

## **Corruption & the Role of Tax Havens - “Corruption Wasting Human Rights”**

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### **Introduction**

In Nairobi, Kenya scores of activist continue to decry the state of the nation; the cost of living continues to sky rocket amid increasing taxes<sup>1</sup> and higher perks for state officers. The issue of taxation speaks beyond revenue collection, but to the social contract between state and citizenry. To extend this track, the issue of taxation is at the heart of the realisation of human rights. The situation in Kenya is not peculiar but resonates throughout the East African Community. Illicit Financial Flows (IFFs) deprive states of critical revenue which can be used to realise socio-economic rights. Ethical, moral and legal arguments underscore the opinions of the decay of society especially in the case where abuse of public office/trust (corruption) takes root and is adopted not just as a means of obtaining power but rather where it is perpetuated by contravention of the law and in certain instances safeguarded through legislative process. Its manifest presence is the increasing inequality not just within countries but across the globe<sup>2</sup> as the wealth of the top 50 per cent continues to grow and that of the bottom 50 per cent continues to contract even in the face of growing global population.

But what does this have to do with Tax havens? Without delving into the definition of tax havens and distinguishing them from secrecy jurisdictions or exploring their conjunction, tax havens are often used as the conduit for wealth amalgamation and for base erosion and profit shifting.

Is it a coincidence for instance that the companies holding oil rights in Kenya are registered in tax havens even though actual oil production has not started? Barbados, Cayman Islands, Bermuda, the British Virgin Islands, Bahamas are just some of the territories in which these multinationals are registered. An act of aggressive tax planning, or an elaborate scheme to undermine Kenya’s potential tax revenue. In all this, it is interesting to interrogate the initial ownership of oil blocks that were transferred to the present ownership and not rule out corruption as a facilitator in the transactions.

The situation does not exist in a vacuum, and may not necessarily warrant the connotation “crisis” but Attiya Waris cites works by Brennan and Buchanan who hold the view that the power to tax is not necessarily a precondition to the use of the revenue, specifically for the benefit of those that are taxed<sup>3</sup>. A constitutional nuance that traverses governance structures across the African continent and a possible insight into the mentality of past and current leadership. In addition, she further argues that the constitution can be said to mould the spatial organization of public finances, setting about the organizational conditions and structures to influence socio-economic development. The counter argument to a degree would therefore hold water in the sense that without the provision of basic social services and a conducive environment for the enjoyment of fundamental freedoms [human rights responsiveness] there would be no need for the fiscal state particularly in times of peace.

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<sup>1</sup> The Excise Duty Bill 2015

<sup>2</sup> <https://www.oxfam.org/en/pressroom/pressreleases/2016-01-18/62-people-own-same-half-world-reveals-oxfam-davos-report>

<sup>3</sup> (Waris, 2016)

## Background

The shores of Jersey Island the largest of the Channel Islands, seem far removed from the East African coast but the connection between these two territories is facilitated by advancements in technology. In an on-going court case two “former” powerful Kenyan individuals, are accused of fifty three (53) counts relating to “commissions” paid out to secure lucrative contracts within the energy sector. The two individuals are accused of stashing upwards of KES. 1 billion about USD 10 million in the tiny island<sup>4</sup>. The information, ironically only coming to light in the divorce proceedings of one of the alleged culprits. The correlation between illicit financial flows facilitated by secrecy jurisdiction is not an alien concept that removes East Africa from a global conversation, this is a fallacy of conception.

The Africa Union High Level Panel on Illicit Financial Flows (IFFs) from Africa estimates that annually, USD 50 Billion leaves the continent<sup>5</sup>. A case study in the report cites Kenya’s loss of USD 1.51 Billion between 2002 and 2011 from trade mis-invoicing<sup>6</sup>. Although these figures remain highly contentious, the report paints a picture of the losses that the continent and specific African countries could be facing. The panel chaired by former South African President Thabo Mbeki, points out commercial activities, criminal activities and corruption as the three major sources of IFFs on the continent. The fuel for the losses especially from commercial and criminal activities is embedded in among other factors, corruption, which catalyses the outflow of much needed resources. The amounts lost through direct pillage of public funds has a detrimental effect especially from an opportunity cost perspective. Even worse is the fact that corruption becomes a gateway for the loss of domestic resources through the compromise of the revenue authority’s ability to collect much needed resources.

This paper will not dwell on the technical attributes of illicit financial flows and how it links up with corruption but instead make a case why corruption creates an enabling environment for illicit financial flows and how these have an adverse effect on human rights. Arguably, tax havens provide a legitimate instrument through which corruption can be conducted and very well facilitate the loss of revenue. These are in some cases guaranteed by domestic legislation that set the precedence for contravention either by chance or by design. Taxation as the primary source of revenue for the state is therefore critical in its conception and execution vis-à-vis the place of the citizen or legal entities with the capacity to generate revenue for the state. Waris A.<sup>7</sup> puts forth the notion that taxation from the perspective of a state can be examined based on the right and obligation of taxation. The obligation to tax speaks to the functional properties of the state and therefore its ability to maintain the social contract hinged on its capacity to propagate the very core of the establishment of the state. On the other hand the right to tax is enshrined within legislative provisions that can be inferred from the constitutional provisions for public financing. The debate is interesting in so far as whether this right to tax only extends as far as revenue collection to the detriment of political science paradigms that rope in expenditure. The question to be answered is therefore intriguing, is the state’s obligation to preserve the being of itself or that of its citizenry? In which case, what are the implications of a low tax rate as opposed to a high tax rate? The logical deduction from a low tax rate is an inability to generate sufficient revenue, except in a few cases, resulting in an inability to meet the minimum provisions of the social contact and also a possible implosion of the state by a lack of capacity to safeguard its constitutive elements, *raison d’être*. The African Development Bank<sup>8</sup> puts the contribution of the informal sector to Sub-Saharan Africa’s Gross Domestic Product (GDP) as 55% and accounts for 80% of the labour force. Meaning that a majority of workers fall outside

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<sup>4</sup> Business Daily; *UK Now Moves to Seize Gichuru and Okemo Hidden Cash*, <http://www.businessdailyafrica.com/UK-now-moves-to-seize-gichuru-and-okemo-hidden-cash/-/539546/3072998/-/g25kniz/-/index.html>

<http://www.standardmedia.co.ke/article/2000185708/okemo-gichuru-dealt-blow-in-extradition-case>

<sup>5</sup> AU/ECA Conference of Ministers of Finance, Planning and Economic Development, Report of the High Level Panel on *Illicit Financial Flow from Africa*

<sup>6</sup> Ibid

<sup>7</sup> (Waris, 2016)

<sup>8</sup> (African Development Bank, 2013)

the scope of the tax [wo]man and invariably sets itself up to under-perform. A high cost of collection of these taxes using a system designed for those in the formal sector makes it inefficient; a challenge to contend with. The role of corruption, and of tax evasion and avoidance, by multi-nationals fuels an already precarious situation and shifts the tax burden significantly to a small segment of the population; formal sector workers more specifically through direct taxes and informal sector workers whose activities are consumption based and therefore attract indirect taxes, think Value Added Tax (VAT). Waris A. explains that there is also a danger in a high tax rate. A high tax rate has the populous working harder for sustenance and businesses structuring their activities around aggressive tax planning, which sets the requisite conditions for under collection. An assumption to the character of a highly taxed society's propensity to default is predicated on the contravention of the social contract stemming from a majority consensus around ill-delivery of social services that undermine fundamental human rights and freedoms. For corporates, this can be translated as an exercise of the freedoms guaranteed within the state to maximise profits.

Article 43 of the Kenyan Constitution<sup>9</sup>, guarantees economic, social and cultural rights in line with international and regional instruments, the provisions of which call for extensive investment in health, social security, education, housing, access to water and food security. Domestic resource mobilisation is a key counter argument to progressive realisation, and goes to reinforce these constitutional provisions. Minimum thresholds of investment in Health as prescribed in the Abuja Declaration for instance are far cries from the reality given that GDP ratio to expenditure are hardly if ever met by many countries which have signed on to the Declaration.

The premise of the discussion above is to point out the important role played by the state in safeguarding and promoting human rights. This ability of the state comes under serious threat in so far as IFFs continue to be perpetuated both through legal and illegal mechanisms. The main source for domestic resource mobilisation lies in taxation, which is underscored by a social contract. The erosion of the state's ability to collect these taxes is troubling especially when this translates into an inability of the state to guarantee fundamental human rights through provision of services.

### **Corruption Wasting Human Rights**

The discussions on corruption and tax havens with respect to their implication on human rights are undermined by technical jargon which begins with definitional and conceptual perspectives of the notions. The systemic undermining of the concepts serves not just to limit the scope of interrogation but also to identify the areas which it does not cover. The out bounds of definition and conceptualisation expose grey areas which are easily exploited as not being against the letter of the law for instance, if the definition is based on law, and therefore allows for operations within the principles set forth. This in itself is a blatant attempt to undermine the thinking around the purpose of the discussion, in this case the realisation of human rights by sealing leakages and curtailing structures that facilitate these very leakages. For the purposes of this paper corruption without reference to historical legal precedence shall be broadly looked at as proposed by Susan Rose-Ackerman as a legal offense in the economic sphere. Although this is not an exhaustive definition because of the preponderance of corruption beyond the economic sphere to the political, social, ethical and moral sphere, this definition suits the interrogation of this paper given its bias towards economic activity with economic and socio-political implications. Tax havens on the other hand will be identified on a character basis that shall include and not be limited to, no or low tax rates. There is often a conflation of tax havens and secrecy jurisdictions which do not necessarily bare the same meaning, however there are instances of overlap where tax havens exhibit opacity in the nature and manner of business including deliberate attempts to inhibit the access of information.

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<sup>9</sup> The Constitution of Kenya, 2010

Human Rights as prescribed by, the Universal Declaration on Human Rights and the African Charter on Human and Peoples Rights, informs the responsibility of state parties to guarantee, promote and protect Human Rights. These are fundamentally entrenched through domestic and international legislation, and gain gravitas through the concept of state legitimacy, established mainly through the guarantee of these rights in the social contract. This responsibility stems from a capacity to provide essential social services underscored by a value proposition with cost implications. The cost implications speak to the ability to generate revenue to invest in services that then provide the necessary environment and establishments for access and enjoyment of Human Rights.

In East Africa, all member states have signed onto the relevant regional and international instruments and mechanisms that seek to guarantee fundamental human rights including the international convention on economic, social and cultural rights, the international convention on civil and political rights, the African Charter on Human and Peoples' Rights<sup>10</sup>.

Corruption and tax havens pose a peculiar challenge to the realisation of human rights especially when the debate is approached through the lens of the role of tax havens in the development discourse. In several instances the justification for the existence of tax havens has been guaranteed by the international financial architecture and underscored by human rights arguments of neo-liberal capitalism. Often the premise of the existence of tax havens is the ability to foster economic activity through the creation of conduits (policy environment, trade vehicles etc.) for investment. This is often predicated on an assumption of increased revenue and therefore investment in social services that enhance the realisation of human rights.

Amartya Sen argued that high incomes do not necessarily lead to wellbeing, this has a direct implication on trickle down economic theory, which sets economic growth as the corner stone for the attainment of human rights, a fallacy of socio-economic reality. A view picked up by Shepherd who states that politics should not be misconstrued with (good) governance in the broader context of economic growth<sup>11</sup>. Economic growth does not necessarily translate to the upholding of democratic tenets which implicitly embed human rights freedoms.

This has been a fundamental reason for setting up tax havens, especially with the view of attracting savings and eliminating barriers to conducting business. The fostering of economic growth through the creation of tax havens does not automatically translate to the upholding of democratic institutions and by extension human rights. It is a fallacy for instance for governments to propagate the tax incentives notion for attracting Foreign Direct Investment (FDI) as a means of achieving a better society if the priorities for development neither reflect a conscious investment in the promotion of human rights or safeguarding of the tenets of human rights. Economic growth therefore, of necessity will not translate to better enjoyment of human rights for the citizenry. The converse is certainly the case, according to Mathur and Singh, the disconnect between political and economic freedom is sometimes more apparent where less democratic countries end up receiving more FDI if they offer adequate economic freedoms as opposed to democratic societies which offer less economic freedoms<sup>12</sup>. The interplay of social and political factors in economic growth therefore cannot be overemphasised not only in attracting FDIs but also in establishing precedence for revenue management in its continuum [policy and cycle perspective]; collection, allocation and expenditure. A single factor cannot be the sole premise for consideration of economic growth, in particular the establishment of vehicles that foster

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<sup>10</sup> <https://www1.umn.edu/humanrts/research/ratification-index.html>

<sup>11</sup> Shepherd, Ben. "Political Stability: Crucial for Growth?" London School of Economics and Political Science. <<http://www.lse.ac.uk/IDEAS/publications/reports/pdf/SU004/shepherd.pdf>>.

<sup>12</sup> Mathur, Aparna and Kartikeya Singh. "Foreign Direct Investment, Corruption, and Democracy." 2007. American Enterprise Institute for Public Policy Research. <<http://www.aei.org/publication26180>>.

economic activity, and whose effects used as justification to surmise a trickledown effect for social cohesion and political stability.

In 2014, the G20 High-Level Principles on Beneficial Ownership Transparency, took an incline towards corruption, tax evasion and money laundering, overlooking their interplay and implications on human rights, at least from an emphasis perspective. This speaks to both the disconnect in international political will, and the vital nexus between illicit financial flows and the conceptualisation of deprivation with respect to human rights. The context of this is manifest in the growth of the African economy especially looking at the telecommunications sector, agricultural sector, extractives sector, financial services sector, manufacturing sector as well as consumer goods sector<sup>13</sup>. This growth potential has elicited increasing interest by multinational corporations in doing business on the African continent. This becomes particularly important given that intra-agency transactions within multinational enterprises consist of upwards of 60 per cent of global economic activity<sup>14</sup>. In 2014, almost 72 percent of the Fortune 500 companies operated subsidiaries in tax haven jurisdictions<sup>15</sup>. Of particular interest is the fact that mispricing accounted for 80 per cent of illicit financial flows out of developing countries over the last decade (US\$4.688tn of the estimated US\$5.86tn in total illicit financial flows).<sup>16</sup> It can be deduced that tax havens played a key role in facilitating the transactions of multinational corporations and thereby undermining the tax potential for a vast majority of developing countries in which they operate. The fact that there is growing interest in doing business in Africa may speak to the potential of revenue loss and therefore deprivation of access to social services and consequently to the enjoyment of human rights. In a bid to attract FDI, Tanzania is a classical case where tax incentives to companies are costing the country Tshs 381 Billion (\$141 million)<sup>17</sup>, research by the Tax Justice Network- Africa indicates that these incentives are not the primary consideration for the companies to do business in the country but government still goes ahead and offers them anyway.

Corruption acts as a conduit for IFFs and is bigger than its share with respect to the loss of public funds, but also through the opportunities it creates for IFFs. Tax havens provide an intrinsic web whose navigation is often shrouded in secrecy thereby facilitating corrupt transactions. These systems self-preserve by legitimising their existence in the global economy but also by offering a cover from interrogation. This is often compounded by the complexity of the system which when coupled with a lack of capacity and expertise in developing countries<sup>18</sup> creates loopholes which are easily exploited.

Tax havens do not simply exist to provide an escape from taxation but also create secret societies that enable multinationals and individuals to disregard their societal responsibility while enjoying the benefits therein. This breeds both contempt and impunity towards the society manifest through an above the law posturing. This may stem from either being disconnected from the society by having no real ties to its preservation, or through an escape option in the event of a collapse of society for instance in the event of a civil war.

Quintessentially, the loss of much needed domestic resources is perilsome to the survival of the state and the reasons of its being, which going by constitutional provisions is the guarantee of human rights. In East Africa,

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<sup>13</sup> <http://www.mckinsey.com/global-themes/middle-east-and-africa/africas-path-to-growth-sector-by-sector>

<sup>14</sup> Transfer pricing is not, in itself, illegal or necessarily abusive. What is illegal or abusive is transfer mispricing, also known as transfer pricing manipulation or abusive transfer pricing. Transfer mispricing is a form of a more general phenomenon known as trade mispricing, which includes trade between unrelated or apparently unrelated parties – an example is reinvoicing.’ Tax Justice Network, ‘Transfer Pricing Page’ [www.taxjustice.net/cms/front\\_content.php?idcat=139](http://www.taxjustice.net/cms/front_content.php?idcat=139)

<sup>15</sup> [http://ctj.org/ctjreports/2015/10/offshore\\_shell\\_games\\_2015.php#.Vs2zDfI9600](http://ctj.org/ctjreports/2015/10/offshore_shell_games_2015.php#.Vs2zDfI9600)

<sup>16</sup> Financial Transparency Coalition, ‘Transfer Pricing’, see: [www.financialtransparency.org/issues/trademispricing](http://www.financialtransparency.org/issues/trademispricing)

<sup>17</sup> <http://www.taxjusticeafrica.net/en/2015/11/tax-incentives-are-draining-tanzania-of-needed-revenue-for-essential-public-services/>

<sup>18</sup> David McNair, Rebecca Dottey and Alex Cobham, ‘Transfer Pricing, and the Taxing Rights of Developing Countries’, see: [www.christianaid.org.uk/images/CA\\_OP\\_Taxing\\_Rights.pdf](http://www.christianaid.org.uk/images/CA_OP_Taxing_Rights.pdf).

it is estimated that USD 2.8 Billion is lost annually through tax incentives<sup>19</sup> . From an opportunity cost perspective these are monies that would have been spent to strengthen social security, healthcare, education, to name but a few, in an attempt to promote the realisation of social and economic rights for instance. The rhetoric of insufficient funds to invest in programmes or progressive realisation holds no water in the face of lacklustre efforts to seal leakages from IFFs. The AU High Level Panel Report in a case study of Burundi, had aimed to reduce under -5 mortality rates from 164 per 1000 in 2000, to 63 per 1000 in 2015. The actual annual reduction from the year 2000 to the year 2011 was a mere 1.5 per cent which meant that Burundi required 63 years from the year 2000 to achieve its set out goal. However, Burundi, lost about 6% of its GDP to IFFs which if invested in the reduction of under-5 mortality rates would have taken the Burundian government 25 years from the year 2000<sup>20</sup>.

### **Corruption at the Detriment of the State**

Attiya Waris argues that generally African constitutions have placed emphasis on the revenue generation function of taxation rather than the reciprocal relationship of the function of the taxes with respect to upholding human rights. This is evident in the emphasising of the role of the citizenry with words such as *“duty, obligation, imposition of tax, power of the state to tax...”* within constitutions. This could coincidentally speak to the disconnect in the conversation between taxation and human rights further begging the question who/what is at the epicentre of the state, man or state, or would the French have surmised it best *“l'état c'est moi”*? This quandary led to a revolution in France, interrogating this further we see the role of the individual in the state with regards to a convoluted persona that has no regard to the collective responsibility and regards the state merely as a tool for self-aggrandisement.

The act of maleficence against the state is embodied in corruption. Corruption as an economic vice is at the heart of the detriment of society both through structural and systematic erosion of institutions mandated to promote the prosperity and integrity of the state. Corruption not only takes away state resources but also destroys the legitimacy of institutional mandates. A component of power especially where elective politics are staked on buying of votes/influence, translates to an upper hand played by elites who can afford to finance their candidature or of others. These tend to occupy and influence critical positions of power for their own good rather than the betterment of society. Vested interests dictate political discourse as well as socio-economic priorities.

More often than not corruption forms the bedrock for accumulation and maintenance of these resources and has pervasive implications to the potential for realisation of human rights especially where safeguarding these very human rights is concerned. In an attempt to self-preserve and maintain a continuous process of amassing wealth, human rights tend to take a back seat and often at the expense of a continually marginalised population. Tax havens act as a conduit for corruption and thereby undermine essential building blocks of society. These entrench human rights violations through compromising institutional sanctity and perpetuate the same through continued existence.

Tax havens existence are in themselves therefore an oxymoron to the notions of international human rights given that examples such as that of the Isle of Man which is bound by provisions of several international human rights instruments, perpetuate a system that undermines fundamental human rights. Sustainable development

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<sup>19</sup> Tax Justice Network Africa (TJN-A) and ActionAid International (AAI), (2012), *Tax Competition in East Africa: A Race to the bottom?*

<sup>20</sup> AU/ECA Conference of Ministers of Finance, Planning and Economic Development, Report of the High Level Panel on *Illicit Financial Flow from Africa*

models demand that developing countries maximise the potential for domestic revenue generation given high poverty levels that foster and perpetuate human rights abuses. It is therefore simply not a question of resource deprivation but also the perpetuation of structural injustices that sustain human rights abuse through a cyclical process of oppression and exclusion from productive elements of the economy.

In addition, IFFs create the optimum conditions for shifting of the tax burden to particular segments of the population. For instance the informal sector in Africa is the highest employer<sup>21</sup> and is predominantly composed of women who tend to have a burdensome rapport with the tax system especially when considering indirect taxes such as VAT. The fact that it is not only a flight of much needed resources but ultimately a constraint on limited resources held by the citizenry compromises access to vital social services. A case in point would be the access of health care which becomes increasingly inaccessible where a premium is charged for high quality services. In effect, social inequality is bred by IFFs by enabling socio-economic stratification based on and perpetuated through disparity in wealth. This fosters a two-tier system that traverses all spheres of society with far reaching implications on opportunities available in education, health, employment and even political power.

## **Conclusion**

To interrogate the holding rights of oil companies in Kenya and why they are registered in tax havens may be no more interesting than watching paint dry, but to analyse the implications of this from a holistic perspective paints a different picture. For instance, the extractives sector holds promise to increase the revenue generation capacity of the Kenyan government with direct implication to the realisation of social, economic and cultural rights with regard to access, adequacy and coverage. However, if we explore the impact of registration in a tax haven in this case, a British Firm with a subsidiary in the Netherlands one gets a real glimpse of the master piece. Production Sharing Contracts (PSC) in Kenya are often shrouded in secrecy and tend to have a variety of concessions which are termed as appealing provisions to attract foreign direct investment (incentives). The second consideration is the double taxation agreement (DTA) between Kenya and the Netherlands and last but not least the fact that the Netherlands is a low tax jurisdiction (tax haven), and often routes transactions through other tax havens. The triple threat of: a tax incentive, a DTA and a tax haven severely compromises the ability of the Kenyan government to maximise earnings from the extractives sector and the firm in question. This has an implication on current and future earnings. It is no coincidence that firms register in tax havens, the concurrence with a double taxation agreement and tax incentives demonstrate the very drive by corporates and individuals to undermine the revenue earning potential and the taxing rights of the state. The first blow stems from the tax incentive that Kenya offers the firm in question, the second blow is the DTA which means that often (developing countries) relinquish their taxing rights and the knockout blow is the tax haven in which the firm is registered which means it pays little to no taxes due to the hybrid tax systems in place. Although the Organisation for Economic Cooperation and Development (OECD) and the United Nations are putting forth initiatives that seek to eliminate Base Erosion and Profit Shifting (BEPS) much more still needs to be done not just to ensure buy-in, but also to ensure enforceability and a “development” perspective is integrated into the processes.

Corruption and tax havens are joint at the hip like Siamese twins, the correlation is evident in the business that is conducted by both multinationals and individuals, legal and illegal, to the ends of depriving societies of much needed resources. A moral and ethical debate cannot be evaded based on what yard stick should be employed to determine the parameters of ethics and morality. Instead, a serious considerations towards loss of resources, structures that facilitate these losses, the opportunity costs from these losses and impacts of these losses on

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<sup>21</sup> <http://www.afdb.org/en/blogs/afdb-championing-inclusive-growth-across-africa/post/recognizing-africas-informal-sector-11645/>

society and individuals should be interrogated. Multinationals cannot hide under the guise of tax avoidance as a legal cover for aggressive tax planning given that they have an obligation to uphold human rights in the conduct of their business. This means that deliberate effort to deprive states of much needed resources to provide social services is in itself a form of abuse through an act of omission (failure to remit the requisite taxes based on the conduct of business in a given jurisdiction) and commission (active effort to avoid taxation). Individuals, as cited in the example at the beginning, have neither the legal, moral or ethical justification for plunder and use of these structures to hide and amass ill-gotten gains. Both, multinationals and individuals, are abusing human rights by depriving states of vital resources. The use of tax havens propagate social exclusion, inequality and a deliberate undermining of social institutions to the detriment of human rights. This is a dangerous precedence especially considering that the perpetrators of IFFs require the same society to conduct business and enjoy what they construe as fundamental human rights within a free market economy. At worst, the society stands to contend with civil unrest from those excluded through corruption or burdened by tax; at best inefficient systems that are rooted in rent seeking.

Tax havens play a facilitatory role in human rights abuse by providing an avenue for hiding and laundering money which has been obtained through legal (transfer pricing, base erosion, negative tax incentives etc.) or acquired under dubious circumstances (corruption, criminal activities etc.). States have a duty of international cooperation and technical assistance to support the realization of human rights, therefore any act that inhibits or out rightly undermines this ability to realise human rights can be deemed as a violation of human rights. Although the state may look like an indirect actor, a direct link in regards to international obligation to “do no harm” under the Economic, Social and Cultural rights provisions, places squarely the responsibility of promoting and safeguarding the enjoyment of ESC Rights within the ambit of state responsibility. Tax havens which fall under state jurisdiction are therefore complicit in undermining the realisation of human rights.

Efforts by organisations such as Tax Justice Network – Africa, through a campaign dubbed “***Stop the Bleeding***” address the fundamental question of billions of dollars lost annually in Africa through illicit financial flows.

Corruption and tax havens undermine (*waste*) human rights and it is about time the conversation on taxation took on a more concrete position to safeguard these rights.