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Leading Expert Report

Forensic Accounting, Auditing and Tax Corruption

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STOP CORRUPTION STOP TAX EVASION VIRTEU

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Forensic Accounting, Auditing and Tax Corruption

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1. Introduction

One of the biggest challenges about detecting tax evasion and corruption is that it is deeply entwined with technical methods of accounting calculation, and the ways in which financial flows are recorded by companies and organisations (Brooks, 2015; Murphy, 2015; Tax Justice Network, 2015). There is a significant asymmetry of information. Companies and individuals have much more detailed information about their business transactions and financial flows then do states or regulatory bodies. The only group of people who have permission from the organisation to look at business transactions in detail are the auditors, but even they can be compromised by private commercial interests (Mitchell and Sikka, 2011). Where individual owners of businesses or managers deliberately choose to make their transactions complicated and move them through a web of companies spread out all over the world, there is very little that enforcement officers can do to uncover tax corruption (Shaxson 2012; Picciotto 2007, 2015). In addition, if expert professional lawyers and accountants choose to help these companies hide the nature and intent of their transactions, or manipulate their reporting, the task for enforcement becomes even more difficult (Shah 1996, 1997; Pascale 2019).

For the purposes of this paper, we first explain a variety of terms used in the literature like tax avoidance, tax evasion, tax corruption, whistleblowing and money laundering. Tax evasion is commonly understood as earnings and profits which are not declared to tax authorities even though they ought to be under the law. It is widely agreed to be an illegal practice. In contrast tax avoidance is commonly understood as the legitimate use of the rules and laws to ensure tax minimisation by both private individuals and corporate entities – in this sense it does not defy the letter of the law, although it may break its spirit. This approach usually requires the assistance of expert professional accountants and/or lawyers who understand the rules and structures which can help their clients minimise tax liabilities. Often their professional status and institutional logos and badges give legitimacy to the advice. While tax avoidance may be deemed legal, it may not be ethical or socially responsible for corporations to minimise their taxes given their reliance on state infrastructures and provisions to pursue everyday functions – e.g., roads for transportation, healthcare for employees, a strong legal system for justice and crime prevention, education and social welfare, utilities provision, etc. We will show through examples in the chapter that experts may not always be neutral advisors, and at times have been shown to take a pro-active role in helping companies avoid taxes through the use of clever strategies and schemes designed to minimise tax obligations. 'Tax corruption' is used to explain the nexus of interests between states, professional lawyers, accountants and firms, and corporate elites to undermine the fairness and equity of a system of public taxation. It is a systemic practice which leads to unfair tax burden on ordinary workers and people who have little access to professional advice due to the costs involved.

The very nature, products, and services of business are also constantly changing and evolving. As a result, both the accounting and tax treatments can also often lag behind the commercial innovations and speed of change (McBarnet and Whelan 1992, 1999). Take the examples of off-balance sheet finance products like derivatives and swaps. When they were first developed, the accounting and tax rules were far from clear, and this created a big window of opportunity for 'creative compliance' schemes designed by professional advisers (Blouin et al 2019). Even auditors, whose job is to police corporate accounting and ensure a 'true and fair view', were involved in the development and approval of these schemes (Shah, 1996). Furthermore, with large groups of companies operating in several different business products and services, the 'consolidation' of financial performance can often appear meaningless, and confusing to interpret (Brooks 2015; Murphy 2015). For instance, Tesco is both a supermarket and a Bank. When you read the group accounts, they become difficult to interpret as they are adding two very different businesses together (Tesco plc, 2020). States and revenue officers are often far behind business innovation, and now we have a significant rise in the number of technology businesses who are seen as 'disruptive'. This delay in understanding and developing relevant rules to prevent tax evasion can create a chasm of opportunity, as it can take decades for enforcers to control such new business models and ensure fair taxes are paid. Private sector professionals like the Big 4 firms are often much more agile in advising such disruptive companies to structure their transactions in a tax minimizing way (Brooks 2018; Sikka and Willmott, 2013). Deloitte, PWC, EY and KPMG are multinational firms of accountants and consultants who have offices in most jurisdictions all over the world and have large pools of talent and expertise in corporate affairs and business growth. They derive primary income from legal regulations like auditing, but then have expanded services to include tax advice and business consulting. They know that states are always playing catchup and the machinery of new legislation and regulation is slow, cumbersome and very easy to capture and control. Furthermore, international subsidiaries offer even more opportunities for tax arbitrage as we will explore later.

Fundamentally, accounting statements are very confusing to interpret as they are only loosely based on facts, and there are assumptions and political choices embedded in the calculation (Arnold, 2009; Shah 2018; McBarnet and Whelan 1999). They give the impression of accuracy and objectivity, but they add apples and oranges to give us lemons. Furthermore, Balance Sheets have little to do with the wealth and value of a corporation and are a loose mix of historical cost, market value in some cases, and vague assumptions about economic usefulness. Not all the numbers in the Balance Sheet can be objectively verified. Accountants 'create reality' (Hines, 1988) whilst pretending to objectively interpret it. If in addition there is a whole group of businesses in different industries and different parts of the world which are consolidated to produce a group statement of financial performance, there is even more potential for distortion and misinformation. Financial Statements are, in reality, complex 'narratives' of financial performance and operations, which are open to manipulation and distortion, which can also have equivalent impacts on the amount of taxes that are payable and actually paid (Froud et al, 2006). All this makes the task of tax discipline and enforcement very difficult to implement in practice. Sikka and Murphy (2015) expose the complex inter-relationship between tax and accounting and argue for a new global conceptual framework of tax accounting if we are to avoid exploiting potential tax vulnerabilities between nations and tax systems. Individual countries have developed tax systems based on their own histories and logics, but business has gone global finding ways to weave around these rules. A single conceptual framework for taxation would establish global principles for collection which would not be easy to avoid.

As explained, the public have a common perception of accounting as an objective and mathematical science – one which just involves addition and subtraction of 'fact-based' numbers. In reality, accounting practice is an activity of the creation of facts – something vastly different from the public understanding of its science. However, the 'perception' of objectivity gives corporations a safe hiding place (Sikka et al 2018) – which is often aided and abetted by complicit auditors, as we will see in detail later. The rules and standards by which these facts are created are also dominated by elite corporate interests (Brooks, 2018). For example, the International Accounting Standards Board, is a private company registered in Delaware, which means we cannot even discern the core funders and influencers of global accounting standards as their ownership and accounts are not public. This gives global control of the setting of accounting rules to a secretive private body – directly aiding corporate interests of tax minimization (Ramirez, 2012). There is no international state-based or UN sanctioned independent regulator of global accounting standards and practices whatsoever. Furthermore, these accounts are prepared in the 'interests of shareholders' yet there is so much evidence to show that there are a variety of stakeholders who make up the corporation (Korten, 1995; Whyte and Wiegratz, 2016), and most shareholders have today become speculators, whose interests should be protected the least. The Big 4 global accounting firms are at the heart of the international standard-setting and accounting regulation process. Given their privatized nature, this has led to a constant failure in accounting and auditing quality and its regulation. Furthermore, different nation states have their own cultural, political and institutional histories which influence the practice and impact of accounting. Global IASB standards do not recognise these differences and assume a universal method of measurement and reporting financial performance which is apolitical and ahistorical. This is deeply damaging to nation states and their own political priorities.

Furthermore, the rules of taxation are technically complex, often built over time and do not keep pace with modern business methods, transactions, globalization, and technological change. As a result, even the definitions of legality and illegality are complex because business transactions have a variety of methods and objectives not easy to classify as being in the private or public interest or deliberately constructed to undermine tax collection – think of new technologies like FinTech or AI where the ramifications of these business models are not even fully understood by experts. Avoidance and evasion can be easily stretched to suit the objectives and needs of the rich, the powerful, or the corrupt, without any fear of prosecution (Picciotto 2007; Brooks 2015). The tax rules and laws also vary from one country to another, opening possibilities of exploitation of loopholes between different systems of tax governance. In fact, globalization opens a vast opportunity for this, as while laws and rules surrounding taxation and accounting are national, business is conducted globally. There are many jurisdictions where these rules are lax, and where there is no easy exchange of information, so organisations can choose to be opaque and secretive (Palan et al, 2010; Shaxson 2012).

In addition, the science and teaching of accounting, law, and taxation is primarily technical, and removed from cultural and ethical contexts like truth and fairness (Shah, 2018a). Where ethics are taught, they are discussed in an abstract individual context, removed from personal character, culture or belief (Shah, 2019). Organisational or structural ethics, which are deeply hard-wired into business operations and professional evaluation, are not discussed or questioned in most professional training curricula. This means that the highly political nature of profit calculation and distribution, with profound ethical consequences, is off the agenda. As a result, the systems of training can easily legitimize unethical behaviour, by making the politics of the choices sub-conscious and therefore irrelevant – elite lawyers are experts at masquerading truth (St-Pierre, 2019) as they perceive the state to be a shark who attacks genuinely earned private revenues rather than a provider of valuable public services which need to be paid for. There is a strong unconscious bias in the practice of accounting, and many professionals consider it their duty to help their clients minimize taxes – they do not even believe they should act fairly in the nations interest, given their deeply commercial training. Furthermore, the incentives and returns on such advice for professional accountants and lawyers are very high, and at times can be based on a percentage of taxes saved (Brooks, 2015, 2018). In this sense, the returns on such advisory work are much higher than routine tasks like auditing, where the billing is done on a time basis and is therefore limited to the amount of time spent on the given task. Therefore, the economic benefits of tax avoidance and evasion advice are a strong factor in the proliferation of actual tax corruption.

Fundamentally, in the corporate world, there is a political economy of accounting, where the interests of shareholders are given primacy, and taxation is shown as a cost to business, rather than a share of profits paid to one of the biggest stakeholders in business – national government and the state (Cooper and Sherer, 1984; Palan et al, 2010). With its tax revenues, the state provides vital services to business such as infrastructure, transportation, education, healthcare for workers, and laws and policing to help protect the reputation of business enterprise. However, from the beginning students and professionals are programmed to see taxation as a cost to business, so its minimization is seen as core to economic efficiency and profit maximization (Shaffer and Simmons 2008; Murphy 2015). The morality of taxation, and the national consequences of its non-payment, are hidden from view and to the contrary a 'false ideology' is perpetuated and legitimized – the ideology that the state is backward and regressive rather than a caring provider of economical public services.

Furthermore, most of the international rules relating to tax and accounting are established by the global north through organisations like the OECD or the IASB (Brooks, 2015). These rules are not in the interests of the global south, who continue to get expropriated through hidden algorithms of accounting and taxation. There is also plenty of evidence that multinationals force tax competition among countries, thereby leading to a global race to the bottom (Shaxson 2012). This is deeply damaging for a sustainable planet – where equality of states and revenue collection is important to development. The money trail can also be difficult to follow – just as a simple example, when there was a movement to provide country-by-country reporting, so as to identify profits made in each country by multinationals, there was a huge resistance by multinationals lobbying through the Big 4 firms (Murphy et al, 2019).

The ways in which accountants and auditors are trained and educated is particularly problematic in the prevention of tax corruption. By framing the narrative of tax as a cost to be minimized, a whole range of practices relating to tax minimization become legitimated and legal (Shah, 2019). Hence the kind of big picture ethics and tax justice that we see as public intellectuals in terms of corporate tax evasion often do not even appear in the professionals' thinking, nor do they prick their conscience. Anecdotal evidence suggests that accounting professionals, I have found that those who come from faith communities and belong to these communities do say no to clients when they are aggressive about their tax minimization policies. However, this is not always guaranteed, and secular professionals also may refuse aggressive tax avoidance. Professional bodies do virtually nothing to police aggressive tax avoidance by their members or transform their education and training (Tax Justice Network, 2015). At the same time, they rarely praise good behaviour by their members who blow the whistle on fraudsters or say no to clients, even when offered high fees to facilitate certain tax practices or transactions. There is plenty of evidence of their capture by elite interests, including the Big 4 accounting firms who are often at the heart of the problems of tax corruption. It may be understood that the regulators have been captured by the regulated, and as such there are significant questions regarding their ability to act subjectively within their capacity as an industry regulator. In this way, it may be more appropriate to think of them more akin to trade associations'

Given the technical complexity of both accounting and taxation, accountants, and lawyers, who are professionally trained and educated to protect the public interest, often operate purely for the private sector, and therefore play an active role in protecting commercial interests (Sikka 2008). They operate with strong commercial and profit-making objectives such that they are happy to do anything for a fee. It does not take long for innocent cultural compliance to become regular habit inside these firms (Christensen, 2016). Those who refuse to be accultured because of their strong personal values often end up leaving these organisations, or not lasting long due to their conscience. There is a profound cognitive dissonance from public interest at the heart of the behaviours of individual professionals, and the structures of elite professional firms, which promote opportunism and transactionalism as opposed to public responsibility, equality and integrity (McBarnet, 1992). This leads to systemic injustice and cruelty.

Experts with detailed knowledge of the laws and rules, instead of using their skills to uphold them and protect fairness and equity in society, end up doing the exact opposite, without feeling any moral pain or prick on their conscience (Shah, 2019). The fact that the ethics and morality are buried deeply in technical jargon in the education and training process aids the process of professional legitimization of tax corruption. If we look at recent cases such as LuxLeaks, Panama Papers, or Paradise Papers, we see this in operation, with firms seeing nothing wrong in working with shady clients or implementing questionable transactions for decades. Only through whistleblowing from the inside are we able to get the full picture of global financial flows and transactions, aided and abetted by professional law and accounting firms of global repute. Even after the revelations, there are no legal sanctions or punishments for the perpetrators.

There is also a significant inequality in resources between the state and the private sector. Laws need an active process of monitoring and enforcement, and where there are millions of businesses registered in any one country, one can imagine how difficult and complex the task of monitoring becomes. The challenges are increased by the complexity of modern business, the ease with which money and transactions can flow from one country to another, even when they are fictitious and mere paper creations rather than the actual movement of goods, people or even money. Where the state is captured by private interests or corruption, it can actively reduce this enforcement capacity by cutting the resources and reducing the skills of tax inspectors. This can potentially be seen as a means of facilitating tax evasion or avoidance. In this way, determined private operators can take the comfort of state infrastructure and protection to conduct business which is profitable but beyond the reach of the tax authorities or laws on money laundering (McBarnet 1991). Even illegal activities go under the radar through political corruption and regulatory capture.

There are laws which try to inhibit tax-avoidance or look at economic substance over the legal form of business transactions. The aim of these rules is to minimize tax avoidance and evasion, but, in reality, they are rarely effective. In courts of law, judges tend to side towards legal rules, and can also be confused by the technical complexity of accounting for which they are not trained experts (McBarnet and Whelan, 1992). It can be very tricky to show that a particular transaction or structure has got no commercial purpose and been fictitiously created for the primary purpose of tax minimization. This is why tax authorities need to be much firmer and more pro-active when loopholes are exploited and major new schemes are devised that can be duplicated across multiple corporations and undermine the tax base. It helps if these authorities are given strong independent powers, and there is no political influence in their actions and decision-making. A hard line taken on a pro-active basis would show that this country is not a haven for tax abuse. In reality, states are very conflicted in attracting and retaining big business, so they often compromise on their enforcement processes so as not to lose in the field of tax competition (Brooks, 2014).

2. Big 4 Global Accounting Firms

One of the biggest enablers of tax corruption and financial crimes are the global Big 4 accounting firms, who thrive on having a bank of expert professionals to provide exactly such services to multinational clients, without fear of sanction (Addison and Mueller, 2015). They are Deloitte, PWC, EY and KPMG. All these firms annually generate billions of dollars in revenues from their global operations. In spite of their regular court cases, audit and accounting failures, even whistleblowing exposures of such unethical activities, the Big 4 firms continue to expand and grow, and multinationals continue to hire them to provide accounting and tax services and advice (Sikka and Hampton, 2005).

To prevent crime and corruption, not only do we need people with ethics and a conscience, but we also need organisations with practices and policies which maintain morality and fairness in society. Research shows that the Big 4 widely draw upon the license of professionalism and public interest, but in practice use their vast bank of skills and resources to actively undermine rules and regulations in the service of private client interests (Mitchell and Sikka 2011; Brooks, 2018). This network is global, heavily commercial, and privatized. The Big 4 firms have offices in many recognized global secrecy tax havens for example (Jersey, Cayman Islands, Luxembourg), and they still argue that they abide by the law and protect the public interest. They have become a one-stop shop of 'systemic regulatory arbitrage' services, provided by teams of experts who are highly trained in law, finance and accounting. They often work hand in hand with banks and financiers to facilitate smooth tax avoidance. Within these large firms, there may be individuals with a conscience or even with strong motives of public interest, but these are covered up by institutional systems and processes. Often an individual expert rarely sees a whole transaction and the scale of the wider state revenue extraction that results from their actions (McBarnet and Whelan, 1992). In fact, some argue that because they are partnerships, the organization structure is so diffuse that the only performance metric is revenue generation, and those who generate the most go into leadership positions, but there is no active leadership or effective governance in these firms (see e.g. Empson 2017). Instead, they drift along in a highly market-driven commercial profit-making culture. Even fines for illegal activities are seen simply as a cost of doing business. One consistent fact is that professionals in these firms have never gone to prison for their crimes or illegality. To the extent that this prevails, professional enablers of tax corruption will continue to grow and thrive.

One of the biggest flaws in the prevention of tax corruption is the operation of tax havens – places like Jersey, Cayman Islands, Luxembourg, Mauritius and even Delaware and the City of London. (Shaxson, 2012). Hypocrisy in tax legislation and enforcement is hard-wired into the heart of the corporate system of regulation – there is one rule for the rich and powerful, and another for employees and householders who are job-dependent and powerless. There is plenty of evidence to show that all the Big 4 firms have significant presence in these tax havens, and advise them about legislation and the enforcement of corruption (Palan et al 2010; Brooks 2014; 2018). It is also demonstrated that the administration of many of the transactions involving tax havens is done from the Big 4 offices in London or New York even though the actual subsidiary or client would have a 'bronze' plate office in a tax haven (a virtual office without any physical presence of employees or resources). Not only do these firms advise on tax management, but they also even execute some of the transactions and create the subsidiaries through which taxes can be avoided, all the time wearing the badge of professionalism and integrity. Furthermore, the alumni of Big 4 often end up in senior accounting and financial roles for large multinationals, so they carry the learnt behaviour with them – the doors frequently revolve. Auditors who are supposed to challenge corporations on malpractice can sometimes become employees of their clients or advisors on tax avoidance and compliance. Tax inspectors who are very good can get hired by the Big 4 or other accounting firms to advise private clients on how to avoid getting caught. This move not only reduces the tax skills and experience within state authorities but also increases the chance of more effective tax avoidance or evasion, creating a double loss for nation states.

Professional bodies provide licencing and legitimacy to their members through processes of training, examination, and regulatory monitoring, including fines and reprimands for errant professionals (West, 2003). However, these organisations have been shown to be largely captured by the large global firms in law, finance, and accounting, and to pretend that they are policing conduct, they put smaller firms or powerless professionals under reprimand or at times they withdraw the professional licence. The current (2021) president of the Institute of Chartered Accountants in England and Wales, one of the oldest professional bodies of accountants in the world, is also a senior partner at KPMG in UK. Such stories are not uncommon throughout the world. Threats or sanctions are very rarely applied to partners and individuals in large firms, even after there have been major failures or whistleblowing leaks. In the case of LuxLeaks, PWC actively pursued the whistleblower to silence him, rather than the partners and individuals who produced the boiler plate tax avoidance and evasion schemes (Brooks 2018). Even the state of Luxembourg where these actions were perpetrated rushed to support PWC and protect them.

There is growing evidence of the influence of the Big 4 on the setting and enforcement of local and international accounting standards (Sikka et al, 2018). Yes, regulators of accounting have grown in power and influence such that their own rules of conduct and operations are fully captured by private corporate interests, which set the rules for their own policing, rather than independently of the professional firms. In the United Kingdom, there is ample evidence which shows the capture of the Financial Reporting Council, the principal regulator, which even government investigations have shown to be not fit for purpose. Similarly, the International Accounting Standards Board is totally influenced by the Big 4 firms and its ownership and funding is opaque, rather than independent, transparent, and backed by public bodies like the United Nations.

When tax calculation is highly dependent on accounting rules and records, if the determination of these rules and enforcement is captured by private commercial interests, organized in large oligopolistic firms, we should not be surprised by the multi-billion dollar (annual collection losses) scale of tax corruption and evasion. When such firms actively partner with multinationals or business elites, seeking to provide compliant and amenable services for lucrative fees, tax corruption can be easily legitimated and sealed within these professional service warehouses. One simple example and proof of such activity is the industry of auditing.

3. Auditing, Forensic Analysis and Independence

All over the world, auditing is a legal requirement – large multinational corporations who benefit from limited liability, and are quoted in stock markets, need independent professional verification of their financial performance, risks and underlying frauds or financial crimes (Hayes et al 2015; Humphrey, 2008; Humphrey et al 2009). This happens at least annually, and whole teams of professionals are involved in this process. The critical ingredients for quality work are independence and professional expertise, and most importantly ethics and integrity. This is a huge opportunity for public interest experts to dive deep inside the business transactions and reveal any frauds or illegality in a timely way to public authorities. However, the opposite happens – they certify the claims and accounts drawn up by their clients, cover up the risks, and pretend to be independent and professional, when they are often very far from it. Instead of using professional scepticism – they prefer client appeasement – the 2008 global finance crises exposed, the decline in audit scepticism (Sikka, 2009). These very same auditors provide tax planning and advisory services to their audit clients, so even their verification of the legality of their tax computations is highly conflicted.

The fact that auditing is an annual legal requirement licences these firms to get their foot into the boardroom of corporate giants and elites, and at the same time understand their complex businesses and transactions (Sikka et al 2020). They effectively get paid to learn the client's businesses, global trade and money flows, and have access to vast amounts of private financial information – precisely the knowledge that would be invaluable to prosecutors of tax frauds and corruption. However, they have also mastered the regulatory process, and have hired former tax inspectors, even Chief Executives of the HMRC, to become partners and advisers after they leave office, or to tempt them to leave office (Sikka 2008; Cooper and Robson, 2006; Brooks 2014, 2018). Revolving doors in tax enforcement are a major problem for the policing of tax corruption. They can also reveal the detail of evidence about client tax investigations, which can be very helpful in shaping a defence strategy to support their clients. At times, they have seconded their staff to governments or the HMRC to precisely obtain this information, and then boasted about it to clients to help them get favourable tax treatment (Brooks 2014).

There is evidence to show that the Big 4 accounting firms have used their political networks and connections to protect themselves from liability or failure by creating legal structures such as limited liability partnerships which give them the best of both worlds – favourable corporate law and tax avoidance, and opacity through partnership structures (Sikka, 2008b). They have applied their knowledge and power to ensure that they use the state laws and infrastructures to minimize professional risks and maximise tax avoidance benefits. Having such a large multi-disciplinary pool of expertise, which includes lawyers, auditors, business consultants, accountants and financial experts, makes them a very formidable force in world business (Shah 2015b). Often our only avenue to unravel what is really going on in these firms is through whistleblowers who have courage and are willing to speak truth to power, irrespective of the personal consequences. This is also why effective whistleblower protection becomes so crucial.

Tax corruption is therefore deeply entwined with the recording of financial transactions, and the variety of laws and jurisdictions in which businesses operate, with many nation states like the offshore tax haven island nations, actively making it their economic priority to attract tax evaders (Shaxson 2012). Complexity therefore becomes an easy place to hide, disguise or cover up fraudulent motives. Having global brands like the Big 4 firms audit the financial transactions can easily be a significant way to legitimize illegality and corruption, in the pretence of independent auditing and advice. Very rarely do businesses or corporations actively come forward to say that they are proud and happy to pay all local and global taxes to support government as a stakeholder in their business. Even the large volumes of statements, reports, policies, and research on Corporate Social Responsibility completely avoid and evade the question of tax responsibility, transparency and accountability.

A central feature in all this becomes ethics, integrity, and conscience of both businesses and professional advisers, auditors, and lawyers. The same applies to large organisations and networks of professionals for instance accounting and law firms. Unfortunately, their commercialization subverts the ethics, making truth and fairness an administrative issue, rather than one which involves the full exercise of independent professional judgement. In the case of accounting, there is evidence which shows that the Big 4 actively try to interpret truth as compliance with detailed accounting standards, rather than exercise of their judgement on the overall reporting of risks and financial performance by large multinational corporations. The fact that there is little effective state monitoring and regulation of the ethics and culture of these firms makes them very problematic barriers in the policing of tax corruption. Their flashy corporate offices serve to give the image or professionalism, when the reality of their conduct is very different and they have become adept at enabling, rather than challenging of business hubris and aggressive tax practices.

A few years ago, KPMG in UK opened a large private networking club in Mayfair in central London, precisely to facilitate such networking and private 'management' capture of shareholder and other stakeholder wealth (Brooks 2018). No-one would know if tax inspectors were invited to have a fine dining experience in exclusive surroundings and information is sought which may be confidential or legally sensitive. None of this was at the time seen as illegal and even the regulator did not complain about such behaviour or conduct. Over the years, it has become more and more apparent that the real financial strength of the Big 4 draws from such elite networks, whether or not they are publicly visible or transparent (Shah 2015a, Shah 2018b). Instead of reducing conflicts of interest, such habits breed growing conflicts of interest, reducing the distance between the client and the auditor, removing structural barriers such as Chinese Walls (non-physical structural barriers constructed to separate departments) between audit and advisory work. There is a growing and active community of business and professionals designed to undermine the state in every corner, not just in relation to taxation, but also financial, environmental, and other forms of regulation.

Tax investigations and prosecutions can be obfuscated, delayed, or frustrated by such elite law and accounting firms with access to unlimited talent and financial resources from their wealthy clients (Brooks, 2014; Mc Barnet 1991). In this way, the truth is prevented from coming out, secretive deals and settlements are done, and prosecutors and inspectors lose their willpower and stamina. In the case of Vodafone in UK, a deal was struck between Deloitte and the HMRC which ensured very favourable tax treatment for Vodafone after a major inspection (Brooks, 2018). Later, the CEO of the HMRC joined Deloitte as an expert consultant. Such revolving doors are also seen in other areas of regulation and governance, and commonplace in Europe and the USA. They significantly undermine the effectiveness of state power and control.

4. Techniques of Forensic Auditing and Accounting

Auditing is a process by which trained experts, who have knowledge of corporate law, risks, and financial recording and reporting, have a license to examine the records of a business, ask for any proof or evidence, and use their knowledge and experience to protect wider stakeholders of business (Hayes et al 2021). In a world where the management of business is often divorced from shareholders, society and the environment, it is imperative that there is such a regime of regular inspection. However, it is not clear that such auditors should come from the private commercial sector, who have increasingly become dependent and conflicted as we have already seen. One of the first critical qualities needed in good forensic work is the will to challenge and confront clients instead of appeasing them or looking away from questionable deals and transactions. The investigatory attitude needs to be sceptical rather than trusting. In addition, good knowledge of business and accounting will help auditors identify key risks and sensitive areas where fraud and malfeasance can perpetuate, or where the reported financial performance does not align with the business reality. This ‘experience’ cannot easily be codified but is critical in good forensic work and comes from years of training and analysis of a variety of business clients and industries. Modern technology used in financial record-keeping significantly helps the audit process.

The process of audit requires the auditor to obtain independent, reliable, objective, and verifiable evidence to support the financial data that is reported by a business (Hayes et al, 2021). To be effective, this process requires a good understanding of industry and business, the major risks, opportunities and challenges, and a skill in forensic evidence gathering and analysis. Auditors may specialize in certain industries so that they have a detailed understanding of the methods of operation, the market, and the challenges faced by management in that industry. With the advance of technology and globalization of business, the business landscape is always changing so good auditors need to keep abreast of these developments. There needs to be a continuous investment in skills and research to improve audit quality. This can raise the cost of audit, but firms should not cut corners in doing a high-quality professional audit, even when they are not able to pass on the costs to clients.

Character, ethics, and integrity are also central to good auditing, and they are emphasized in the auditing standards and guidelines (Sikka et al 2020). Auditors should take active steps not to be compromised by client advances or entertainment and work hard to be sceptical and retain their independence. They are advised never to take independence for granted. There are also restrictions on the amount of non-audit work that professionals can take on from the same client (Hayes et al 2021), although the policing of this restrictions is often grey and left to the individual or the firm. Furthermore, there are no structural or organizational barriers between the audit and non-audit divisions of most accounting firms.

Auditors can use techniques such as analytical review of financial numbers to identify inconsistencies, anomalies, or window-dressing of performance. Analytical review is a method which compares current with past performance, looking at trends, changes and can also compare reported performance with data from the wider industry and competitors. Charts and graphics can be used to make the trends visible and the comparatives easy to understand and analyse. Modern computer software such as Excel or Data analysis tools such as Tableau can be very helpful in conducting such analysis quickly and efficiently. Such methods can highlight any variances or differences which need further investigation or objective evidence gathering. Experts in such techniques would draw upon their skills and experience to highlight which numbers and risks to focus on, how to compare the performance and evaluate it, and what other sources of evidence can be gathered to support and triangulate the data. Furthermore, if there is knowledge about particular challenges being faced by the business, say for example to improve sales or cash flow, these aspects could be given more focus for analysis to ensure that managers have not been pressurized to hit targets by massaging the numbers.

Complex corporate structures, with a large number of subsidiaries located in different parts of the world, have become common within large multinational corporations (Picciotto, 2015; Whyte and Wiegratz, 2016). This can mean that auditors would need to put together international teams with people from different branches working in different countries and then submitting their audit findings to the lead team. This exercise of consolidation and coordination can also be a technical process and suffer from differences in skills and quality among auditors from different parts of the world. Similarly, the consolidation of financial performance data is often a complex exercise, and eliminates transactions between group companies, which can often be of very critical audit interest, especially where there is tax avoidance or evasion going on. From different parts of the world, the quality and reliability of audit evidence may also vary, making the audit process even more vulnerable. Global auditors also need to be fully cognizant of accounting standards and laws in various parts of the world, and the different regimes of taxation which operate within each country. Here again a team of experts will need to be engaged for a large audit, and this can be costly. One of the reasons for audit failures is the lack of skill and relevant experience in the audit team, often due to constraints on cost budgets, and a cultural inferiority towards audit within large firms.

For a forensic accountant to unravel the nature and extent of tax avoidance and corruption, at the very least they need to unravel the global corporate structure – all the group companies, subsidiaries, and associated companies which comprise the corporate web (Ozili, 2015). After mapping this, the nature and extent of material transactions, production, and financial flows between the group companies need to be identified – how much goods and money are moving, in what direction, and what is happening to the relevant costs and revenues of these goods. To obtain information to this level of detail is very difficult, even for the best trained forensic accountants and auditors, especially if they are outside the corporation, and only have public information to go by. It may also happen that companies linked to one another, with similar owners, are registered in different names and not shown as part of an inter-connected web of transactions and operations. Here again, there is plenty of scope for corruption and deceit by the same individuals but hiding behind different corporate shell names.

5. Transfer Pricing

One of the easiest ways in which corporations can minimize taxes, and practice tax corruption, is through transfer pricing (Sikka and Willmott 2010). Transfer pricing is the artificial way in which costs of intra-group transactions are set such as to minimize overall tax liabilities – profits made in high tax jurisdictions are transferred to low-tax jurisdictions such that tax is minimized. In theory, transfer prices should be set on a fair arms-length basis and on sound economic substance rather than cosmetic accounting pricing. Firms like Apple or Amazon or Facebook often make vast charges for their brand and technology such that very little tax is payable locally in any one country, in spite of the huge revenues generated there (Brooks 2014). This is very unfair for host countries who lose out on tax revenues and also local businesses suffer from the aggressive competition brought by these companies. Not only do they not pay their effective local taxes, but they also undermine the local economic base by bringing in unfair competition.

The courts and tax enforcers have historically found it very difficult to regulate and monitor transfer pricing, even when they reasonably suspect that it is very aggressive and the prices or charges are unrealistic and designed to avoid taxes (Brooks 2014; Tax Justice Network 2015). The fact that tax laws vary from country to country, and accounting transparency of multinational corporations can be limited, it is very difficult to follow the money and transactions, and firms like the Big 4 accountants actively advise their clients to practice such tax arbitrage, knowing full well the weaknesses of the tax enforcement officers and regulatory bodies. Through years of experience, they have worked out the weaknesses and come to know the main enforcement officers personally – there is a vast unevenness in the resources at the command of the tax enforcers. The political influence of big business and the reigning political party can be such that at times the most experienced officers are the first to be sacked in a restructuring or cost-cutting exercise. All their knowledge and experience leave with them in one stroke in the false narrative of cost-cutting. In fact, good investment in tax collection can be financially significantly rewarding as it improves the tax collections and revenue generation, and rather than being a cost to government, becomes a major profit centre (Murphy, 2015). In such a context, no amount of good forensic accounting can bring the result of fair taxes – it all gets lost in the legal battles for definition of arms-length prices and fair shadow prices, even after assuming that all the relevant information is available.

Accountants and Lawyers play a very important gate-keeping role in such transactions – as financial advisers, record keepers, and auditors (Brooks 2018; Sikka and Hampton 2005). Even when the same elite owners have different shell companies, often these very same companies are set up by the same accountants and advisers. Their knowledge and expertise give an image of legitimacy to the structures and transactions, for which rich elites are willing to pay a high fee. However, these same accountants can choose to say no and police the intent of the structures and transactions in the interests of morality, fairness and tax justice. There are many accountants out there who do say no to such questionable practices and lose valuable fees and client work as a result. However, there will always be those willing to do the work irrespective of the ethics. In the case of the Big 4 firms, the ethical issues are often so broken up and sub-divided that they disappear from individual conscience and immorality becomes normalized as standard conduct and character. Often lawyers and accountants work in tandem to facilitate such conduct (Shah, 1996), and there are many qualified lawyers who also work for the Big 4 global accounting firms.

6. Country-by-Country Reporting

Even though annual reports of multinational corporations are supposed to be aimed at providing full information for investment decision-making, they sadly fail miserably in the simplest of areas – the honest declaration of sales and profits in individual countries in which they operate (Murphy et al, 2019). This shows the rhetoric of transparency is just that – a false narrative designed to cover up elite interests and protect them. The biggest defenders of this level of opacity have been none other than the Big 4 audit firms – the very organisations for whom transparency ought ostensibly to be of prime interest. They have been actively lobbying to protect their client interests in secrecy and tax avoidance by hiding critical information. Recent attempts by the European Union to improve transparency for Banks and Financial Institutions in terms of country-by-country reporting have also been shown to be deeply flawed with the resulting information being unreliable and unaudited. Whilst country by country reporting is not a complete panacea, it can still reveal very important information provided it is provided honestly, accurately, and reliably. In particular, the shifting of profits can be made visible, helping revenue officers to be forensic in their analysis and informed in their enforcement.

If the audit of multinational corporations and businesses is separated from consulting or advisory services, there is much better scope for effective tax governance and policing. Even tax calculations and planning could then be questioned by auditors, making it much easier to discern aggressive tax practices through reporting by auditors. The specialist business and financial knowledge that independent auditors possess, combined with their professional independence from client appeasement or even corruption, could lead to much quicker reporting of financial hubris, excess and even tax or commercial frauds. This trusted information could significantly help with effective tax policing and enforcement. It would also mean that revenue collectors would find audit professionals as allies rather than adversaries. In the United Kingdom, this separation and the creation of a distinct audit profession has been recommended by recent major investigations by the Competition and Markets Authority and the London Stock Exchange.

7. Undue influence and institutional challenges

Part of the VIRTEU project was to identify potential occurrences that may be symptomatic of undue influence on the political decision-making process. The following table includes issues relevant to the role of accounting firms, accountants, or their professional bodies, that deserve to be further investigated:

Table 1. Potential cases of undue influence and institutional challenges related to the activities of accounting firms, accountants, or their professional bodies.

The practice of limiting the scope of the criminalization of tax evasion practices	The Big 4 firms (directly or through alumni) are very close to government as advisors on tax policy and also sit on the Board of the HMRC in the United Kingdom. This creates a significant conflict of interest and there have hardly been any cases in the UK for professional accountants and lawyers have been charged with criminal offences on tax evasion (see Brooks, 2018, chapter 9).
The adoption of legal instruments favourable to tax evaders (e.g., tax amnesties and forms of negotiated resolutions).	Dave Hartnett, a former UK head of the HMRC, became famous for his negotiated settlements of multi-billion-dollar cases against large multinationals like Vodafone. There are significant costs of litigation on both sides, and tax cases are complex, so compromises are often reached, but often in favour of multinationals and behind closed doors. Dave Hartnett joined Deloitte after these controversial settlements – a conflict of interest? (see Brooks 2018, chapter 7).
The continued reluctance to adopt effective transparency regimes	This is a critical issue and one which can help expose complex inter-group transfers and offshore secrecy, but sadly transparency has often been blocked or not demanded by governments due to their corporate capture.
Deregulation, exceptionalism, and potential harmful tax practices adopted by national states competing against each other.	Some of these practices have been highlighted in this chapter. Offshore tax havens are pioneers of creating the lowest possible taxes, leading to a global tax race to the bottom. Even at very low tax rates, collection of taxes is still hampered by creative accounting and professional advisors promoting schemes that minimise taxes and prevent any legal action from governments. (Brooks Chapter 7 discusses the LuxLeaks scandal which shows how PWC acted as both tax 'regulator' and advisor to corporations)

Revolving door practices, unethical lobbying and undue influences on the political decision-making process, and other potential institutional challenges	The article provides examples of these, and references are in the books listed here. Tax legislation and rules are often technically complex and require experts who understand the rules to identify loopholes and gaps. When these experts do not pursue professional oaths or public interest protection and move jobs and use networks to help undermine tax collection, it is very difficult to prevent such actions. (Brooks 2018 pp. 207-8 provides a helpful list of revolving doors for senior professionals between private practice and government). For instance, in 2021, Margaret Cole, the Financial Services Authority's managing director - one of the U.K.'s most prominent busters of insider trading rings, moved from the financial regulator to join PwC as its new general counsel (Binham, 2012). A similar rotation usually occurs among Her Majesty Revenue & Customs, big UK companies and the big four accountancy firms. This is worrisome taking into consideration the potential conflict of interest: together KPMG, PwC, Deloitte and EY receive billions of pounds a year in fees to advise big multinational companies on tax structuring (Agnew, 2015). The U.K. House of Commons Committee of Public Accounts' report of 2013 stressed that: "*The large accountancy firms sit on tax advisory panels and also second staff to government to provide technical advice when tax legislation is amended or created… we are … very concerned by the way that the four firms appear to use their insider knowledge of legislation to sell clients advice on how to use those rules to pay less tax*" (Committee of Public Accounts, 2013, 9/10). As a result, the report recommended that "*it is inappropriate for individuals from firms to advise on tax law and then devise ways to avoid the tax*" and that "*HM Treasury should ensure that the code of conduct we have proposed for tax advisors sets out how conflicts of interest should be managed when a firm advises government on the formulation of tax law and subsequently provides tax advice to clients in related areas*" (Committee of Public Accounts, 2013, 5).

Adoption of a high level of complexity in regulation, or imposition of procedural burdens or other obstacles to investigations and enforcement.	Complexity in regulation often results from technocratic legislators and attempts by governments to try and close loopholes, leading to even more complexity. Just as experience is required to unravel false or fraudulent accounting, similar experience is required among the teams of tax inspectors, who often get poached the more successful they are. Private Eye journalist Richard Brooks was a former tax inspector, but he decided to become an investigative journalist and has written books and articles which expose these unethical practices. He is a rare example – most people either join the private sector or quietly collude with corporate clients. In the U.K., the House of Commons Committee of Public Accounts' report of 2013 illustrated how "t*he UK tax system is too complex and a more radical approach to simplification is needed*" (Committee of Public Accounts, 2013, 5) and that "*International tax rules are out of date*" and that "*existing international tax laws mean it is relatively easy for companies to establish a viable office for tax purposes in a low tax location, and pay their tax there, rather than where the majority of their business activity takes place*." (Committee of Public Accounts, 2013, 11). Also, in another report it was clearly explained how "*the complexity of tax law creates opportunities for avoidance, there is no effective deterrent to stop people from promoting avoidance schemes, and HMRC is ineffective in challenging promoters who obstruct its attempts to investigate.*" (Committee of Public Accounts, 2013(b), 3).
Any other potential symptom of undue influence on the political decision-making process.	The case of LuxLeaks exposed how the very top of the Luxembourg government was involved in advance approval of corporate tax avoidance schemes, directly attracting top multinationals to its jurisdiction (see Brooks 2018 chapter 7). During the VIRTEU International Symposium "The Profession-als: Dealing with the Enablers of Economic Crime", Antoine Deltour explained how in Luxemburg the authorities approved the tax deals set up by the accounting firms "with also no means to verify the legality of the deals" (Deltour, 2021, Session I - The Phenomenon, video recording at 27:56). Undue influence can be exerted by the big accounting firms because of their *de facto* position of power. As it was highlighted in the U.K. House of Commons Committee of Public Accounts' report of 2013: *"Large accountancy firms are in a powerful*

	position in the tax world. They have a very good understanding of how HMRC applies tax law, which they can use to advise clients on which arrangements HMRC is likely to challenge. Through their work in advising government on changes to legislation they have a detailed knowledge of UK tax law, and the insight to identify loopholes in new legislation quickly. They also have the technical skills, knowledge and infrastructure to assist clients who come into dispute with HMRC, and the resources to sustain this challenge for the years it can take to litigate.8 The four firms employ almost 9,000 people as part of their UK tax practice. By contrast, HMRC's resources are limited. For example, HMRC has 65 transfer pricing specialists, whereas the four firms have around 250" (Committee of Public Accounts, 2013, 8). It also recommended that the UK Government "*must ensure that HMRC is properly resourced to challenge the advice given by the four firms and others to companies and individuals seeking to aggressively avoid tax*" (Committee of Public Accounts, 2013, 6).

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The project explores the interconnections between tax crimes and corruption to unravel the intimate relationships that exist between fraudulent and corrupt practices in the area of taxation with a focus on VAT fraud, which poses a direct threat to the European Union's financial interests.

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