft law.

## F. Conclusion

In this paper, I have discussed gender equality and taxation from the Rwandan perspective. To reach the core element of the discussion, this paper started with a discussion on the principle of gender equality. This was done by looking at the legal and institutional framework for gender equality in Rwanda. I then reviewed the literature to establish the link between gender equality and taxation. I then took stock of the gender aspects in the Rwandan tax system.

From a general perspective, Rwanda is globally recognised as a country that enforces gender equality at a high level. The mapping of gender aspects in the tax system has shown that there are no explicit gender biases in the Rwandan tax system. However, this paper shows that some aspects of implicit gender bias are present in the Rwandan tax system. This is the case, for example, with some products that are inherently gender-typical, in that they are used by women not as luxuries but as necessities, and which are not exempt from tax or are exempt only through a soft instrument. The exemption here concerns VAT.

In this context, this paper welcomes the current move by the Rwandan government to exempt women sanitary pads from VAT. However, given that this exemption is through a soft instrument, this paper advocates for the exemption to be granted through a hard law, such as a legislative act. Furthermore, this paper also advocates for the exemption of other products that are typical of women's needs, such as panty liners, breast (breast/sanitary) pads, and baby nappies (diapers). Comparable to products that are typical of women's biological needs, male circumcision equipment, materials and services should also be VAT exempt, as they are part of men's typical biological needs.

Without undermining the contribution of this paper to the discussion on gender and taxation, we must fairly admit that it is not exhaustive. This admission is especially true from the Rwandan perspective where the scarcity of research on gender and taxation is glaring. I therefore urge other researchers interested in this topic to conduct further research on the situation of gender and taxation in Rwanda. In particular, an empirical study on this topic would be very interesting.

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