

CENTRE FOR TAX SYSTEM INTEGRITY



Cultural narratives of taxation and
citizenship: Fairness, groups
and globalisation

Gregory Rawlings



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CULTURAL NARRATIVES OF TAXATION AND CITIZENSHIP: FAIRNESS, GROUPS AND GLOBALISATION

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THE CENTRE FOR TAX SYSTEM INTEGRITY WORKING PAPERS

The Centre for Tax System Integrity (CTSI) is a specialised research unit set up as a partnership between the Australian National University (ANU) and the Australian Taxation Office (Tax Office) to extend our understanding of how and why cooperation and contestation occur within the tax system.

This series of working papers is designed to bring the research of the Centre for Tax System Integrity to as wide an audience as possible and to promote discussion among researchers, academics and practitioners both nationally and internationally on taxation compliance.

The working papers are selected with three criteria in mind: (1) to share knowledge, experience and preliminary findings from research projects; (2) to provide an outlet for policy focused research and discussion papers; and (3) to give ready access to previews of papers destined for publication in academic journals, edited collections, or research monographs.

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Abstract

This paper explores the relationship between culturally mediated narratives of fairness, conceptions of the state, group and individual identities, citizenship and debates about globalisation in Australian perspectives on tax administration. It is based on a qualitative analysis of 2 326 responses to a survey of attitudes to the Australian tax system. This paper emphasises that taxpayers' statements can be read as cultural acts that enrich our understanding of how people give meaning and significance to their lives. The majority of respondents reported that taxation should be levied fairly across social groups. However, this sense of fairness is being eroded by the widespread perception that the wealthy are avoiding their 'fair share' of taxes. Although citizens view tax administration as increasingly unfair, there is no evidence of wholesale disengagement from the system. The majority of people believe that the tax system has legitimacy and that it can be reformed. There is still scope for policy innovation that reinstates a sense of fairness, equity and balance to the tax system.

Cultural narratives of taxation and citizenship: Fairness, groups and globalisation

Gregory Rawlings

... I believe I should render unto the Government, via the Tax Office, a portion of my income to help run the country.

... taxes should be paid to the Tax Office without hesitation. Taxes and Death are facts of life (The views of two anonymous Australian taxpayers in 2001 responding to the survey *The Australian Tax System, Fair or Not?*)

... who was it who said there were only two things that were certain in life – death and taxes? Well the former may be true, but I definitely don't believe the taxes bit. It is one's God given right to try and minimise your taxes that the government wants to take from you (An offshore funds manager in a Pacific Island 'Tax Haven' catering to the world's High Wealth Individuals in an interview with the author).

INTRODUCTION

This paper argues that narratives of taxation that focus on discourses of fairness are closely related to a prevailing egalitarian ethos in Australian society. Narrated notions of fairness emphasise equity between groups, call for active citizenship and highlight social cooperation just as much as individual competition. These views on the politics of fairness are reflected in practices, attitudes and discourses surrounding taxation. Moreover, these discourses and practices can be conceptualised as statements of cultural action.

The qualitative, or self-narrative, responses of a survey carried out by the Centre for Tax System Integrity (CTSI) in 2002 illustrate a widespread public consensus that taxation is a legitimate way of raising government revenue. However, it should be levied and uplifted in a manner that is fair and just across all social groups, institutions and organisations. Taxation should be independent of sectoral interests. However, this sense of fairness is being jeopardised by the widespread view that the wealthy are not paying a proportionately just amount of tax. In other words there is a perception that High Wealth Individuals (HWIs) and large corporations (both Australian based and multinational) are not paying their 'fair share' of tax (Braithwaite, 2003). Consequently trust, which is vital for

maintaining institutional legitimacy and plays a fundamental role in maintaining and legitimising state power (with positive outcomes for compliance), is being adversely affected by the perception that taxation is increasingly ‘unfair’.

This perception of unfairness has the potential to undermine the integrity and long-term viability of the tax system. It also illustrates some of the structural contradictions and tensions of globalisation, namely that the state is failing as an arbitrator of social justice guaranteeing a symmetrically reciprocal relationship between citizens and institutions of governance. Instead the state is in danger of being perceived as an entity that serves a powerful economic elite whose interest’s lie in transnational processes and accords at the expense of an increasingly variegated citizenry. This has the capacity to not only pose fundamental challenges to institutions such as the Australian Taxation Office (Tax Office) who are required to manage taxation obligations for our community but also undermines the very fabric of our representative democracy.

Qualitative implications, methodological foundations and narratives of taxation

In 2002, CTSI at the Australian National University (ANU) conducted *The Australian Tax System – Fair or Not – You Be the Judge: A Survey of Attitudes and Experiences*. This was sent out to 6 944 people, 3 000 who were randomly chosen from open electoral rolls and 3 944 who had previously participated in CTSI’s *Community Hopes, Fears and Actions Survey* (CHFA), carried out in 2000 (Braithwaite, 2001; Braithwaite, Reinhart, Mearns & Graham, 2001; Braithwaite & Mearns, 2001). Of the 6 944 people who were contacted, 2 326 completed and returned the survey, representing a response rate of 33.5%. The survey was primarily designed to elicit quantitative data, but three open-ended questions inviting participants to express their thoughts, feelings, attitudes, perceptions and tax-paying practices were included at the end of the survey. These questions primarily concerned their relationship with the Tax Office, but opened up the possibility for people to express specific and general views apropos taxation, the government, expenditure and related social issues. In addition to these direct questions, participants were also invited to provide any other comments that they wished to make regarding the survey, its content, and other issues related to taxation.

These three questions and the invitation to open commentary were as follows: In your own words, what do you expect the Tax Office to deliver (a) to you? (b) to the Australian Community? and (c) in your own words, what is your responsibility to the Tax Office? Participants were also asked at the end of these three questions 'If you have any comments which you would like to add, please write them below'. The response rate to this section provided a rich source of qualitative material, which can be read as voices embedded in text, constituting narratives, or stories that reflect on contestation and cooperation within the tax system. This paper is primarily concerned with these responses, and how they reflect on the way people are integrated in relations of citizenship with one another through institutional procedures.

These responses provided the data for this paper. It was imported into a qualitative data-analysis software package, QSR NUD*IST Vivo (Nvivo) (Fraser, 2000; Richards, 2000). This allowed responses to be systematically searched and coded for key themes in tax administration as they were identified by respondents, including fairness, justice, equity, honesty, integrity and efficiency. These were then cross-referenced and aggregated to provide more general observations about democracy, citizenship, the law, public administration, policy, politics, social change and economy. This paper draws from these data and focuses on the relationships between fairness, citizenship, democracy, institutional design and rapid socio-economic change, or globalisation.

Open questions and invitations to free-flowing narrative allow respondents to discuss ideas and topics that are most relevant to them. They also enable participants to complement quantitative pre-determined categories with their own voices and may also highlight important trends that can be incorporated into future hypotheses and surveys. Open questions allow participants to deploy a range of narrative strategies, from one-sentence answers through to comprehensive commentaries that illuminate tax paying and compliance practices as they operate in people's lives and experiences (Williams, 2003).

Bankman and Karlinsky (2002) suggest that qualitative data and research¹ has two main theoretical advantages. First, qualitative data allows for concept analysis or the utilisation of a 'theoryanalytic' approach that is commensurate with 'generalisability'. Second, narratives provided in surveys, interviews or from fieldwork have a 'sensitising' effect in that they cover issues in a meaningful way that people can relate to (Bankman & Karlinsky, 2002, p. 3). Open ended questions and subsequent narrative responses facilitate the discovery of new meanings, categories and world-views in the development of theoretical approaches, rather than verifying a specific theory through quantification and measurement. Both qualitative and quantitative approaches can complement each other through the triangulation of data, or they can stand alone, each offering a way of enhancing our understanding of social and cultural worlds. Qualitative data, both individual responses and aggregated themes and trends, voiced in response to open-ended questions and requests for commentaries on large surveys may also be particularly poignant in periods of rapid social change. This is particularly the case in the context of economic restructuring and globalisation which has transformed the relationship between citizens and the state in the past 20 years, both in Australia and internationally (Agnes, 2000; Stimson, 2001).

In social and cultural anthropology, qualitative data has been epistemologically privileged in research, analysis and ethnography², particularly that grounded in participant observation (Malinowski, 1966 [1922]). Even where responses to open ended questions are not based on face-to-face contact, these stories are nevertheless amenable to ethnographic analysis, in so far as individual commentaries can be explored by examining the ever-increasing webs of significance and meanings of processes, trends and themes (Geertz, 1973; Weber, 1978).

¹ Bankman and Karlinsky (2002) discuss the advantages of qualitative data from interview based field-studies rather than surveys. However, the inclusion of open questions in surveys still produces qualitatively rich material. These may not be as individually comprehensive in their content or length as in-depth interviews, but they provide a large number of responses that demonstrate relationships between patterns and processes, amenable to interpretative analysis.

² Ethnography refers to both anthropological texts and monographs but also to a specific methodological approach emphasising qualitative research strategies that give primacy to people's lived experiences, narratives, views and practices. While it was once almost exclusively based on long-term fieldwork, necessitating in-depth participant observation, it is increasingly being employed in areas beyond anthropology, particularly in applied social research that incorporates interview, focus group and open-ended survey methodologies.

This is not limited to anthropology. The historian Martin Daunton (2001) suggests that debates about taxation and the role of the revenue authority can be interpreted as conversations between citizens and state, between the ‘political language’ of persons, groups and different forms of income on the one hand and the institutional structures of governance on the other (Daunton, 2001, p. 387). These conversations can be expressed in qualitative form – whether in responses to open ended surveys, interviews, focus groups, participant observation or in content analysis of print, visual and audio medias and in detailed archival investigation. One way of interpreting these conversations is to conceptualise tax paying as a series of mediated cultural acts and the Tax Office as a cultural institution. As such the voices that emerge in this survey provide crucial insights into the tax system that can be reframed as a cultural field of struggle, embodying both cooperation and contestation over the meaning of fairness, citizenship and the state.

Ethnographic inquiry and taxation as cultural practice: The fiscal value of anthropology

Culture lends significance to human experience by selecting from and organising it.
It refers broadly to the forms through which people make sense of their lives
(Rosaldo, 1989, p. 26).

Ethnographic inquiry can furnish analyses of social issues with critical lenses for approaching taxation, citizenship, governmentality, democracy and the state and conceptualising bureaucratic institutions such as the Tax Office. It does so through highlighting people’s perspectives on these phenomena. One particular aspect of anthropology has been its emphasis on invoking the ethnographic method to bring people who are usually excluded from daily participation in elite political life and formal institutions of governance into view. In her review of the relationship between anthropology and democracy, Julia Paley suggests this involves paying close attention to lived experiences, local meanings and contestations of power relations. This has been possible because of the emphasis anthropology places on relationships with ‘people outside of formal and elite political institutions’ (Paley, 2002, p. 469).

An ethnographic sensibility can be particularly useful in research endeavours that are not based necessarily on fieldwork, but do pay close attention to people’s worldviews and

experiences. They are amenable to forms of cultural analysis. 'Culture' has been a widely debated and problematic concept in anthropology and sociology to the extent that some doubt its continued epistemological value. However, culture can be reinvigorated by recalling Weber's *verstehen* analytical method, which necessitated that social action be understood by examining specific meanings of particular practices from emic (actor-orientated) perspectives. Walker (2001) has recently revisited Weber's *kultursociologie* (cultural-sociology) and has argued that culture (*kultur*), rather than society, was the main aim of Weber's sociology. Culture for Weber (1949) consisted of processes whereby people inscribed the world with meaning and significance. Walker (2001, p. 43) cites Weber's definition of culture in the following passage:

'Culture' is a finite segment of the meaningless infinity of the world process, a segment on which *human beings* confer meaning and significance ... The transcendental presupposition of every *cultural science* lies ... in the fact that we are *cultural beings*, endowed with the capacity and the will to take a deliberate attitude towards the world and lend it *significance* (Weber, 1949, p. 81, cited in Walker, 2001, p. 43).

Weber's interpretive 'cultural-sociology' was extremely influential in the work of the anthropologist Clifford Geertz (1973) who invoked culture as an historically and symbolically contingent system of meanings by which people constructed and shared their practices, lives and knowledge with each other. Geertz states (1973, p. 5) that:

Believing, with Max Weber, that man [sic] is an animal suspended in webs of significance he himself has spun, I take culture to be those webs, and the analysis of it to be therefore not an experimental science in search of law but an interpretive one in search of meaning.

An ethnographic approach therefore consists of establishing and demarcating the 'structures of signification' that embody actions, beliefs, perceptions and discourses (Geertz, 1973, p. 9). Thus Geertz (1973, p 28) continues:

The aim is to draw large conclusions from small, but very densely textured facts; to support broad assertions about the role of culture in the construction of collective life by engaging them exactly with complex specifics.

The interpretive value of this view of culture – as a systemic series of dynamic symbols and meanings – has had a major influence in anthropology and sociology. Keyes (2002) argues that Weber's legacy cannot only be identified in Geertz's 'thick description', but also in Bourdieu's theory of practice and interpretive sociology and in Foucault's (1978 [1976]) work on power, knowledge and the mediating effect of discipline in the formation of 'rational' subjectivities. For Bourdieu, 'dispositions' are manifested in cultural expressions of 'wisdom, sayings, commonplaces, [and] ethical precepts' that are in turn deployed in spatial and social structures of implicit meaning (Bourdieu, 1977, p. 77, cited by Keyes, 2002, p. 240). These are precisely the kind of voices that can be heard in responses to open questions and commentaries in surveys of the kind discussed here in this paper. An ethnographic approach to taxation allows for the construction of 'actor orientated descriptions' (Geertz, 1973, p. 15) of the Tax Office, tax payment and what it means to comply which in turn illuminate issues of wider relevance ('ever-increasing webs of significance'), namely (but not exclusively) fairness, group dynamics, citizenship and the position of the state.

This ethnographic approach to culture contrasts strongly to the utilisation of culture in accountancy, management and organisational studies, which have been crucial disciplines for taxation research. The accountancy scholar Rachel Baskerville (2003) has made a powerful critique of the adoption of reified and essentialist notions of culture that have characterised accounting and commerce research in the last twenty years. She argues that reliance on Geert Hofstede's attempts to classify and quantify culture by dichotomising differences in statistical indices and matrices is misleading. Hofstede equates nation with culture when there is no evidence of such co-equivalence. This approach further renders dynamic phenomena (power-distance, uncertainty-avoidance, individualism and masculinity) static by reference to fixed measures represented as numerical indices and matrices supposedly quantifying 'cultural dimensions' when in fact they demarcate macro-level economic and social indicators such as Gross National Product and population

growth. These hardly capture the nuances of cultural practice (Baskerville, 2003, pp. 8-9). This is further based on observation from outside of culture rather than seeking to understand it from within [its own context] (Baskerville, 2003, p. 9). Baskerville (2003, pp. 1-2) argues that this has led to a 'misleading dependence on cultural indices as an explanatory variable'.

Anthropologists and sociologists have long since abandoned explaining culture by invoking such arbitrary dualisms and attempting to fix the dynamism of human life by reference to numeric indices and matrices. As Baskerville (2003, p. 2) states:

... when anthropologists adopt any such concepts of culture, culture is not divided into component systems, or different values in a quantitative style; instead it is viewed as an integrated pattern of symbols and meanings. Even before Hofstede's survey started, Marshall Sahlins described anthropology leaving behind identifying cultures by series of dualisms ... and instead promoted that diverse cultural emphases represent differing institutional integrations of symbolic schemes.

In contemporary democracies such as Australia there are a number of key institutions and processes that link individuals to one another, creating a relationship between citizens and state. These include 'the school' (education) and the 'hospital' (health system), which have been successfully explored ethnographically (Hansen, 1997; Levinson, Foley & Holland, 1996; Willis, 1977). The financial geographer Susan Roberts argues that taxation can be conceptualised in a similar way. It is one of the key vectors whereby the private is implicated in the public and vice versa (Roberts, 1999, pp. 128-129). In her analysis of tax evasion and corruption by the former Irish Prime Minister, Charles Haughey, Roberts argues that taxation is a pivotal medium in the private/public dichotomy, a critical dualism in the making of modernity. It is through a taxation system that individuals identify with a wider public and this identification spans the entire compliance spectrum. The emergence of the modern tax state has facilitated the deployment of administrative power to regulate individuals and actions so that the population is integrated in procedural practices that intersect in the management of daily life (Giddens, 1985, pp. 156-158; Hobson, 2002; Roberts, 1999, p. 129).

This dialectic between individuals and institutions, and the mediating effect of culture – invoked here in the Weberian and Geertzian sense as an articulating compass of shared and disputed symbols, actions and meanings – makes ethnographic inquiry a significant additional tool for understanding the complexities of the tax system. Geertz (1973, p. 23) rightly suggests that ethnographic findings should not be privileged, they are ‘just particular’, presented here in this paper to complement other approaches to the study of taxation generally and people’s positions in the contemporary state. They are just ‘another country heard from’ (Geertz, 1973, p. 23). They allow us to see how the state appears in people’s lives through everyday encounters. As the anthropologist Catherine Alexander (2002, p. 6) notes in her examination of the relationship between citizens and state in Turkey:

Narrations are woven from personal experiences and just as the state of the person shifts and changes from moment to moment, from context to context, so too do understandings of the state. The state is thus created as a series of narrational artefacts, a representational economy. Into this process of imaginable creation are drawn the objects that shape and are shaped by the practice of everyday life.

However one does not have to go to Turkey to see this. Anthropology is no longer confined to ‘foreign lands’, ‘isolated islands’ or ‘distant tribes’.³ But what anthropologists have learned from studying in such places, is that social life is fundamentally concerned with the makings and meanings of culture, which can often be most eloquently expressed in narrative form. These same structures and nuances of meaning have relevance in contemporary nation-states and as such anthropology⁴ may well be able to play an important ‘fiscal role’ in exploring the nuances and complexities of taxation and compliance in the twenty-first century.

Taxation and the contours of fairness

By far the most prevalent narrated response to the three open ended questions at the end of the survey, *The Australian Tax System: Fair or Not?*, concerned issues of ‘fairness’.

³ For an analysis of taxation in an indigenous peasant setting see Codoy (1986).

⁴ Along with other cognate disciplines such as geography, history, sociology and cultural studies.

Sixty-five and a half percent of total participants directly stated at some point to one of the three questions that the tax system is, is not, or should be 'fair'.⁵ It was both a desirable outcome and a valued process.

With reference to the first question, 'In your own words what do you expect the Tax Office to deliver (a) to you?', 53.9% of respondents said that the Tax Office should be fair in its dealings with them. Some of these comments included:

A fair and equitable administration and implementation of taxation regulations.

Consistent, efficient, fair calculation/assessment of tax liability.

A fair tax system for the blue collar worker.

When asked at (b) what they expected the Tax Office to deliver to the community, 49.4% per cent of people focused on fairness, with comments such as the following:

Consistent, efficient, fair calculation/assessment of tax liability. Plus respond to community views regarding taxation affairs.

Raise enough taxes to pay for health, education, care of elderly, the infirmed and young children; roads, transport, law and order costs and finally to balance our economy with fair and equitable taxes in which all contribute fairly.

A fair, justifiable tax system and an honest approach to implementing a tax system that has the Australian community's interests at heart.

By contrast when people were asked (c) 'In your own words, what is your responsibility to the Tax Office' only 20.8% of people directly⁶ felt that they should be fair in their approach to the office. This is not to say that people felt as if they should be unfair in their responsibility to the Tax Office, but rather this question elicited responses orientated towards compliance with most people focusing on tax payment, and institutional expectations related to the self-assessment system such as record keeping and honesty

⁵ This refers to people who used 'fair' as a descriptive adjective and/or invoked the concept of 'fairness' as abstract noun.

⁶ By 'directly' I mean people who use the word 'fair' or 'fairness' at least once.

when reporting income. An expectation of fairness, even if not directly stated, is often embedded in these commentaries, which include:

To accurately and honestly report all income and deductions incurred and to pay the correct amount of tax.

To be true and give correct information.

To declare any taxable income honestly.

In return for this honesty and cooperation people expect to be treated fairly by the Tax Office. Participants also wrote long, extensive and thoughtful narratives on the tax system, building on the expectation that the tax system should be organised in a fair manner.⁷ They tended to concentrate on the relationship between taxation and equity, stressing that all members of society should pay tax regardless of their wealth and earning capacity.⁸ They also tended to emphasise perceived differences in compliance between the very rich, 'ordinary Australians' and low-income earners who are considered to carry a disproportionately (and hence unfair) high tax liability. The implications of these perceptions will be discussed in the next section of this paper, but for now it is necessary to unpack the cultural nuances of what may be meant when people assert that the Tax Office should be fair in its dealings with them and the community.

⁷ This emphasis on fairness in taxation is also part of official Tax Office policy. The *Taxpayers' Charter* for example, has numerous references to fairness in tax collection. Under the section 'The Tax Office's relationship with the community', the Tax Office states that 'Within this relationship we see ... a professional and responsive Tax Office that is fair, open and accountable in helping members of the community comply with their tax obligations at least cost and inconvenience to themselves' (Australian Taxation Office, 2003, p. 3). Official Tax Office discourse often parallels the issues and concerns identified by participants in this survey. Space does not permit a detailed comparison between the Tax Office's official voice and participant's narratives, but an examination of the two perspectives shows a potential for enhanced dialogue and understanding between the community and the Tax Office.

⁸ There was minimal support for the argument that fairness and equality within the tax system has become counterproductive and undermined economic growth. There were a small number of respondents who subscribed to the idea that a certain level of inequality in the tax system could be tolerated in the interests of a competitive economy. This tended to be reflected in calls for the implementation of a flat rate of income tax. However, even these views were framed in discourses of fairness. For example, one respondent said that there should be 'a fair tax system' and then added that a 'flat tax with no deductions would be fairer.' Another said 'I can not see why, we in Australia could not have a flat tax across the board rather than by income. It would be fairer and easier as well as more economical.' Participants with these perspectives suggested that it was 'unfair' for people to pay differing amounts of tax, or that they should have to pay more than others. This penalised their financial position in society and undermined the productive capacity of businesses to employ more people and contribute to increased economic growth. However, this position was

Fairness as process and fair in outcome are deeply subjective concepts of expected behaviour and action concerning the fulfilment of mutually agreed upon, or expected, obligations and bargains concerning resource distribution. In practice however, fairness is dynamic, fluid and contingent. What may be fair for one person or group may be considered unfair to another (MacKellar, 1997; Platlow, Wenzel & Nolan, 2001; Wenzel, 2003). It is fraught with political implications that are saturated with culturally circumscribed acts of power.

Fairness can be approached in two broad ways. The first emphasises individual action, embodying various modifications of the rational-actor paradigm. This in turn lends itself to neo-liberal conceptualisations of economy and society in which individuals are pre-occupied with maximising their own rational self-interests with minimum external interference. Processes that enable individual self-maximising behaviour are considered fair. Outcomes are also considered fair if the pursuit of individual goals is not constrained by external state regulations over and above the protection of private property rights. If social inequalities happen to be one of the outcomes of individual self-maximisation, then they are not unto themselves unfair. Market intervention that restricts or undermines personal rights to buy and sell goods and services and enter into contracts in the pursuit of individual self-interest in order to ameliorate social inequalities is thus considered unfair according to this model.

This rational-actor neo-liberal approach to fairness contrasts to the second more communitarian depictions of fairness, which privileges the social over the individual. In these socially orientated models, outcomes are privileged over processes. Processes must insure fair outcomes to as many people as possible, regardless of an individual's position within the marketplace. From this perspective, market intervention is warranted if it leads to fairness of outcomes. With this epistemological position, inequalities are considered unfair. Appropriate policies and procedures should be enacted and enforced to mitigate against wide-spread social inequalities, and hence contribute towards a fairer society. In this position culture, or specific cultural practices, can take a central position. It illustrates

limited to a small minority of respondents. See Braithwaite (2003) for a further discussion of these issues, especially her 'economic self-interest hypothesis'.

how people themselves act in the world, illuminating the dialectic or continuum between agency and structure, rather than assuming primacy of the former over the latter. A cultural lens can also illustrate how concepts such as ‘rationality’, which are naturalised and assumed in the neo-liberal model, are in fact historically contingent.⁹ This contrasts to the neo-liberal approach to economy and society in which cultural practice is negated as an epiphenomenal by-product of individual self-maximisation, despite its enlightenment origins in the bifurcation of nature and culture.¹⁰

⁹ The cultural meanings of fairness are set in the contingencies of time and place. Within indigenous, non-state, societies fairness is embodied in ‘generalised reciprocity’, emphasising gift exchange and the distribution of intra-group resources on a relatively equal basis (Durkheim, 1960 [1893]; Durkheim & Mauss, 1963 [1903]; Mauss, 1954 [1925]; Sahlins, 1972). Fair distributions are made in systems of exchange, which guarantee that very few (if any) people are deprived of the material and symbolic necessities of life (Sahlins, 1972, p. 213). The cultural expressions of ‘the gift’ and what is considered fair have varied through time and between societies, from the Kwakiutl Potlatch of Northwestern British Columbia to the egalitarian political system of the Nuer in southern Sudan (Boas, 1966; Evans-Pritchard, 1969 [1940]).

The cultural specificities of what is and is not ‘fair’ are often most transparent in conflicts over resources between indigenous non-state societies on the one hand, and nation-states on the other. In nation-states, whereby inter-personal relationships are characterised by varying degrees of social distance and anonymity, cultures of fairness are set in more abstracted forms of religion, codified laws, and specified political and economic arrangements.

Western notions of fairness have their origins in Judeo-Christian expectations, norms, values, ethics and moral standards of behaviour. Many of these, such as trust, honesty and integrity are learnt in intimate familial surroundings and extended out into impersonal institutions and to relative strangers (Job & Reinhart, 2003). Ideas of fairness were secularised in the enlightenment, and in the eighteenth and nineteenth centuries dichotomised between proponents of ‘fairness as individual economic liberty’ and ‘fairness as collective economic equality’. In western nation-states, through the nineteenth and twentieth centuries, implicit concerns about fairness were expressed in the church, charities, legal reforms and also in the growing cultural legitimacy accorded to emotional and cognitive states such as sentimentality (Dickey, 1987; Kennedy, 1985; Mandler, 1990; Samuels, 1992). Important distinctions between western countries started to become important in this period. Dauntton (2002, p. 9) for example, shows that in the United States, expenditure on civil war pensions had strong partisan connotations and led to a general distrust of welfare expenditure. He contrasts this to the United Kingdom where, given different circumstances, there was widespread support for increased government spending in the economy. What is important here is that the nuanced differences over what is and what is not fair within and between countries can be traced to specific places, histories, politics, events, policies and economies that interact in dynamic ways to produce cultural logics with their own distinctive features.

¹⁰ Accountancy also offers important insights into concepts of fairness, which can be traced to the emergence of the joint-stock company and the increased importance of external reporting (Tweedie, 1983, p. 424). The associated rise of the stock exchange and the transfer of shares between parties not directly involved in the management of the firm depended on the capacity to conclude fair bargains. Fair agreements between parties (shareholders, directors and creditors) needed accurate information about corporate performance and long-term profitability. This information could be presented in ‘accounts’ portraying a company’s assets and liabilities, profits and losses expressed as an independent ‘truth’ in balance sheets and ledgers. ‘True’ and ‘fair’ were thus conflated as hendiadys (National Companies and Securities Commission, 1984, p. 20). This approach to true and fair acknowledges the importance of groups of stakeholders (just as much as individual actors motivated by self-interest) in reaching decisions, including shareholders, creditors, directors, lawmakers and regulators.

This also has fundamental implications for views of the state. Rational actor approaches tend to favour the view that individuals relate to the state through the vectors of its institutions through contractual obligations, privileging individual liberties over society and social relations (Boucher & Kelly, 1994; Rawls, 1973). The leading contemporary social contractarian theorist, John Rawls¹¹ (1973 & 2001), does not suggest that this conceptualisation of citizen-state relations necessarily warrants deregulated market driven economic relations in which individual self-maximisation can be fully realised. However, the very act of ranking personal liberty as paramount and equality as secondary, have allowed theorists such as Robert Nozick (1974) to take one step further and argue for extreme market-liberalism, where the state should do little more than protect private property rights. Indeed in this version of the contractarian position, society is almost totally irrelevant – it is individuals who are the bearers of liberty.

An alternative perspective approaches citizen/state relations – manifested in domains such as taxation – as culturally mediated relationships between social selves and the institutions of governance. Here individual potential is realised through responsive regulations and laws, with the goal being equality of outcome, and the state a pluralist expression of democratic procedures. Procedural justice (fair processes) and distributive justice (fair outcomes) are given epistemological equivalence. This resonates with Marian Sawer's (2000) analysis of the 'ethical state', which draws on the earlier Hegelian critique of contract.¹² She demonstrates the relationships between ideas of social liberalism and their

Furthermore, these perspectives allow for dynamism and consider changing social circumstances when fairly and truthfully reflecting financial 'realities' (see also Maurer, 2002 for the role of derivatives in producing such truth claims). As Tweedie (1983, p. 428) suggests 'The true and fair view develops by consensus and usage. Rules developed by a committee of professional men, [sic] no matter how eminent, cannot arbitrarily change the boundaries of the concept unless such rules meet with professional and social acceptance.' These insights into true and fair offered by accountancy research are particularly compelling in the post-Enron financial regulatory landscape. They are also important when considering international tax planning where accounts can be presented in ways that seem at odds with the original intention of a 'true and fair' portrayal.

¹¹ Rawls (1973) is credited with reviving and synthesising the albeit variegated enlightenment notions of contractualism epitomised by Hobbes (1668 [1668]), and extended by Kant (1785 [1795]) and Rousseau (1762 [1762]).

¹² Boucher and Kelly (1994, p. 23) summarise Hegel's critique of contract as follows:

'The language of contract transfers from civil society, the realm of capricious wills and individual interest, a relationship totally inappropriate for characterising that which pertains between the individual and the state. The state is not, for Hegel, a contractual relation designed to protect the property rights of individuals nor is it to be deemed the private property of the monarch ... The political relationship is qualitatively different in that it is absolutely necessary, objective and released from considerations of choice or caprice.'

subsequent transmission as policy to settler states such as Australia and New Zealand. The argument that the state must intervene in 'contract' (given the unequal bargaining power of parties) became increasingly persuasive in late nineteenth and early twentieth century Britain. These arguments were transmitted by immigrant politicians, scholars, writers and members of the judiciary to Australia and New Zealand where they coincided with nation building projects. This led to the formulation of policies, new laws, regulations and the establishment of institutions of arbitration and conciliation. They became crucial in the state provision of education, health care, public infrastructure and social security.

There are other factors that were important in the increasing scale of state intervention in society and economy such as the power of organised labour, trade protectionism, technological innovations, federalism and agricultural and industrial change. However, Sawyer (2000) provides a compelling analytical framework from which to conceptualise fairness, rejecting the narrow individualism of the rational-actor model in favour of the communitarian paradigm of the social good.¹³

In this view the state has a right, duty and the capacity to intervene in social and economic relations, and this was more important than absolute private property rights and the 'sanctity of contract' (Sawyer, 2000, p. 69). The state had an opportunity to create the conditions necessary whereby human potential could be released and fulfilled and self-actualisation realised. Pre-existing inequalities, which exposed the deficiencies in the

¹³ Sawyer (2000) carefully charts the interplay between ideas (idealist liberalism), policies and outcomes. There were close links between British and settler colonial social reform movements in the late nineteenth and early twentieth centuries. These brought together politicians, scholars, writers, journalists and educators. While other factors (such as economic, demographic and political change) were important in their own right, Sawyer (2000) shows that the ideas promoted by social liberal thinkers and activists had important social consequences. For example, in the 1907 Harvester judgment, Justice Henry Higgins, influenced by more than 40 years of social liberal thought, ruled that a 'fair' standard of living should be the main factor in deciding the basic wage, not market forces. In a later 1909 decision, Higgins stated that employers should go out of business if they could not afford to pay workers a living wage. In 1911, when he was President of the Commonwealth Court of Conciliation and Arbitration, Higgins (1911, p. 27, cited in Sawyer, 2000, p. 82) asserted that:

'as a rule, the economic position of the individual employee is too weak for him to hold his own in the unequal contest. He is unable to insist on the 'fair thing'. The power of the employer to withhold bread is a much more effective weapon than the power of the employee to refuse to labour. Freedom of contract, under such circumstances, is surely misnamed; it should rather be called despotism in contract; and this Court is empowered to fix a minimum wage as a check on despotic power.'

notion of ‘free’ contract (which tended to ignore the reality of unequal bargaining power, poverty and inequalities) had to be addressed by concerted state policies. Wealth was not created by individuals but by society. Individuals were not connected to one another by the instrumental relations of contract, but by relationships of mutual social interdependence.

Thus it becomes necessary to conceptualise citizen/state relations not in terms of a social contract, but as an interdependent dialectical partnership and relationship, where equality, not atomised economic prerogative, is fundamental. As the state and individual grow together as mutually interdependent moral agents, ‘older contractarian forms of liberalism’ were rejected in favour of newer forms of socially responsible liberalism realised by an ‘ethical state’ (Sawer, 2000, p. 79). This distinguishes and rejects rational actor orientated market liberty, or neo-liberalism as it is known today (with its fetishisation of unfettered individual buying and selling rights, agreement to de-regulated contracts and the pursuit of enterprise) from social liberty that emphasises group freedom; the ultimate group being the nation-state whose ‘imaginings’ are rendered real by policies that promote active citizenship (Anderson, 1983; Irving, 1997). It is social liberty that allows taxation – mirroring its role in the ‘making of modernity’ that Giddens (1985) and Roberts (1999) have highlighted – to become one of the key institutions that link individuals to one another and to a ‘wider public’ that share a territorially defined nation-state that is mapped in the social imaginary. Modernity becomes grounded in pragmatic policies that epitomise the ‘ethical state’. This has far reaching implications in numerous social areas of public policy. As Sawer (2000, p. 77) notes ‘Taxation, for example, should not be considered as a burden, but in light of the good it brings to the whole community including the taxpayer.’

Group solidarity and individual self-maximisation

The rational actor approach to fairness, which underlies much neo-liberal reform, has been critiqued for its economic determinism and reductionism (Block, 1990; Keenan, 1987; Murphy, 2002; Polanyi, 1944; Wenzel, 2003). Wenzel (2003) shows that non-economic factors are equally important, including notions of equity, morality, justice and fairness,

These court rulings and related regulatory and legislative reforms in areas of employment, arbitration, conciliation, progressive taxation, education, health care and pension provision demonstrate the influence of

which transcend the whims of individual caprice and subjective preference, that are reified as objective rationality in neo-liberal economics. Non-economic considerations would probably be important even if the assumption of individual self-maximisation was accepted, but it becomes more compelling once the importance of groups are recognised. Platow, Wenzel and Nolan (2003, p. 276) clearly demonstrate, with findings from systematic psychological research, that ‘fairness is not an individual intrapsychic phenomenon’, but rather contingent on group membership and inter-group negotiation. One of the key advantages of this perspective is that it emphasises the importance of groups.

Indeed group membership is crucial for understanding fairness. Groups provide a strong basis for fairness decisions, with distributions and allocations often made at the expense of personal self-interest in favour of the group. However, fairness and its meaning is fluid and changes depending on context. Society is composed of multiple inter-dependent groups with individuals identifying, to various extents, with a number of different groups. Some of these are sub-groups based on face-to-face contact or common interests, such as sports teams, churches, workers, employers, institutions and so on. Others are superordinate groups based on nationality, citizenship and a sense of belonging to a wider community. As Platow, Wenzel and Nolan (2003, p. 269) point out, these groups can be ‘workers, an organization, or a nation’. Different groups will have their own cultural values and practices, which are legitimated by standards of expected behaviour. Importantly these groups will erect inclusive and exclusive boundaries, which will construct differential intra-group and inter-group rights when distributions are made. A fair allocation may take place within a group, but as soon as that distribution is extended outside the group, then its fairness may be questioned, even if the proportional allocations are identical.

These in-group and out-group perceptions of fairness permeate through nation-states and affect tax systems (Taylor, 2003). In Australia, and this is reflected in people’s commentaries about the tax system and its relationship to public expenditure, there is a strong emphasis on treating ‘every one as the same’ (on the grounds that they are ‘all Australians’ or ‘we are all tax payers’), which Platow, Wenzel and Nolan (2003) define as

social liberalism in the first two decades of the Australian Commonwealth.

the equity rule of fairness decision making. This is contrasted to the needs rule, which makes fairness allocations on the basis of difference. This can include special provisions for minority groups, women, single parents, refugees, indigenous Australians and some groups of workers. The needs rule can also be manifested in perceived financial concessions (in terms of tax breaks) for the wealthy. This needs based approach to fairness decisions appears to have only minimal support in Australia. It tends to reinforce a schismatic view of society as being composed of diametrically opposed social groups, whose intense competition undermines national cohesiveness. While groups may be important in this view, they should be secondary to 'higher loyalties', more inclusive superordinate collectivities, even if they are essentialist and reified categories, such as 'the community' or the 'nation' in which 'everyone is treated the same' on the basis of a shared citizenship. Needs based allocations, if they are to be made at all, must be sufficiently compelling, such as the special provision of goods and services in the wake of natural disasters. Australia's system of democracy has tended to recognise the social schisms that intense inter-group competition can generate and has sought to ameliorate these divisions through public policy – particularly in the domains of arbitration and conciliation as Sawyer (2000) has so succinctly outlined – through placing itself above various sectoral interests and conflicts and making well-informed public policy decisions for the benefit of all. This has tended to take place on principles of equity, but has not been adverse to needs based approaches where necessary (even if publicly unpopular).

Daunton (1998; 2001; 2002) has shown that the state must not be seen as biased in its approach to any one particular group/s in order to secure the legitimacy of the tax system. The state must be seen as impartial and neutral in its taxation policies, removed from sectoral interests, in order to facilitate a sense of fairness that transcends group based rivalries, and secure its own independent authority rather than further the interests of a tiny elite. It must be an independent arbitrator that recognises that 'no one group has a monopoly on fairness' (Platow, Wenzel & Nolan, 2003, p. 276). This is absolutely necessary to maintain trust in the integrity and legitimacy of both the state and its key competencies such as the tax system.

What we see in the narrated responses to the *The Australian Tax System – Fair or Not Survey* however, is that this appeal to a superordinate sense of shared Australian identity as a basis for taxation compliance is beginning to break-down, or at the least is under severe stress. This is occurring as people no longer privilege the classification of ‘Australians’ as ‘one-group’ based on shared citizenship rights and obligations, even though this remains a normative ideal (in other words ‘Australians should all be treated the same’ regardless of class or group affiliation). Rather citizenship is being fragmented into variegated groups of ‘rich’, ‘average’ (the majority of respondents classified themselves as ‘average’) and ‘poor’.

The narrated responses to *The Australian Tax System – Fair or Not Survey* show that the fairness of the tax system is being compromised by perceptions that the rich – or HWIs – are avoiding their tax-paying fiscal responsibilities on a massive scale. In other words the wealthy are being seen as a group for whom the same rules of fairness do not apply (see Braithwaite, 2003). They have their own rules, but these are not necessarily fair to the rest of society. Thus the state is failing in its key competency as an independent arbitrator of divergent group interests. It is no longer up-holding principles of pluralist democracy, but is seen to be favouring one group over all others, and this is reflected in one of the most crucial junctures of state/citizen relations of all – taxation. As Sawyer (2000, pp. 89-90) affirms:

We seem to have unlearned many of the things which social liberalism taught us, such as that ‘freedom of choice’ is meaningless if we don’t have the material and cultural means for self-development. A hundred years ago social liberals knew that it was the duty of the state to intervene, whether in the labour market, the housing market or in other ways, such as through the provision of free schooling, libraries, museums and art galleries, to ensure such equality of opportunity ... Today our expectations of what our governments can or should do have been dramatically reduced. Most worrying is that the unlearning of what the social liberals taught us about the oppressive nature of contract where there are inequalities of economic and social power. If government does not intervene in such contracts we have indeed given up on the ‘ethical state’ in which so much faith was placed a hundred years ago.

Maybe however, people have not unlearned many of the principles Sawyer identifies. Indeed, people may not have so much as ‘given-up’ on the ‘ethical state’, but rather are taking note of one group of powerful social actors who appear to have undue influence in state procedures in a way that produces unfair outcomes for other groups. It may well be that this greater transparency will ultimately restore trust, integrity and legitimacy to the tax system in a way that transcends the schismatic tendencies of vested group interests.

On the precipice of trust: Citizenship, globalisation and the critique of unfair liability

Although people articulate the view that the Tax Office, and by extension the tax system, should be fair to both themselves and the Australian community, this is negated by a widespread perception that it is bureaucratically and systemically unfair. As one respondent observed:

... it is unfair to the community as a whole. There are too many loopholes for creative accounting and the top end of town is able to exploit these deficiencies. I wish the Government would scrap the lot and start again. However, this would be impossible.

This sense of unfairness is based on an even more pervasive perception; that the wealthy are not paying a proportionate share of taxes relative to ‘everyone else’s’. In other words

the rich are not paying their ‘fair share’ of taxes. When taxation is no longer considered fair, it ceases to be a form of mutual obligation (in terms of the ‘good it brings to the community’ [Sawer, 2000, p. 77]) and becomes ‘a burden’: A burden because it is middle income earners, the less well-off and the poor who are believed to be supporting the civic infrastructure and democratic prosperity that everyone benefits from, including the rich and their businesses who are unfavourably considered exempt from the tax liabilities that everyone else must comply with. In her quantitative analysis of the results of an earlier survey conducted by the CTSI (the *Community Hopes, Fears and Actions Survey*) Braithwaite (2003) found that despite the complexity in perceptions of vertical inequity in the tax system, there is widespread belief that HWIs are not paying their fair share of taxes.

The prevalence of these views resonated a year later in the narrated responses to the present *The Australian Tax System – Fair or Not Survey*. Most people did not directly state that ‘the tax office and the tax system is unfair’, but rather deployed rhetorical strategies that emphasised the lack of procedural and distributive fairness by implication, contrasting the ideal of equity with observations of vertical inequity. Some of the responses that followed these narrative strategies in response to ‘In your own words, what do you expect the Tax Office to deliver (b) to the Australian Community’ included:

A fair, equitable and easy to understand tax system. Emphasis on fair for all members of society paying their fair share of tax, not just burdens on wage and salary earners.

Equality. Millionaires should not pay less than an ordinary tax payer.

1. To collect from all citizens their due taxes and not to allow the powerful to ‘negotiate’ an ‘acceptable’ amount of tax payable.
2. To remember, mistakes are made honestly and not everyone tries to cheat.
3. Investigate the trust funds and family trusts set up by people who suddenly declare themselves bankrupt.

Most respondents did not mention vertical inequity, or the perceptions of fairness or unfairness when asked at (c) In your own words, what is your responsibility to the Tax Office. However, one respondent approached this question by saying ‘The tax office would

get more respect from me if they were empowered to fulfil their charter. I pay my tax but the rich do not. The highest incomes are the most understated of all, most of their wealth derives from capital, therefore is most amenable to tax avoidance'. Open commentaries emphasised the belief that the wealthy are no longer paying their 'fair share of tax', with statements such as:

I'm now a retired invalid but while working was amazed at the tax havens and dodges which still have not been addressed by any government and seem to be on the increase. Lets have an Aussie Fair Go for all and not just the rich and famous.

I would like the Tax Office to finally take action against Barristers who have been able to escape paying tax for years but are still able to practice in their profession and earning very big money. The department certainly doesn't allow ordinary taxpayers to get away with not paying. Even if it is a very small amount they are held accountable. It is grossly unfair to the other people as some people just live week to week.

The message comes over that Barristers can find loopholes in your law and that they are too big and too smart for you to catch. You are expecting us as citizens to report people who get cash payments for jobs. The same rules should apply to all people regardless of your status in life.

Both qualitative and quantitative (Braithwaite, 2003) analyses therefore demonstrate that there is a widespread perception that the Tax Office is not delivering a fair system to the Australian public because there are certain wealthy groups, which are seen as separating themselves from the rest of society through their exemption from taxation. As one respondent observed, 'The rich buy political patronage', while another declared 'There is no doubt that wealthy people can afford to evade tax'. These perceptions of inequality in tax compliance undermine the legitimacy of the revenue system. Moreover, this legitimacy varies through time, depending on the interplay of specific economic, political, fiscal, demographic and spatial factors (Daunton, 1998; 2001; 2002; Freiberg, 1988; McLean & Smith, 1997; O'Keefe, 2000).

Daunton (1998; 2001; 2002) suggests that it is possible for the state to create institutional legitimacy in the tax system, and the sense that everyone is paying his or her fair share of taxes. Consent and trust are fundamental in this process, but once they are achieved then the legitimacy of a tax system can be maintained for generations. In the nineteenth and twentieth centuries this was achieved by creating a sense of balance and fairness, with the state perceived as a neutral arbitrator between groups and classes. Levels of taxation and expenditure followed this sense of fairness, from balanced budgets and conservative government expenditure in the nineteenth century through to increased taxes and wider spending parameters from the end of the first world war to the early 1970s. However, Daunton (2001) suggests that such a system is inelastic. It does not respond well in periods of rapid economic growth, stress or change. Daunton (2001, p. 12) notes ‘A system that seemed fair in one set of circumstances might be seen as arbitrary and unreasonable as the context altered’. If the tax system kept up with economic growth then fairness, cooperation and legitimacy could be maintained. If economic change was volatile, rapid, unpredictable, or corresponded to a perceived radical departure from established policies (such as favouring low inflation over full employment, or vice versa depending on era) then the requirement to constantly alter taxes can lead to a decline in confidence, cooperation, trust, legitimacy and compliance (Daunton, 2001).

Institutional design, or the operation of the revenue authority (the Tax Office in Australia’s case) is crucial in maintaining a sense of fairness and balance (see Murphy, 2003; Wenzel & Taylor, 2003). Following established bureaucratic practices, policies, rules and regulations can work well in times of social and economic certainty. It legitimises the Weberian ethos of rational-legality and contributes to an understanding of the state as an impartial arbitrator between groups and thus reinforces a sense of fairness and balance. However, it can lead to inertia and inflexibility in times of rapid social and economic transformation, where change itself is often described as inequitable and unfair (Daunton 2001, p. 16). One participant in *The Australian Tax System – Fair or Not Survey* expressed it succinctly enough in open commentary:

The Tax Office operation is archaic ... it is too slow to respond and banks on its ability to make decisions years after the event. For example, the recent tax

minimisation schemes and even the 'Rhaulis affair'. They are too slow in coming forward. It is all too hard for them!

This respondent is identifying one of the major predicaments that confronts a tax office: the time delay factor, between the adoption of new taxation vehicles and institutional practices on the one hand and rapid economic and social transformation on the other. There is a time-lag between changes in taxation and changes in economy, society and polity.

Indeed globalisation has become a metaphor for time. Globalisation can be defined as a process involving the compression of the time-space continuum generating increased and accelerated flows of goods, services, money, people and images across borders, demanding their simultaneous liberalisation and regulation (Appadurai, 1990; Foster, 1999; Harvey, 1989). These are the rapid economic and social transformations that confront tax authorities today. However, while the term globalisation may be relatively recent (gaining in popularity as an explanatory discourse only from about 1990), its precursors have their origins in the economic changes of the early 1970s, the decade that provided the conditions that made globalisation possible. The 1970s witnessed the materialisation of inherent structural contradictions in post-World War II international economic arrangements that were unleashed by increased foreign currency trading (the eurobond market which circumvented foreign exchange controls), the termination of dollar-gold convertibility and the oil price shocks of 1972-1974.

Government responses in industrialised democracies to these crises from the 1970s through the 1980s were based on neo-liberal economic restructuring which had two key facets. First, low inflation was privileged over full employment. There was a transition from Keynesian policies that emphasised full employment through state intervention in the economy to monetarist policies. These latter policies, ultimately premised on the rational-actor paradigm, were concerned with maintaining low inflation through controlling the money supply. Monetarism also accepted a degree of unemployment as inevitable and even necessary to curtail the power of organised labour to maintain pressure on employers to constantly increase wages (and hence fuel inflationary pressures). Second, this economic restructuring valorised the rational actor approach in public policy development and

implementation, pursuing the ‘fairness as personal economic liberty’ model in all areas of state-citizen relations including education, housing, health care, welfare and criminal justice (Hobson, 2002; Murphy, 2002; Stimpson, 2002). As discussed earlier this model of fairness deems it unfair for the state to intervene in the economy in guarantee of equity of outcomes. Hence the state systematically minimised its interests in the economy. State owned enterprises were privatised, foreign exchange controls lifted and the economy opened up to multinational investment following the ethos of multilateral cross-border free trade. Although money supply was controlled by monetary instruments (namely the ability of a central or reserve bank to set interest rates with statutory independence from the government) and the institutionalisation of structural unemployment it was simultaneously ‘liberated’ from government controls. The individual, accepted in public policy, as an autonomous, rational self-maximising actor was now free to move money as he or she pleased with limited government restrictions, both domestically and internationally.

In the last decade these transformations have taken on global proportions. They have also provided massive opportunities for tax minimisation, avoidance and evasion. Indeed revenue authorities have been struggling to keep up with these changes for the past thirty years. Freiberg (1988) shows that tax minimisation schemes started to proliferate in the 1970s. They have not stopped. As the Tax Office is empowered with new laws to insure compliance, more lacuna or gaps in the national and international regulatory landscape are identified for the wealthy (and even not so wealthy) to exploit. Between 1996 and 2002 tax legislation expanded from 3 500 pages to 8 500 (Inglis, 2002, p. 6). Just as one loop-hole is closed another is found and opened up. The last thirty years have been characterised by constant time lags between policy and practice, between the Tax Office and its increasingly non-compliant clientele, between institutional change and socio-economic change. The wealthy have been able to take advantage of these transformations and engage in forms of arbitrage to minimise their taxes on a global scale (J. Braithwaite, 2003). The law itself becomes a device in effective ‘tax efficient’ minimisation techniques, a point not lost on participants in *The Australian Tax System – Fair or Not Survey* who observed:

Stop very wealthy people from using schemes to pay little tax (for example Packer, J. Elliot, A. Bond, etc.). They have clever lawyers who know all the loopholes.

Make tax laws that can stop loop-holes being used by the people in high places, who can then stay ahead of the Tax Officers and get away with very large amounts of money (also they will fight the Tax Office in the courts).

To pay closer attention to corporations and companies that pay little or no tax. To examine more deeply tax avoidance and 'off shore' operations and tax avoidance.

A fair system for all. There are too many loopholes that big business and rich people use. Kerry Packer pays less personal income tax than I do. How can they say that is fair?

These views, that the wealthy are not fulfilling their tax duties and that the Tax Office and the tax system is unfair, consequently leads to the perception that the state is no longer neutral in its dealings with all groups in society, but rather has been captured by vested corporate interests. Regardless of whether or not this is fact, the perception remains that the state, and its key competencies such as taxation, is beholden to the rich. It leads to the belief that there is one set of rules for the wealthy and another for everyone else. As one participant stated in response to the question about what the Tax Office should deliver to the community:

[a] simple tax system and be consistent. Not to take the small people to the end of their tether and leave the big corporations and rich names alone to evade their responsibilities.

Daunton's suggestion that even change can be viewed as unfair and unequal is particularly poignant. However, changes associated with economic restructuring and globalisation have been apace for the last thirty years, creating an increasingly variegated citizenry, disillusioned with contemporary democracy and the quality of state services such as tax administration. There are two related definitions of citizenship. First, is jural; it is a legal status conferred by an internationally recognised state signifying belonging to that country or jurisdiction. The second definition is more processual and establishes citizenship as a series of rights and obligations that can be activated by negotiation and participation in

society (Amit, 2001; Walter & MacLeod, 2002). Paradoxically while citizens are formally equal in status, this belies the existence of substantial inequalities between citizens. This makes citizenship as legal status a highly unstable category due to the contradiction between jural equality and the inequalities inscribed in the rational actor approach. When people consider current taxation policies and institutional design as unfair because the rich are perceived to be paying less tax than everyone else then they are identifying what Aiwha Ong (1999, pp. 215-216, cited in Paley, 2002, p. 481) characterises as:

a system of graduated sovereignty, whereby citizens in zones that are differently articulated to global production and financial circuits are subjected to different kinds of surveillance and enjoy different sets of civil and economic rights.

Conclusion

The emergence of such variegated notions of citizenship has brought trust in the tax system to the precipice of public confidence and legitimacy. Murphy (2003) has shown that public authorities must be seen as neutral in their dealings with citizens. They must be seen as treating everyone in a similar way in order to facilitate feelings of fairness and procedural justice. What is perceived as effectively a two tiered tax system has undermined this neutrality. This could have grave consequences for the tax system. If people believe that the wealthy are evading and avoiding their taxes, or if the state seems to favour one group over the other, then compliance will become more problematic and the legitimacy of the system will be imperilled. As Daunton (2001, p. 15) observes:

The political and economic dimensions of tax collection could work with each other to create a virtuous circle of trust, or against each other in a downward spiral of tension.

However, trust in either the Tax Office and the tax system has not been completely dissolved by economic restructuring and globalisation resulting in the perception that the tax system unfairly favours the wealthy. The fact that people still believe that compliance with the tax system is an important social responsibility and that it should be fair despite its imperfections can be read as a critique of the time lag between policy elasticity responsiveness and socio-economic transformation, rather than evidence of wholesale

disengagement from the system. And the persistence of trust in the Australian tax system (even if couched in terms of future normative ideals of fairness, while recognising an unfair present) may well insure that this time lag is eventually bridged, provided mechanisms to restore a sense of fairness and balance are found. These will ultimately have to be made at a political level. The realisation of a sense of fairness through a restored sense of neutrality and deliberative arbitration may no longer be the preserve of any one nation-state however. Just as globalisation has selectively dissolved borders to commerce, finance and communication so to has it undermined the capacity of a state to contain its own tax revenues. In due course, policies that aim to restore fairness and balance to revenue authorities and tax systems may well require translational accords, multilateral initiatives and international cooperation. These measures may well be the only way to reassure the sceptical outlook of vigilant voices that still echo the call for a citizenship that does not differentiate people according to sectoral group interests but rather recognises everyone as taxpayers, with inputs matching outputs for all who weave the fabric of society.

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