AFRICA TAX *SPOTLIGHT*

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Editorial

Attiya Waris

Welcome to the second issue of Africa Tax Spotlight. In beginning to develop tax justice and the discussions around it not only in the domestic but also the international context and how it is applied in the African context for the entire continent but for each individual country, the Tax Justice network recently hosted the Pan-African Conference on **Taxation and Development in Nairobi, Kenya between on the 25th and 26th of March 2010.**

This conference the first and hopefully not the last of its kind, held in Nairobi Kenya, made critical input into the issue of domestic taxation, resource-based taxation as well as international taxation and as a result made recommendations for the many issues of critical concern for the improvement of taxation and its re-distribution within individual states in Africa.

With the current financial crisis hitting most of the world there is currently a re-assessment being undertaken by many developed countries and international donor bodies on how much money can be sent to developing countries to assist in alleviating poverty and improving development. It is at this point in time that this conference

Participants at the Pan-African Conference on Taxation and Development

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made a seminal change by engaging development practitioners, economists, lawyers and government officials from all over Africa and internationally in order to begin to engage with the repercussions that will face Africa in the ensuing year and in the long term. Participants and presenters were from both francophone and Anglophone Africa and it is hoped that this will develop further to include Lusophone Africa and North Africa.

This issue gives the reader a sample of some of the papers presented at the conference as well the news around Africa in the past quarter not only regionally but internationally as well.

If one critical issue can be leaned from the conference and from the developments in taxation in Africa and internationally in the past few months it is an urgent need for societies and developing countries to begin to engage with each other more in order to build domestic, regional and international systems of collection and distribution of resources that are accountable, transparent, responsible, economic, efficient, just and fair.

See Conference Communiqué here:

http://taxjustice.blogspot.com/2010/04/tjn-for-africa-issues-nairobi.html

Attiya Waris, Vice Chair,

TJN International

Mobilizing Tax Revenue for Development in Africa: The Way Forward

Despite decades of reform and foreign aid, the quality of governance in most African countries remains poor. Colonial powers did not leave behind strong, indigenous institutions that could tackle the development challenges of modern state. Economic crises, wars and political instability have also taken their toll. Yet, taxation which is one entry point for improving governance on the continent has received little attention. Tax revenues are relatively low in most countries in Africa. Raising additional tax revenue is further constrained by weak State legitimacy, as taxes have often not translated into improvements in public service delivery. For sustainable growth and poverty reduction to take place in African countries, it is essential that a coherent, dynamic and domestically driven capital accumulation, intermediation and mobilization process take root.

For sustainable growth and poverty reduction to take place in African countries, it is essential that a coherent, dynamic and domestically driven capital accumulation, intermediation and mobilization process take root.

The link between taxation and governance is not immediately apparent, but one is in fact vital to the other. Taxation is a core governance function. It has the potential to shape relationship between state and society in significant and distinctive ways. In Europe, tax not only helped create the state, they 'helped to form it' (Brautigam, 2007). The origins of representative government are intimately bound with the evolution of taxation. There is a strong consistent connection between the ways in which governments are financed and the ways in which they govern.

In brief, tax system can serve four main goals; apply to higher income;

1. Revenue generation: to raise government revenues;
2. Redistribution: to redistribute income and to reduce inequality through progressive taxes-higher tax rates apply to higher income;
3. Re-pricing: to re-price economic alternative, that is, the use of taxes and subsides to ensure that market prices better reflect social costs and benefits;
4. Representation: to strengthen political representation.

When governments are more depependent on tax revenue and less on income from natural resources, aid, or debt financing, this gener-

ally stimulates accountability to citizens regarding the use of government funds. The effect is felt more on direct taxes placed on personal and corporate income. Aid dependence on the other hand, stimulates accountability to external donors.

What Are The Problems?

The ability to obtain direct tax revenue, which are often progressive in nature and can be used for effective redistribution, is especially low; 2-6% of GDP in poor countries compared to 12-18% for developed countries (Cobham, 2005). This is due to the following features that characterize developing countries:

The Large Informal Economy

Most developing countries have a large informal economy, which is under-taxed or completely untaxed.

Trade liberalization

Many African countries rely on tariffs for an important share of government revenue. While opening up trade is expected to bolster long-term economic growth, countries participating in trade negotiations, such as the Doha Round and the Economic Partnership Agreements (EPAs), are required to cut their tariffs and are thus likely to collect less revenue.

Personal Income Tax

While personal income taxes yield about 7.2% of GDP in developed countries, the corresponding figure for developing countries is only 1.9% of GDP (Bird and Zolt 2005).

Limited Capacity of Revenue Authorities

Tax leakage in developing countries is often worsened by poor functioning tax authorities due to variety of reasons; under-resourced or under-trained administrators, poor tax collection systems, failure of legal enforcement mechanism for tax collec-tion and small for non payment

Capital flight

Capital flight involves the deliberate and illegal disguised expatriation of money by companies or individuals taxable within the country of origin. Developing countries lose more money through private capital flight than they receive in public aid.

Tax Competition

Tax competition means that countries compete against each other by using tax related or financial incentives to attract Foreign Direct Investment (FDI)

Willingness to Pay

Citizens' wiliness to pay tax may be low for historical, political and cultural reasons, and may also reflect the perception that governments consistently misuse public funds.

The Way Forward

- Fine-tuning the policy and the administration governing the taxation of these taxpayers' incomes would help in raising additional revenue. Policies should focus on strengthening the technical capacity and organization of revenue authorities through computerization and improved operating procedures. Stricter enforcement mechanisms as well as improved tax audits and inspections also contribute to increased taxpayer compliance;
- Using free zones that offer tax holidays not only shrink the tax base but also complicates tax administration and are a major source of revenue loss and leakage from the taxed economy. They should be abolished, Furthermore, laws against manipulative transfer pricing should be introduced and the necessary technical capacities must be created;
- It is very important to educate the young (who are the next generation of taxpayers) on the significance and role of taxes. . Outreach activities including, TV and radio coverage, advertising and tax themed programs also helps children and adults to understand the civic responsibilities of paying taxes;
- The working conditions of tax officials also need to be improved in order to motivate them to carry out their duties in a more efficient and professional manner;
- The monarchs (Traditional heads) are very close to the people they rule over. The tax authorities should therefore maintain close relationship with them and explore such relationship to bring more people into the tax net and also increase the level of taxpayer's compliance.

Samuel Fakile,

Covenant University, Ota,

Nigeria

Harnessing Domestic Tax Policies for Development.

Domestic Tax Policies and Practices:

Is there a Better Way?

The role of domestic tax policy in development

The current state of poverty in most countries of Africa presents an urgent and obvious need for more revenue to enable the state to provide and maintain even the most basic public services to the people. Sound mechanisms for generating revenue are essential for a government to be effectively sustained. Revenue is critical to financing for development, poverty eradication and fulfilling the prio-

-rity areas of National Development Plans (NDP).

The awareness of the important role of taxes in development is growing immensely this is because of the current trends in global economic governance influencing Africa. Firstly, aid, which presently constitutes more than half of state budgets in some countries of in Africa, is declining for various reasons, making tax revenues even more important for state incomes and in many ways positively impacting on state sovereignty.

Secondly, a number of countries in Africa have had a bad history of indebtedness because of heavy reliance on externally sourced loans for financing huge portions of national expenditure. The scars of being poor and highly indebted and the resulting servicing of these debts are a reminder of the need for more robust focus on alternatives for revenue sources for governments and taxes happen to be the most feasible answer.

Thirdly, the increased integration of the global economy means that countries are more open to international trade and investment. Hence developing countries have to be particularly vigilant in deciding what agreements and facilities they put in place to facilitate this trade. This is because the ability to choose their own tax policies and practices may be constrained because of the need to adhere to the obligations of international trade.

Challenges with current Tax policy and practice

Zambia's domestic revenue has in recent years increased proportionately compared to external financing. But it appears the tax burden distribution is heavily slanted towards the few eligible and potential tax payers in the country. The overall tax structure still leaves much to be desired. Particularly troubling is the disproportionate direct tax burden that falls on individuals in the formal employment sector, as opposed to businesses and informal sector workers. Revenue from income tax, Pay As You Earn (PAYE), have substantially risen in the past five years. It continues to show the highest contribution towards government's tax revenue. PAYE is four per cent of GDP. It is clearly, covering up for the inefficiencies in revenue collection from other potentially taxable economies.

The Central Statistical Office (CSO) Living Conditions Monitoring Survey (LCMS) of 2004 reports that "the 83 percent of Zambians who work in the informal economy - fifty six percent of whom are based in the urban areas - pay no taxes at all." This is despite many propositions to formalize the informal sector to ensure that it effectively contributes to taxes. However, the Government is seemingly reluctant to impose taxes and implement them with the requisite political will to attain revenue targets under the Government's fiscal policy. This goes against the lip service paid each year to intentions of broadening the tax base. In the words of Fjeldstad and Rakner (2003) "to meet the targets set by the IMF and Ministry of Finance, the revenue authorities in Uganda, Tanzania and Zambia have focused on increasing collection and compliance from existing taxpayers rather than attempting the more complicated task of widening the tax base".

Since Value Added Tax (VAT) replaced the Sales Tax in the 1995 reforms, the VAT base has been eroding. The taxation rate has reduced from twenty percent in 1995 to sixteen percent in 2009 and the administration of VAT has weakened. The net outcome is a less than optimal collection of revenue under the VAT system. This could be largely attributed to inefficient and incomprehensive ways of VAT collection. Basic measures to ensure maximization of monies collected through VAT are not adhered to by many commercial entities and there is no notable commitment to enforce them, for instance, the absence of cash registers in many shops. A large section of business goes on with no record of sale because of the lack of such simple measures. The low levels of compliance need to be addressed by dealing with the problems identified by the VAT regime. Some of these problems include; the sense of unequal and unfair treatment of compliant tax payers who bear a high burden because of the large informal sector which gets away with paying tax and the significant evasion that continues to go unaddressed; there are fairly high administration costs associated with VAT, high–monthly returns, several audits, manual VAT invoices etc. It has also been argued that the requirements are insensitive to commercial reality. Clearly, in order to strengthen compliance in the VAT regime, there needs to be greater clarity and consistency on application of regulations in order to remove uncertainty and ensure that the collection process is cost effective and simple for both taxpayer and the tax authority.

Zambia is one country with a proliferation of tax exemptions to corporations. Some of these are a direct result of World Bank policies that many countries have adopted focusing on policies to attract Foreign Direct Investment (FDI) and increase exports in the mining sector. This has unfortunately occurred in a manner that has not brought gains but has instead resulted in huge revenue losses for government. These exemptions are facilitated by *Section 89 of the Customs and Excise Act,* which gives the minister powers to grant exemptions without recourse to parliament. At the same time, many experts have advocated eliminating import taxes in order to liberalize trade and lower tax rates on corporate profits in order to compete with other rate-cutting countries. Consequently, trade taxes have been particularly hard hit while increases in direct taxes, which cover mainly personal income, have provided the easy way out for filling in financing gaps. It is therefore imperative that a number of the tax exemptions be considered for elimination, like some that perpetually exempt mining companies from certain import duties and those that have been laid out for the Multi-facility Economic Zones (MFEZ) being established in Zambia.

Governments have in some cases had their hands tied by the development agreements they have signed with particularly foreign investors. As a consequence, rolling back these exemptions proves to be difficult. For instance, in the mining sector in Zambia a number of exemptions were part of the development agreements Government signed with investors. These were part of "stability periods" during which government could not make any changes to the tax regime (Fraser and Lungu, 2006). These agreements overrule existing or future national legislation and are legally binding with some lasting as long as 20 years.

Is there a better way?

Firstly, domestic tax policy must address the issue of a broadened tax base and how this can be continuously factored in. Informal sector workers who represent the vast majority of workers in Zambia must be formalized. The lack of formalization of the workforce presents a dual problem:

1) workers are deprived of basic labour safeguards that protect their human right to decent work; and

2) the Government is deprived of potential tax revenue from high-earning yet non-tax paying informal employees. These are resources necessary to provide the social services envisioned by the National Development Plan.

As Stern et al in a report for the World Bank (2000) contends "there is extensive evidence that growth is severely hampered by the existence of an informal sector working in parallel with the formal sector." Secondly, if the direct taxes like PAYE are to continue to be relied on heavily then more jobs and opportunities must be created through incentives for value addition in all economic sectors. It would aim at increasing the pool of people contributing to PAYE and not just the current four hundred thousand people from a population of twelve million. It may be argued that the structure of most of the taxes in Zambia is a disservice to addressing equity and responding to the development needs of the people. There are many taxes imposed on a low income population. The reasonably high income tax compared to company tax; a VAT at sixteen point five percent which is considerably higher than the regional average of ten to twelve percent; carbon tax on motor vehicles excluding heavy polluting and profit making corporations; are examples of taxes structured with little consideration for the poor. Additionally, tax incentives to foreign investors which may have the potential to promote investment, tend to deprive the Government of essential resources for delivering the public social services promised in the NDP. There must be a re-evaluation and preferably, a reduction of tax incentives for foreign investors because of their effect on developing countries such as Zambia foregoing revenues without ensuring that corresponding development benefits of the investments are promoted. The companies in the MFEZs enjoy zero percent tax on most of their operations for up to five years. The impact on investment of these exemptions is at best uncertain and potentially distortionary. FDI can best be attracted and the cost of doing business reduced by directly addressing the impediments to investment, such as poor infrastructure and transportation challenges.

The challenge facing many governments is how to raise adequate resources through taxation without profoundly burdening the citizens with obligations. This refers to the principle of effectiveness. Additionally, how to ensure that the domestic tax polices formulated and the structures created responds to the needs of the people especially the poor. This refers to the principle of equity. What is the case however, is that the many taxes collected are not even seen to serve the people.

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Government collection, allocation and distribution of public funds lack the requisite transparency and accountability. Domestic revenue from taxes must not compromise efforts at poverty eradication and national development. As such, considering the ever rising cost of living within Lusaka and other towns in Zambia, evidenced each month by the *JCTR Basic Needs Basket*, it is not surprising that the willingness to pay taxes becomes less and less.

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Aid and Property Taxation in Francophone Africa

Introduction

In a context where the need for domestic resource mobilization by African countries has become more urgent, it has been widely suggested that property tax would represent an important, if not the best, source of stable revenue at the sub-national level in both developed and developing countries. However, if property tax is an important potential source of revenue, especially at local government level in many developed and developing countries across the world, it remains true that property tax accounts for a small proportion of tax revenue in many African countries. To that effect, one author observed that property taxation is "one of the most lucrative . . . yet least tapped sources of tax revenue to support urban government in Africa" (Mou, 1996). This is especially true in many francophone countries in Central and West Africa.

This paper briefly analyses property tax systems as practiced in some francophone countries by identifying major issues and constraints they face; it also explores avenues to design and implement more effective property tax reforms; and specifically, the role of aid in strengthening property tax as a source of national and/or municipal revenue.

In the general conceptual model of property tax revenues, the effectiveness of any property tax system is a function of two policy choice variables, namely the definition of the tax base and the tax ratio, and three administrative-related variables, namely the increase of the coverage ratio, the valuation ratio, and the collection ratio (Kelly 2000). We analyzed the property tax system of thirteen Francophone countries along these main variables(

The countries are Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Côte d'Ivoire, Democratic Republic of the Congo, Gabon, Madagascar, Mali, Mauritania, Rwanda, and Senegal).

The main conclusion drawn from the documentation of property tax legislation and practices in the studied countries reveals that property tax systems in these countries are at their embryonic stage of development; specifically the ensuing coverage, assessment, tax, and collection ratios have in general been low. This would account for the fact that property tax is not utilized optimally as an important own source of revenues in francophone Africa.

However, these property tax systems could yield buoyant tax revenues if properly designed and administered in tandem by central and local governments. Although the success of property tax reforms in these countries would depend primarily on strong political will, there is a role for development partners to play, particularly in supporting tax administration reform processes through capacity building in the areas of fiscal decentralization, governance, technical and management skills, training, computerization, collection and enforcement procedures.

…..property tax systems could yield buoyant tax revenues if properly designed and administered in tandem by central and local governments.

Resource Mobilization - Avenues for Aid

Fiscal Decentralization

Development partners may assist francophone countries in designing and implementing their fiscal decentralization processes in many ways:

(a) support in and revision of policy design and development of white papers providing a framework for fiscal decentralization; support in and revision of decentralization laws, implementing regulations and monitoring evaluation;

(b) support a dire need of capacity building at the level of the Ministry of Finance, the Ministry in charge of decentralization, and at the level of elected local government councils to assist them in local economic development;

(c) elaboration of training manuals for elected local officials to be used around the country (Cheka 2007).

With greater property tax policy and administration authority, greater accountability to their constituents, strengthened capacity, and assistance from the central government, elected councils would have strong incentive to maximize revenue mobilization through an efficient tax system in order to provide quality services and promote economic development. [2]The countries are Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Côte d'Ivoire, Democratic Republic of the Congo, Gabon, Madagascar, Mali, Mauritania, Rwanda, and Senegal.

Tax Base Identification

Property tax systems throughout francophone Africa are also characterized by low coverage ratios.

Development partners may assist francophone countries in achieving as comprehensive fiscal cadastres as possible through the following means:

(a) training of administrative staff;

(b) introduction of comprehensive computerization in the tax administration;

(c) development of manual procedures for field data collections, data processing and analysis;

(d) matching contributions to finance Computer Assisted Mass Appraisal (CAMA) system. Such a system would expand the coverage and valuation ratios and overhaul the ad valorem-based property tax system in francophone Africa;

(e) Help modernize the Cadastre administration in these countries and later on acquire topographical equipments such as Total Stations and GPS units, aerial and satellite photography, and Geographic Information Systems (GIS).

Tax Base Valuation

One of the most critical issues in many francophone Africa countries is the lack of capacity to assess properties. This is the process by which the property tax system chooses the tax assessment basis that would equitably allocate the tax burden among properties in various jurisdictions in a country.

In most of these countries, due for the most part to a lack of trained and skilled valuers (in-house, government and private valuers) and insufficient resources for revaluations to reflect changes in property market values, valuation rolls are seriously outdated. .

Once again, donor agencies could provide development assistance in the form of capacity building in the publication of delinquents' names in newspapers, etc.) are not generally effectively implemented in these countries.

Donor agencies could help francophone countries address governance challenges by improving transparency and reducing corruption in the tax system, and by improving taxpayer education. It is important to note that improving elected local officials' accountability to their constituents will come from empowering local governments rather than civil societies.

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Imposition des resources extractives en Mauritanie: Une Etude de Cas'

La Mauritanie est un pays minier depuis 1953, L'exploitation des mines de fer a atteint 11,2 millions de tonnes en 2006, la SNIM a reversé à l'Etat mauritanien 57, 193 millions de $ soit 15, 457 milliards d'ouguiyas et a apporté 185 millions de $ de devises au pays. L'exploitation de la mine d'or d'Akjoujt située à 200 km de Nouakchott à partir de 2007 par la Société des mines d'or de Tasiast

Pays exportateur de pétrole depuis février 2006, la production journalière en 2009 ne dépasse pas 13 000 barils jours. La contribution à la rente budgétaire selon la loi de finance 2007 était de 330 milliards d'ouguiyas.Le secteur minier représente actuellement entre 12 et 15% du PIB de la Mauritanie, environ 60% de ses recettes d'exportation, 4% des recettes budgétaires de l'Etat et 10% de ses recettes fiscales.Le secteur pétrolier : l'effet de l'exploitation pétrolière sur le PIB est passé de 6,63% en 2006 à 2,15%en 2007.

Cadre juridique et organisationnel

La législation mauritanienne dans le domaine des mines est relativement étoffée ; avec un arsenal composé de textes spécifiques aux mines (code des mines et ses différents textes réglementaires) et de textes transversaux qui s'appliquent à la matière (loi-cadre sur l'environnement, le code général des impôts, le code du travail, le code des investissements et leurs différentes mesures réglementaires).

Loi 99.013 portant code minier : Le code minier s'applique à l'ensemble des opérations minières s'effectuant sur toute l'étendue du territoire de la Mauritanie.

Décret 2000- 054 portant application du code minier : ce décret précise les dispositions générales relatives à l'environnement dans les activités minières, précise les procédures à suivre pour l'obtention d'un quitus, la nature des obligations, les attributions et organisations concernés concernant l'environnement.

Miners at a mine shaft

Loi 2002/ 02 Convention type minière : la Convention a pour objet de déterminer les conditions générales, économiques, financières fiscales et douanières dans lesquelles le Titulaire ou la Société d'Exploitation procédera aux travaux de recherche ou de prospection.

Décret 99.160 relatifs aux titres miniers : Ce décret définit les conditions et modalités d'application du code minier en matière d'autorisation et de reconnaissance des titres miniers.

Décret 139-2000 sur la police des mines : ce décret s'applique indifféremment aux travaux d'extractions à ciel ouvert ou souterrains et aux installations de surface.

Les textes de base du secteur pétrolier

Loi 2004-029 portant création du régime fiscal simplifié au profit de l'industrie pétrolière, cette loi précise toutes les taxes, les impôts

Le contrat – type de partage de production.

L'ordonnance 008 – 2006 sur la gestion du fonds de revenus des hydrocarbures (modifié)

Au niveau du secteur minier,

Il existe 3 régimes auxquels l'activité minière est susceptible d'être soumise :

Le régime douanier sur les importations :

La fiscalité propre aux mines

Et la fiscalité générale applicable

Ces différents régimes appliquent des droits et taxes qui varient selon la catégorie à laquelle appartient le bien (cinq catégories sont prévues par le code) et surtout en fonction de la période où l'on se situe par rapport à l'activité minière (phases de recherche, d'installation, de production préliminaire et de production normale).

Limites de la politique fiscale dans les industries extractives

Superposition et confusion des politiques fiscales : code minier, convention minière, le code des investissements

Faiblesse des services administratifs de recouvrement : prélèvement, assiette fiscale réelle.

Abdoullaye Doudou Sarr

PWYP, Mauritania.

A Need for Disclosure: Foreign Aid, Investment and Trade in Resource Rich Countries

There are two contradictory – and equally important – schools of thought about Africa's economies. The first holds that Africa needs capital inflow more than any other region in the world to support its development initiatives and to provide basic emergency needs. In its recent report, the Economic Commission for Africa reiterates that the continent needs capital inflow, be it in the form of foreign direct investment (FDI) or foreign aid (Lemi, 2008).

The second holds that capital inflow- whether from foreign countries or corporations, or inflows from the sale of natural resources - have negative effects on precisely most of the problems they are supposed to address (Morrison, 2008). The reason is that these revenues are "sovereign rents," and as such are used at the discretion of the government, resulting in the majority of cases in stabilizing already problematic domestic systems in both political and economic dom-ains (Collier, 2006).

This is why I describe capital inflow from all three sources (natural resources, foreign aid, and foreign investment) as a "*revenue curse,*" borrowing Kevin Morrison's term (Morrison, 2008).

I draw lessons from the expansive existing literature on capital inflows and resource revenues to argue that, while there is a general consensus on important negative side-effects of these types of revenues on state governance, policy prescriptions on how to address this problem are lacking (Alessina &Dollaer 2000; Ross 1999, 2001, 2004; Collier 2001, 2006; Morrison 2007, 2008).

This is the original contribution of this paper: By turning to internat-ional relations literature on the effects of "shaming" and monitoring efforts of non-governmental actors in pushing both governments and non-governmental actors to change policy, I conclude that the best policy prescription to overcome the "revenue curse" is to institute a monitoring mechanism that forces transparency on both domestic and international actors (Risse 2001; Keck& Sikkink 1998; Finemore & Sikkink 1998; Price 1997).

For example, the damning reports of Transparency International on the Angolan government's misuse of resource revenues pushed some foreign companies to unilaterally declare the amount of money poured into the pockets of the Angolan government. I suggest that we need to institute this mechanism in a more systematic and formal manner.

It is a truism that a state's fiscal policies are highly malleable and can be influenced by domestic and international actors alike. I argue that the monitoring power of non-governmental actors and the effect of "shaming" on transparency and accountability can be employed as a potential solution of the "revenue curse."

It is a truism that a state's fiscal policies are highly malleable and can be influenced by domestic and international actors alike. I argue that the monitoring power of non-governmental actors and the effect of "shaming" on transparency and accountability can be employed as a potential solution of the "revenue curse."

First, I discuss the importance of reexamining the issue of sovereign rents. This is followed by a review of the literature linking natural resources and foreign aid and investment to poor economic and political outcomes, detailing how the major problems are caused by the revenue these resources generate.

I then discuss existing policy recommendations – both tried and suggested – to address this problem, and the reasons for their failure. I further review the literature on the effects of non-governmental organizations and transnational actors on domestic policies.

I conclude with a policy prescription that the best way forward for countries with natural resources, foreign aid and investment (especially channeled through the government), is to create a monitoring mechanism that will expose the inflow of money to African governments and spending patterns, a type of "audit" in the manner that has been applied to deal with human rights abuses (for example, Human Rights Watch) and corruption (Transparency International). This recommendation is based on evidence that transparency "works" not only in shaming governments externally, but also in inciting domestic opposition. As such, this recommendation has consequences for foreign governments and corporations as well as domestic ones.

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Changing the Investment Structure in Natural Resources: The Crucial Role of Taxation Resources

Oftentimes, discussions on the link between trade and development tends to revolve around questions of market access. It can be argued, nonetheless, that the trade-related financial policies have a much more crucial role to play in unlocking the potential of trade to support development. This is certainly the case in Africa, as this article exemplifies by looking at the fiscal and investment policies in the trade sector.

A good part of the structural reforms that African countries underwent in the last three decades included, alongside trade liberalization, a liberalization of investment rules. The expectation was that liberalized investment framework would automatically lead to growth and development. But a vast amount of literature suggests that investment can take different forms, and it will depend on this form whether the ultimate development outcomes are positive or negative.

Indeed, in African natural resource-based economies the structure of investment bears special relevance to reap benefits from trade. One observation that illustrates this point is that while African countries registered in the 2002-2008 period the best six-year export performance since the beginning of the structural reforms of the 1980s, a look at the current accounts of Sub-Saharan African countries in that six-year period reveals that only one of those years SSA countries registered a positive -and quite small—current account balance. While the high amount of imports accounts for a good part of the gap between export and current account balance, the income payments (profit remittances and royalty payments) item justify the rest. Thus, the positive impacts of export performance of African countries cannot be maximized without addressing the structure of investment. The limitations that a resource-intensive model faces in what is characterized as a growing ecological crisis only underscores this point: not making the most out of their exports is a luxury African countries cannot afford—probably no resource-exporting country in the world can.

In addition, natural resources constitute seventy percent of SSA countries' exports. This has been the main reason behind the staggering trade performance of African countries' exports in the years before the crisis, which was justified largely by price increases rather than volume increases, let alone changes in the export profile. This aspect, the structure of trade, is also heavily affected by the structure of the investment that goes into export sectors.

Taxation policies can be deployed with the purpose of shaping the structure of investment. Some of these policies can be utilized to affect the structure of trade, via investment, such as the taxation on the rent of natural resources, on exports, or on financial flows.

The management of the effective tax rate on the rent of firms exporting natural resources can play an important role in changing the relative prices of natural resource exports compared with other sectors of the economy, whether these are non-traditional exports of natural resources, or other non-traditional exports that the State is interested in helping develop. In the case of export taxes, it is the reduction in the relative export earnings from the product on which taxes are imposed that lead to a loss of relative profitability of the resource sector compared to others, thereby affecting the general structure of investment that goes into different sectors. Taxes on capital flows can be designed to stabilize or manage the value of the exchange rate. In this case, the tool would aim at achieving a high real and stable real exchange rate to enable developing country efforts to upgrade their trade profile and industrialize.

Taxation tools can also be utilized not only, in order to ultimately affect the structure of the export sector, but to affect the structure of investment. Given a certain export structure, different structures of investment that go into the sector can influence the level of benefits that can be derived by the local economy via a spill over. In other words, the aim of taxation policies would be to enable features of the investment that end up effectively transferring technology, creating employment in decent conditions and building local capabilities by fostering learning skills, backward and forward linkages, etc.

Tax incentives are important tools in this regard. A solid stream of research has discredited the role of incentives to attract foreign investment—they have limited effectiveness, not to mention their negative fiscal costs. But incentives can be used to shape the structure of investment. Obviously, even in this case, incentives have fiscal costs and those should be carefully considered. But in spite of such caveat, which should be born in mind, incentives can be provided to, for instance, ensure a certain quality of the jobs and that local workers are not only hired for low-skill, low pay jobs. They can also be used to ensure a transfer of skills via training and capacity-building. Tax incentives could support the transfer of technology and research and development (R&D) capacity.

The use of incentives to foster local content poses additional challenges, as its use may be susceptible to challenges as one of the Trade-Related Investment Measures (TRIMs) banned in the World Trade Organization. But incentives provided to national companies that allow them to become more competitive as local suppliers for foreign ones are allowed and could serve to influence the import content of foreign investment. Moreover, it is worth noting the TRIMS prohibition does not rule for service sector that is not in a service schedule.

Taxation tools can also be utilized not in order to ultimately affect the structure of the export sector, but to affect the structure of investment.

Summing up, African countries willing to realize the often-heralded development promise of trade are well-advised to pay less attention to market access negotiations, and a lot more attention to the need to utilize—and preserve and enlarge space for the use of— trade-related financial policy tools. Taxation, one of the areas of policy space where states still preserve a great deal of autonomy, maybe the best starting point.

Aldo Caliari

Center of Concern, U.S.A

Africa and Secrecy Jurisdictions – the need to respond

Many citizens of developing (and developed) countries now have easy access to tax havens and the result is that these countries are losing to tax havens almost three times what they get from developed countries in aid. If taxes on this income were collected billions of dollars would become available to finance development.

- Jeffrey Owens, Director, OECD Centre for Tax Policy Administration, January 2009.

We will set down new measures to crack down on those tax havens that siphon money from developing countries, money that could otherwise be spent on bed nets, vaccinations, economic development and jobs.

-Gordon Brown, Prime Minister of the UK, March 2009

We stand ready to take agreed action against those jurisdictions which do not meet international standards in relation to tax transparency. […] We are committed to developing proposals, by end 2009, to make it easier for developing countries to secure the benefits of a new cooperative tax environment.

- G20 Declaration, April 2009.

There is a growing consensus that international measures are required to limit the damage caused by tax haven secrecy – and that developing countries must be included to ensure that they benefit also.

This paper brings together for the first time international data on trade and finance to consider the extent of the linkages between tax havens (secrecy jurisdictions) and developing countries, with a particular focus on Africa. Without better understanding of the nature of these linkages and the damage they cause, African policymakers will not be well positioned to demand appropriate international measures from the G20 group of countries, the UN Tax Committee, OECD or others.

It is of particular regret that policy research at the multilateral institutions has almost completely neglected these issues until now. What research has been carried out, at least until these issues moved rapidly up the policy agenda, has largely been conducted by academics and civil society researchers.

This paper shows clearly that the data which exists on bilateral trade and financial flows, while frustratingly limited in some areas, does provide a sufficient basis on which to draw quite clear conclusions about the relative exposure to tax havens, or secrecy jurisdictions, of developing countries: specifically, that developing countries do not appear in general to be any less exposed to secrecy jurisdictions than are high-income OECD countries, and in some cases are much more highly exposed; and therefore that the G20 and others are right to demand that developing countries be included in any mechanism to require increased transparency from the havens.

In addition, there are clearly important differences in the exposure of developing countries of different income groups and regions, which warrant further investigation and analysis, which is likely ultimately to lead to distinct policy recommendations being identified as appropriate.

The table below shows, for different groups of countries, the share of their exports, imports, portfolio investment and foreign bank claims that take place with those secrecy jurisdictions which are ranked in the Financial Secrecy Index developed by the Tax Justice Network with Christian Aid (see http://www.financialsecrecyindex.com for details of the index and the objective criteria used to generate it).

	Exports (goods)	Imports (goods)	Portfolio investment	Bank claims
East Asia and Pacific	49.4%	26.7%	87.4%	55.6%
Europe and Central Asia	25.5%	18.3%	76.2%	41.2%
Latin America and Caribbean	61.5%	49.6%	83.3%	38.1%
Middle East and North Africa	21.8%	21.2%	69.5%	23.7%
South Asia	49.2%	32.4%	87.0%	68.9%
Sub-Saharan Africa	**39.3%**	**27.4%**	**84.5%**	**65.9%**
Low income countries	39.9%	28.4%	85.3%	50.5%
Lower-middle income countries	45.0%	25.8%	86.0%	51.2%
Upper-middle income countries	46.9%	35.9%	81.5%	42.9%
High-income OECD countries	33.8%	29.2%	53.8%	42.9%
High-income non-OECD countries	40.9%	30.8%	72.3%	49.2%

Compared to high-income OECD

countries, sub-Saharan Africa is more exposed in terms of its exports (almost forty per cent go to secrecy jurisdictions) but slightly less in terms of imports (more than a quarter go to secrecy jurisdictions). It is in terms of portfolio investment flows, and deposits in foreign banks (although the latter data allows less certainty) that sub-Saharan Africa is most exposed.

Almost 85% of sub-Saharan Africa's portfolio investment arrives on the continent after passing through – on paper at least – one or more secrecy jurisdictions. In Kenya, for example, the two main sources of portfolio investment are Mauritius and Luxembourg, accounting for almost two thirds of the total. Out of an 'opacity score' of 100 (where 100 indicates complete secrecy) in the Financial Secrecy Index, Mauritius scores 96 and Luxembourg 87.

This makes it almost impossible for the tax authority, civil society or for Kenyan businesses to know where this money is really coming from – and this in turn opens the potential for all sorts of abuse, from tax dodging to money laundering, from bribery and other corruption to abuses of market competition.

The data that exist allow government and civil society in individual African countries to understand more about the nature of their own exposure to secrecy jurisdictions, and on that basis to call for international measures which will truly address the problem.

An important demand, supported by Christian Aid and the Tax Justice Network, is for a multilateral agreement to ensure the automatic exchange of key information between all jurisdictions, including tax havens and developing countries, so that much of the secrecy barrier is pulled down.

Greater exchange of information between African countries, e.g. within regional economic areas, would represent a valuable first step and demonstrate both commitment and capacity

Alex Cobham, Christian Aid, UK.

Public Resource Mobilization and Aid

The global economic crisis has given a new impetus to the dialogue on domestic resource mobilization across Africa. Falling commodity prices and export revenues, uncertain future aid flows and expected declines of FDI in the medium term have resulted in a general shortfall of external finance amidst generally high levels of indebtedness across Africa.

Notwithstanding an improved macroeconomic management over the previous decade, the continent still has a long way to go to meet its social challenges. Poverty is still widespread and public service delivery is often subject to unstable and unpredictable external flows and/or donor financing. This report explores how public resources can be better mobilized for development through more effective, more efficient and fairer taxation systems.

Confronted with very large budget deficits, governments around the world are seeking to maximize their fiscal revenues by strengthening enforcement of tax evasion and fraud; besides, the G20 has made a priority of enforcing internationally agreed standards against tax havens.

In Africa, poor revenue performance is to a large extent the result of resistance from the ruling elites. States need tax revenue to function and taxes are the primary platform for political negotiations among a country's stakeholders in the form of a social contract. Furthermore, increasing fiscal revenue on a sustainable basis increases ownership of government policies. The quality of taxation matters as much as the quantity raised by taxes.

The literature is not conclusive whether aid should be considered a curse or a benediction. Given the current state of play, African countries should enroll aid and cooperation in an attempt to stimulate the mobilization of public resources to facilitate Africa's graduation from aid. Aid used to stimulate public resource mobilization can have a high -up to tenfold- multiplier effect on a country's resources. And yet, donors have only spent little attention to public resource mobilization and improving fiscal policies. Aid represents less than 10% of total of collected taxes on the continent. Clearly, independence from aid is within reach in Africa. The paradox is that most African countries are still heavily dependent on aid, while the continent overall has demonstrated that it can graduate from aid.

where collected taxes have increased substantially in Africa, it is mainly due to an increase in resource-related tax revenues, on the back of the resource boom that old and new commodity exporting countries have enjoyed.

The average African tax revenue as a share of GDP has been increasing since the early 1990s mostly as a result of taxes on the extraction of natural resources. The ability of governments to generate revenue via taxes on natural resource extraction seems to distract them from more politically demanding forms of taxation such as corporate income taxes on other industries, personal income taxes, Value Added Taxes (VAT) and excise taxes.

Income taxes (mainly personal and non-resource corporate) have stagnated over the period. And trade liberalization in Africa has translated into a reduction of revenue from trade taxes since the late 1990s. This reduction has been largely offset by indirect and corporate taxes, and resource-related tax revenues.

The average increase in taxes per capita in Africa during the last two decades hides significant differences in the performance of individual countries. In countries like the Democratic Republic of Congo, Guinea-Bissau, Ethiopia, and Burundi, taxes per capita are as low as USD 11 per inhabitant, for a year, whereas in countries like the Seychelles, Libya and Equatorial Guinea taxes reach an annual USD 3600 per inhabitant.

A wide range of tax effort is observed in Africa. Some countries collect as little as half of what they would be expected to while others collect up to 2 to 3 times what they would be expected to. In countries like Ghana, Lesotho, Liberia, and Swaziland tax effort is high, other countries such as Guinea, Madagascar and Mauritius tax effort is low. Estimates of tax effort for some African resource-rich countries are highly sensitive to resource-related tax revenue. In Algeria, Angola, Congo, Equatorial Guinea and Nigeria tax effort switches from high to low when excluding resource-related tax revenues.

In a nutshell, where collected taxes have increased substantially in Africa, it is mainly due to an increase in resource-related tax revenues, on the -ing countries have enjoyed. African economies are facing a number of daunting challenges to collect tax revenues other than on resource-relate activities. Some of these challenges are structural, some are shorter-term policy challenges, while others are longer-term policy challenges.

First, in terms of structural challenges, African economies are generally characterized by a pervasively large informal sector. This informal sector is made out of micro- and small-enterprises, on the one hand, and of large traders and multinationals on the other. To make matters more complicated, most African countries are also hampered by serious administrative constrains and with generally low quality of public service delivery, fiscal legitimacy is typically weak.

Second, in terms of shorter-term policy challenges, the tax base of many African countries is unusually shallow even regarding the types of taxes that African administrations should be able to collect, particularly, taxes on large corporations, domestic and foreign. Third, on a longer-term basis, African countries are challenged to collect a more balanced set of taxes. This is all the more necessary that trade tax revenues are bound to be further challenged by trade liberalization agreements. The lack of urban cadastres and population censuses makes collecting urban property taxes particularly challenging for local African administrations on top of the difficulty of collecting taxes on the elite.

The general recommendation of the literature is that taxes should be levied at low and relatively flat rates on bases that have been broadened through the elimination of exemptions and other loopholes. Lower, simpler taxes are easier to collect and administer, and as creating less inefficiency. Second, countries should move away from their current heavy policy being a prerequisite to address income inequality, upgrading the capacity of their tax administration is a key priority.

Redistributive strategies that are copy-cats of strategies prevailing in countries with high administrative capacity can be downright counterproductive. If the goal is to pursue a genuinely redistribute tax strategy, better candidates are: raising fees on tertiary education, introducing road tolls, car registration fees as these are important consumption items for richer Africans. African countries could actually use excise taxes more intensively and property based taxes may also provide some options for income redistribution. Elites that are more likely to pay these taxes have an incentive to frustrate this kind of legislation. The challenge for African governments is to demonstrate to elites that they have a stake in a better funded state by improving public service delivery.

In the short-run, strategies towards more effective, efficient, and fair taxation in Africa typically lie with deepening the current tax base in administratively feasible way. Policy options include removing tax preferences, dealing with abuses of transfer pricing techniques by MNEs and taxing extractive industries more fairly and more transparently. In the longer-run, the capacity constraints of African tax administrations must be released to open up policy options.

open up policy options. Finally, the longer-term goal of generating tax revenues from a more balanced tax-mix is addressed.

The report identifies urban property taxes as a tax policy instrument that can be made administratively feasible with the aid of development partners, is progressive and can scale up with Africa's explosive pace of urbanization and the corresponding need for urban infrastructure.

Urban property taxes as a tax policy instrument that can be made administratively feasible with the aid of development partners

Jean-Philippe Stijns,

OECD Development Centre, France.

TRANSFER PRICING, AND THE TAXING RIGHTS OF DEVELOPING COUNTRIES

There is now widespread recognition of the importance of domestic resource mobilisation in developing countries, and one key area within that relates to the tax revenues raised from multinational companies. Central to debate in this is the challenge posed by transfer pricing, the mechanism by which profit is allocated within each group of companies.

The complexity of this system can lead to intractable disputes over taxing rights and also enables unscrupulous businesses to shift profits from countries where the capacity to monitor and challenge such behaviour is limited.

In addition, an imbalance of power is created when the tax administration in one country has more or better information, more dedicated resources and more political power than the other.

This can result in companies apportioning greater profits to developed countries to avoid the risk of transfer pricing disputes with an aggressive and politically powerful revenue authority.

The transfer pricing model

Intra group transactions are not exposed to the same market forces as transactions between independent enterprises. If companies artificially lower or increase prices for business

purposes this has implications for the tax base of both tax jurisdictions and for the taxpayer.

To address this problem, transfer prices are governed by the 'arm's length principle' (ALP), that is, the price at which a transaction would take place if the buying and selling entity were not related.

To establish an arm's length price, a company should identify a comparable product in a similar market which is traded between companies which aren't related. However, there are a number of conceptual and practical problems with this system.

Intra-group trade with MNCs includes physical goods and 'intangibles' such as intellectual property or software. Services such as management and insurance, and financing and cost sharing arrangements are also included. The identification of a comparable arm's length price for an intangible is problematic, given that intellectual property, by definition, is often unique to a company. Similarly, financing and cost sharing agreements within a company can be agreed at non arm's length prices with implications for profitability and tax payment.

On a conceptual level, critics argue that the entire system is based on the assumption that multinational groups can be evaluated as if they were aggregations of unrelated companies transacting with each other at arm's length. But multinational groups exist precisely because there are some transactions that do not occur on an economically efficient basis between unrelated parties.

The complexity presents some particular challenges for developing countries, in particular, the lack of effective transfer pricing legislation, capacity to monitor transfer pricing issues, and transparency with regard to the financial activities of companies.

David McNair,

Christian Aid, U.K.

AFRICA'S BANE:

African countries are vulnerable to illicit cross-border financial flows and tax evasion, so plans to turn Accra, Ghana, into a tax haven are potentially very harmful to the entire West African region, argues John Christensen

The missing piece of the Africa's development equation is the impact of illicit financial flows, including tax evasion, on capital accumulation and investment. Illicit capital flows contributes to financial crises and impose costs in the form of reduced investment, unemployment and slower economic growth rates. In addition, tax evasion fosters inequality, with wealthy citizens escaping the tax burden and poorer citizens facing higher taxation and cuts in public services.

African countries are vulnerable to illicit financial flows because of their heavy reliance on the extractive industries and other natural resources and the consequent exposure to the risk of falsified invoicing and transfer mis-pricing. This vulnerability is exacerbated by national tax administrations generally lacking sufficient resources to investigate complex tax evasion cases.

The volume of illicit capital outflows from Sub-Saharan Africa (SSA), plus the accumulated interest earnings from that money, has been estimated at 145 per cent of the total external borrowings by SSA countries in the mid-1990s: meaning that despite its massive external debt burden, SSA is a net creditor to the rest of the world in the sense that its stock of flight capital held in privately controlled offshore accounts exceeds the stock of external debt either held or guaranteed by governments.

According to one study of the SSA region there is a clear link between external borrowing and capital flight: over the period 1970-1996, for every dollar borrowed from outside the region 80 cents flowed outwards as capital flight in the same year.

A creditor rather than a debtor

Trade mis-pricing accounts for a large proportion of capital flight from Africa:

as much as 60 per cent of trade transactions into or out of Africa are mis-priced by an average of 11

per cent, yielding a net outflow of capital exceeding US$10 billion a year. Fake transactions are estimated to account for an additional $150-200 billion a year. Unhappily the incidence of transfer mis-pricing and fraudulent invoicing has accelerated significantly: one study of import and export transactions between Africa and the United States found that between 1996 and 2005 net capital outflows to the US grew from $1.9 billion to $4.by companies.9 billion (an increase of 257%) through the use of low-priced exports and high-priced imports.

Tax evasion amplifies the harm caused by this leakage of domestic capital. Tax evasion, tax avoidance and other forms of corruption are estimated to reduce tax revenues in some countries by as much as 50 per cent, reducing the funds available for public spending. Even the more sophisticated African countries are severely impacted by tax evasion. The South African Revenue Service, for example, estimates that the tax gap in that country ranges up to Thirty billion rand (forty five per cent of government revenue) largely due to evasion by rich individuals and avoidance.

Oil and financial secrecy - the worst possible combination

In mid-April 2007 former Ghanaian President John Agyekum Kufuor announced plans to proceed with setting up an offshore financial centre (OFC) in Accra in collaboration with Barclays Bank, a British multinational bank. In his announcement, President Kufuor expressed hopes that the creation of an OFC would make Accra the financial hub of the West African region. What he did not discuss, however, is how this OFC can be prevented from worsening Africa's long-standing problems with capital flight, tax evasion and other corrupt activities.

Its geographical location makes Accra an ideal conduit for physically smuggling wealth out of neighbouring countries. Trade mis-pricing is another way of shifting capital across national boundaries, particularly when large sums are involved. Trade mis-pricing can be conducted in a number of ways, including mis-invoicing, transfer mis-pricing, re-invoicing through an apparently unrelated trading

Trade mis-pricing is another way of shifting capital across national boundaries . . . .

partner in an offshore territory, typically a tax haven, and other fraudulent invoicing practices.

But will the Ghanaian financial regulatory authorities have the necessary powers, resources, and political support to prevent the OFC from becoming a conduit for illegal financial flows

As the author of a Bank of Ghana Working Paper on the development of an OFC points out: 'The anonymity of financial transactions, opaqueness of offshore corporations, and legal protections in some OFCs make them attractive to money launderers.'

The problem of financial secrecy is compounded by the fact that Ghana has no tax are not geared to handling the extensive workload involved information exchange agreements with neighbouring countries and tax authorities in most countries in the region when seeking mutual legal assistance to investigate illicit financial flows and tax evasion.

Despite some limited potential for economic diversification, the economic benefits are unlikely to be significant, particularly in view of the high cost of recruiting and retaining sufficiently trained and experienced regulatory staff.

On the downside, however, given the existing capital flight problem of the West African region, the omens are not promising, as Raymond Baker of Global Financial Integrity commented in an interview with this author in June 2007:

"A mineral exporting nation serving as an offshore financial centre and secrecy jurisdiction is surely the worst combination possible. Ghana's own wealth will inevitably get sucked into this black hole, driving apart rich and poor and forestalling economic development. Opting for such an unwise step should signal the end of any further need for foreign aid."

John Christensen

Tax Justice Network

International Secretariat, UK.

Summary: The Kenya Report

Taxation and State Building in Kenya: Enhancing Revenue Capacity to Advance Human Welfare;

Authored by Dr. Attiya Waris, Alvin Mosioma, Jack Ranguma and Matti Kohonen

This is the first ever ABC of Kenya's tax regime, spanning from its history, to its workings, to the challenges and opportunities. The authors of this report are convinced that tax systems can play a key role in both furthering democratic representation, and ensuring higher standards of well-being through wealth and employment creation in the country. It is in this light that they talk of tax systems, rather in the technical terms of simply raising revenues, but rather in terms of social development.

The report goes deep and sheds some light on the philosophical basis of taxation, by talking about the social contract theory-on a broader basis.

It delves into Kenya's tax history down the time capsule to show how Kenya inherited its tax system from its colonizers and goes into the intricacies of taxation, the challenges Kenya faces compared with its counterparts Uganda and Tanzania in not just at GDP level but also in fiscal performance and attracting and maintaining FDI.

Kenya's tax policies are assessed by this report from the post independent fiscal reforms in the 60s to the oil shock in the 70s, the

....Budget policy making, as an improvement from what it was in the colonial era, as it lacked consultation.

effect of the collapse of the EAC (East African Countries) had on Kenya, to the increase in income tax rates. It also looks at budget policy making, as an improvement from what it was in the colonial era as it lacked consultation.

It goes further to measure poverty, inequality and level of cap-ital flight in Kenya, revenues raised for the decen-tralized funds, and other 'ring -fenced' revenues with 'earmarked' expenditures, the main development fund, the Constituent Development Fund (CDF) has an allocation of Kshs 10.1 billion (US$ 1 bil-lion) levied at two point five per cent of general govern-ment revenue, a fact little known to many Kenyan tax-payers.

Further, it proposes that the government should provide shelter to jua kali artists and their activities by extending business counseling services to them, studying the revenue potential in the sector and then taxing them fairly in ex-

Many 'Jua Kali' operators would not even reach the minimum tax threshold of PAYE or PIT they would only be liable to registration and licence fees, regulation and VAT payments.

change of a legal status.

The discourse then takes a shift and looks into civil soci-ety advocacy on tax issues, and proposes ways for differ-ent sections of the civil soci-ety to get active about tax.

While some resident's associations like the one in Karen-Langata in Nairobi have challenged taxes that don't allow for representation To participate in a tax dialogue. Taxation, as long as it is perceived as unjust will hinder rather than advance the commonly agreed developmental targets.

Suggestions on how to improve tax dialogue in the country, are made

A jua kali artisan at work

and how to engage the citizens better in the formulation of policy both on the local level of under-standing the structures of the de-centralized funds, as well as on the national level, to have a clearer picture of tax incentives, and on the international level, as illicit capital flight is an erosion of Kenya's poten-tial.

The report explains the notion of a rights based agenda in Kenya due to social pressures. It delves further into the relation between tax and gender based needs.

Recommendations on how to tackle the challenges in revenue collection are given and use of the same for development.

"Massive poverty and obscene inequality are such terrible scourges of our times …..that they have to rank alongside slavery and apartheid as social evils."

- Nelson Mandela former president of South Africa.

The recommendations have been grouped into revenue mobiliza-tion, tax administration, tax pol-icy, tax law, tax incentives, tax avoidance and evasion of TNCs, taxing the underground economy, improving tax information ex-change, taxation and govern-ance, and further areas of re-search in tax matters. Increasing cooperation between tax and regulatory authorities, in the tax administration research on tax gap should be publicized so that the citizens know their potential and just how much of the poten-tial revenue remains untapped in revenue mobilization.

Summary by Catherine Njue

TJN-A

The full report can be found on the link below:

<http://www.taxjustice.net/cms/upload/pdf/Kenya_1004_Printer>

TJN Across the Globe

Plate forme Paradis Fiscaux et judiciaires

Objectif général

L'objectif général découle de la constitution de la plate-forme intitulée « Paradis fiscaux et judiciaires » fin 2005 dans le cadre des Objectifs du Millénaire, sur la base des travaux de la campagne « ***2005 : plus d'excuses !*** ».

Les organisations suivantes y participent : Oxfam France-Agir Ici, Association Sherpa, ATTAC, CADTM, CCFD, CRID, Réseau Foi et Justice, Secours Catholique, Survie*, Transparence International France, Anticor, Terre Solidaire, SNUI, Les Amis de la Terre, Syndicat de la Magistrature.

L'analyse que nous avions faite est désormais partagée par les décideurs politiques qui ont commencé à s'engager en déclaration au moins. Ces territoires posent en effet le problème de « l'injustice fiscale ». Comment ne pas réagir face à la concurrence fiscale déloyale de certains pays qui n'aboutit qu'à priver d'autres de ressources essentielles pour leur développement. Ces territoires favorisent aussi l'opacité du système monétaire international et encouragent la corruption et les détournements de fonds publics.

La crise financière qui a explosé en 2008 a mis en avant l'effet d'entraînement des paradis fiscaux (même s'ils n'y sont pas à l'origine) du fait notamment de la présence des trois quart des Hedges Funds logés et prospérant sans contrôle dans ces territoires.

L'objectif général est de lutter pour la transparence à tous les niveaux et contribuer au démantèlement des paradis fiscaux tels qu'ils existent encore aujourd'hui.

Objectifs 2009

La plateforme a cherché à mesurer l'impact des déclarations et leur traduction dans la législation. Le bilan est encore très insuffisant. Certes, les dirigeants des pays du G20 ont pris quelques orientations contre les paradis fiscaux lors de leur rencontre de Londres le 2 avril 2009. Ils ont pris pour référence une liste de paradis fiscaux établie selon des critères fixés par l'OCDE, liste que nous avons critiquée pour ses insuffisances. En effet, de nombreux paradis fiscaux ont signé entre eux des conventions fiscales, ce qui a suffit pour que l'OCDE les retire de sa liste grise tels les îles Cayman, les Bermudes, Monaco et Gibraltar qui sont désormais "blanchis".

Temps forts 2009

Plusieurs initiatives ont été conduites par la plateforme (site: www.argentsale.org)

- Campagne Stop PFJ

Début octobre, une campagne a été lancée intitulée « Stop PFJ » et destinée à sensibiliser les différents acteurs publics français sur la nocivité des Paradis Fiscaux et Judiciaires. Quatre cibles prioritaires ont été définies: territoires et collectivités locales, citoyens, syndicats et entreprises. Ces acteurs ont été invités à signer une pétition en ligne.

- Contacts avec les représentants du gouvernement français

La plateforme a participé à de nombreux rendez vous au Ministère des Affaires étrangères et européennes et à Bercy pour souligner les insuffisances des critères retenus par l'OCDE pour l'établissement des listes, le « multilatéralisme » pour l'échange d'information, l'information sur les trusts et la transparence des multinationales en mettant en place un « reporting » pays par pays.

Nouvelle brochure sur les Paradis Fiscaux et Judiciaires qui actualise et complète celle publiée en avril 2007 et intitulée « Paradis Fiscaux et Judiciaires, cessons le scandale! » . Sa parution est prévue pour le premier semestre 2010.

Résultats

Même si les résultats du travail de cette coalition ne pourront s'évaluer que sur le long terme la plate-forme associée à d'autres campagnes a réussi en 2009 à :

- poursuivre les contacts avec les pouvoirs publics, en particulier l'Elysée, Bercy, mais aussi l'OCDE et le GAFI pour échanger nos points de vue et faire valoir nos recommandations
- contribuer à sensibiliser le grand public sur toute l'attention à porter à la question des PFJ. La pétition lancée par le journal « Pèlerin » avec plusieurs membres de la plateforme a recueilli 30 000 signatures qui ont été remises à la Présidence de la République en mars 2009.

Pistes à explorer

Ne partageant pas l'optimisme du Président de la République dans son discours à Davos « Sans le G20 il n'aurait pas été possible (…) de venir à bout des paradis fiscaux », nous nous imposons un devoir de vigilance et nous réagirons en 2010 en fonction des évènements de l'actualité.

Nos recommandations les plus urgentes visent à établir une liste réaliste des PFJ qui aille bien entendu au-delà de celle de l'OCDE. Par ailleurs, la coalition demande des mesures de contraintes auprès des acteurs et intermédiaires financiers pour venir à bout des PFJ.

TJN Across the Globe

Sierra Leonean CSOs Meet to Discuss Taxation

A three day tax advocacy training workshop was organized collaboratively by Christian Aid, Sierra Leone, the Budget Advocacy Network (BAN) and the National Advocacy Coalitions on Extractives (NACE) on tax advocacy issues. The event brought together over forty participants from various civil society organizations , trade union groups, consumer and trade associations, revenue and tax agencies, the media and donor agencies.

The event was a follow up to the West African Tax Seminar held in Ghana in October 2009 to which three participants from Christian Aid, BAN and NACE participated. Tax work is a relatively new area of work for civil society activities in the country. Civil society engagement in promoting advocacy around tax was identified as a missing link in policy debate especially so with the recently introduced goods and services tax perceived as additional tax burden, but concerns about continuous loss of revenue from mining corporate taxation, tax concessions and range of other revenue streams such as custom is a major barrier to government efforts to generate needed revenues for national development. The workshop could not have been organized at a more appropriate time than now as it provided the needed space for civil society engagement on wider issues around domestic tax, mining and international taxation.

The workshop aimed to provide the civil society groups with the skills, knowledge and understanding to engage effectively on tax justice issues. The organisers sought ways of promoting demand-side accountability & transparency in revenue generation and utilisation and improve the social contract between the state and citizens vis-a-vis rights holders and duty bearers. It provided the opportunity to engage in policy discussions on taxes as an entry point to understanding how tax policy works and its impact on citizens and finally promote wider stakeholder engagement in taxation issues and tax policy decisions that should reflect the priorities of the people of the Sierra Leone. A communiqué issues by the participants emphasised on the need for sensitisation on the importance of taxation and to engage policy makers on three aspects of taxation. Domestic Taxation - including Goods and Services Tax- Mining Taxation and International Taxation. Plans are underway to carry out a country study on taxation to be used to inform policy discussion between CSOs and policy makers in Sierra Leone.

Alvin Mosioma, TJN-A

Atelier Francophone de Publiez Ce Que Vous Publiez

La coalition Publiez Ce Que Vous Publiez Afrique a organisé du 29 janvier au 02 février 2010 à Abidjan en Côte d'Ivoire, un atelier régional pour les coalitions francophones en Afrique. Le thème de l'atelier était 'Renforcer la campagne PCQVP et le plaidoyer pour une gestion transparente et responsable des ressources naturelles en Afrique francophone.' Plus de 40 participants ont participé à l'atelier.

L'atelier avait pour objectif le renforcement des capacités des coalitions francophones à mettre en œuvre les objectifs de la campagne PCQVP et plaider pour une gestion transparente et responsable des revenus issus de l'exploitation des ressources naturelles en Afrique francophone.

Sandra Kidwingira, la Coordinatrice Assistante du Réseau pour la Justice Fiscale- Afrique (TJN-A en Anglais) a participé à l'atelier et fait une présentation intitulée 'régimes fiscaux : opportunités et défis pour l'Afrique' au cours de la deuxième journée. L'intervenante a donné les recommandations suivantes pour l'établissement de régimes fiscaux favorables au développement en Afrique : joindre les efforts dans le plaidoyer pour l'établissement du 'Reporting pays par pays' ; plaider en faveur de l'harmonisation fiscale au niveau sous-régional ; implication des organisations de la société civile dans le processus lié à la vision 2050 pour l'industrie minière en Afrique ; ainsi qu'une meilleure planification des exonérations fiscales pour ne pas favoriser « la course vers le bas ». Dans la déclaration finale de l'atelier, il a été recommandé aux :

Aux gouvernements d'Afrique francophone, d'harmoniser les codes fiscaux au niveau régional et d'accorder des exonérations fiscales uniquement pour la phase d'exploration ;Aux gouvernements du Nord, de pousser pour l'adoption de normes comptables favorisant la transparence des paiements effectués par les entreprises ;

Aux entreprises extractives, de fournir les informations nécessaires quant aux paiements effectués aux gouvernements pour permettre un reporting pays par pays.

Sandra Kidwingira, Reseau pour la Justice Fiscale Afrique.

News & Events

Atelier régional sur la fiscalité en Afrique centrale-

Le Réseau pour la Justice Fiscale en partenariat avec le Centre Régional Africaine pour le Développement Endogène et Communautaire se propose d'organiser un atelier régional sur la fiscalité en Afrique centrale au mois de juin 2010.

L'atelier se déroulera à Yaoundé au Cameroun. Les participants à cet atelier seront les représentants d'organisations de la société civile provenant des pays suivants : République Démocratique du Congo, République du Congo, Centrafrique, Tchad, Gabon et Cameroude la réunion sera de lancer le débat sur la justice fiscale en Afrique Centrale.

Le résultat principal escompté de l'atelier sera la formulation de plans d'action pour les organisations de la société civile représentés à l'atelier en vue du lancement d'une campagne pour la justice fiscale dans leurs pays respectifs.

Reseau pour la Justice Fiscale Afrique.

TEN KEY EVENTS IN TAXATION WORLDWIDE

1. Civil society responded to the OECD black list of tax havens throughout the year, by organising events highlighting the perils of financial secrecy, culminating to protests.
2. The Tour de France mobilized protests around the tax haven status of Monaco where the tour started on the 3rd July. Further protests were organised in other tax havens of Andorra on the 10th July, Switzerland on the 19th July and on the Franco-Swiss border of Annecy on the 23rd of July with banners "tax haven, social hell".
3. The UK interfaith gathering of the Green Belt Meeting in August 2009 issued for the first time that tax is a development issue.
4. For the first time civil society took part in the *Ghana Tax Week*, which was organised in Accra between the 15th to 21st September 2009. Discussions focused on tax exemptions given to foreign investors, and in particular the mining companies.
5. The IMF bail-out of Jamaica provoked protests against the government across Jamaica on the 23rd December 2009. The bail-out included increases in taxation for residents, and lower taxes for international finance investing in the Jamaica Offshore Financial Centre.
6. European-wide solidarity was mobilised on Octobre 15th when the Luxembourgish government repressed a study by the *Cercle de Coóoperation des ONG de Développement* condemning the tax haven provisions in the Grand Duchy.
7. The *World Social Forum* celebrated 10 years of its existence in a series of events in the Southern Brazilian city of Porto Alegre between 30-31st January 2010. Events focused on alter--natives to the global financial system.
8. A *New Haven Declaration* was issued uniting the human rights and illicit financial flows campaigners stating that tax crimes and money laundering put human rights at risk.
9. A *Nairobi Declaration* was issued following the Pan-African Conference on Taxation and Development (see page 22 for the declaration).
10. The Greek Financial Crisis provoked unrest in Athens on several occasions, while Greek capital left the country at an unprecedented rate seeking safe haven in Switzerland as the main destination.

Profile: Jean Mballa Mballa

Quelle est votre formation académique?

Je suis titulaire d'un M.Sc in Agricultural Education, obtenu à l'Université de Reading en Grande-Bretagne en 1999, après des études en agronomie au Cameroun.

Quels sont vos centres d'intérêt auxquels vous le plus dédié?

Je suis plus dévolu au développement communautaire en général. J'ai travaillé au Ministère de l'Agriculture au Cameroun de 1983 à 1988. Après mon master, je suis rentré au Cameroun où j'ai exercé dans un programme de micro-crédit appuyé par la Banque Mondial de 1991 à 1996. J'ai intégré le monde des NGO où j'ai passé 8 ans dans une ONG régionale (APICA). Depuis 2006, je suis au CRADEC. Je précise que le CRADEC est une association d'appui de droit camerounais créée en 1996 avec un groupe de collègues, ayant pour intérêt commun notre contribution dans le développement local.

En quoi consiste votre travail actuel et quels en sont les principaux axes?

Mon travail est essentiellement axé sur le développement communautaire. En tant qu'Ingénieur Agronome, je suis un professionnel du Monde rural, dans un premier temps. Je travaille ainsi avec les communautés rurales à la base. Cependant mon travail avec les communautés m'invite à traiter aussi bien des questions de production rurale que des questions transversales qui touchent ces communautés que soit en amont comme en aval. Mon travail repose ainsi sur les questions de dialogue citoyen entre acteurs (Communautés. Autorités) et de prestations dans la mise en œuvre des programmes.

Pourquoi êtes-vous particulièrement intéressé par les questions de justice fiscale en Afrique?

Je peux dire que par nature et par éducation, je suis sensible au concept "Justice". Le droit et le devoir sont pour moi des principes de vie. Et ces principes doivent être équilibrés. La Justice fiscale en Afrique est une innovation dans le quotidien des citoyens et des professionnels du développement que nous sommes. Historiquement, l'impôt est mal perçu, particulièrement en Afrique et au Cameroun. Lorsque j'ai fait connaissance du réseau TJN lors du Forum Social Mondial à Nairobi en 2007, en suivant la philosophie et la vision, je me suis dit « Un autre regard est possible sur l'impôt : un impôt qui fait justice au citoyen, au pays et au continent » Depuis lors je m'investis pour vulgariser le réseau et sa vision au sein des organisations de la société civile camerounaise. Et ce n'est pas facile à cause des stéréotypes sur la fiscalité.

A votre avis, quel rôle devrait jouer les organisations de la société civile en vue d'arriver à une justice fiscale en Afrique ?

Les organisations de la société civile africaine sont déjà regardant sur les questions de Justice économique: commerce équitable, capitalisme à visage humain, coopération gagnant-gagnant. Le rôle de cette société civile sur une fiscalité juste serait celui de l'éducation des contribuables. Education pour leur devoir et pour leur droit. Elle doit jouer un rôle d'interpellation et de plaidoyer auprès des administrations et des décideurs politiques. De cette manière, les mentalités vont changer dans la perception et les politiques fiscales en Afrique.

Jean Mballa Mballa, Directeur CRADEC, Cameroun'

Comment pourriez-vous décrire et évaluer le progrès récemment réalisé en matière de politiques publiques en Afrique (aussi bien au niveau national que régional) conduisant vers plus de justice, démocratie et développement pour le continent?

Au moment où le continent africain rentre dans le cinquantenaire des indépendances, le progrès dans la démocratie, plus de justice dans le développement est décevant. Les conditions d'octroi des indépendances ont été très défavorables à la promotion de la démocratie et du développement des communautés, les décideurs politiques ayant gardé une forte complicité de gestion avec leurs anciens maîtres colonisateurs. La coopération étant un jeu d'intérêts, «le chef a toujours raison …. » permettez-moi cette image. La preuve, tous les dirigeants africains affichent avec fière allure l'estampille « PPTE-Pays Pauvres Très Endettés ». Qu'a-t-on fait avec les sommes empruntées donc le remboursement engage tout le monde ? Les femmes très actives sont cantonnées dans des responsabilités de second rang ; la jeunesse « Fer de lance de la nation » au chômage prend de la rouille dans la rue quand elle n'est pas l'objet d'instrumentalisation politique. C'est une injustice. Cependant la pluralité des voix dans le débat politique et notamment l'émergence d'une société civile de plus en plus structurée, à la quête d'une maturité citoyenne, donne un espoir pour une évolution significative pour plus de justice dans le développement et la démocratie.

Quelles sont, selon vous, les plus urgentes mesures à prendre pour s'assurer que les pays africains soient capables de financer leur développement?

Le pas impératif à franchir pour une souveraineté de financement du développement africain passe par l'intégration politique du continent. Je suis partisan d'une Afrique unie. Les Etats doivent consolider leur souveraineté nationale par une souverainement continentale et aborder les questions par des positions communes. C'est un impératif!

Qui devrait prendre ces mesures?

La société civile africaine a pris un engagement dans ce sens. Un projet de constitution des Etats-Unis d'Afrique fait l'objet d'une campagne pour un pré-référendum par le peuple devant conduire à un referendum official par l'Union Africaine.

Que pensez-vous de l'idée de faire un inventaire du potentiel de ressources naturelles des pays Africains? Comment les pays africains peuvent-ils procéder pour faire cet inventaire?

Le potential de gisements des richesses du sous-sol africain est connu. Il est énorme. Ces gisements existent depuis des millénaires et le sont non pas par la force de l'homme mais par la nature. La partition du continent par les européens a « localisé » ces richesses dans les différents Etats. L'intégration politique évoquée plus haut permet une évaluation et une appropriation commune des différentes richesses entre Etats ou dans les regions.

Votre profession reflète - t - elle ce que vous avez toujours rêvé de faire ou votre carrière constitue-t-elle un détour?

Oui, je fais ce que j'ai toujours souhaité faire. Le travail que je fais en ce moment n'est pas certes très lucratif, mais il me permet de m'épanouir.

Avez-vous une philosophie particulière ou un slogan que vous suivez au quotidien ?

Ma philosophie de la vie est portée par le principe de l'Autopromotion. Nous devons compter d'abord sur nous-mêmes et rechercher des complémentarités auprès des autres. Un bébé qui apprend à marcher compte sur ces deux jambes et prend appui sur sa mère. Cet appui prend finaprès un certain moment et rend autonome le jeune bébé. Il n'y a pas meilleure image de l'autopromotion pour moi que celle-là !