

Research Africa Reviews Vol. 7 No. 2, August 2023

These reviews may be found on the *RA Reviews* website at:

<https://sites.duke.edu/researchafrica/ra-reviews/volume-7-2023/volume-7-issue-2-aug-2023/>

Conference Report:

Illicit Financial Flows and Tax Injustice in Africa: A Brief Report

Written by: Muhammed Haron, Former Professor of Religious Studies:
University of Botswana & Associate Researcher: Stellenbosch University,
South Africa.

Introductory Remarks

From 15 to 17 August 2023, a few South African Parliamentarians met in Western Cape's Touws Rivier to critically reflect on the *Illicit Financial Flows* across Africa. Besides being accompanied by some of their staff whom they planned to train further in monitoring these developments, they were also joined by several NGOs that, in fact, jointly coordinated and organized this two-day workshop.

The three that initiated and hosted it in that area, which is a two-hour drive outside Greater Cape Town, were: the Lusaka-based Alternative Information and Development Centre (AIDC <https://aidc.org.za/>), Nairobi-based Tax Justice Network Africa (TJNA <https://taxjusticeafrica.net/>), and African Parliamentary Network on Illicit Financial Flows and Tax (APNIFFT).¹ The prime-mover behind this continental-wide project is Dr. Khanyisile Litchfield-Tshabalala,² the chair of the last-mentioned organization.

While each of the three NGOs emerged during separate historical moments and were set up in East and Southern African cities, they realized that they shared common grounds in certain areas; one of these is the illegal flow of funds across the African continent. They thus put their minds together to assess how they can deal with this issue continentally. During 2022, they held their first meeting³ in Zambia's capital Lusaka where AIDC is based, and this was followed by smaller gatherings that reflected on the theme. And during the later-part of 2023, an international conference will be held to further explore the main theme and sub-topics such as Illicit Financial Flows (IFF) and tax evasion.

The Workshop: Its Purpose

¹ According to Addis Tax Initiative site (see fn. 2), the African Parliamentary Network on Illicit Financial Flows and Taxation (APNIFFT) is a flagship programme coordinated by the Tax Justice Network (TJNA); the objective was to enable its members (that is, African legislators) to (a) develop strategies, (b) learn from each other, and (c) build their capacity in the fight against IFF and tax injustice continentally. Visit the following site for more information: <https://taxjusticeafrica.net/apniff/about-event/>

² <https://www.pa.org.za/person/khanyisile-litchfield-tshabalala/> and see this interesting study: https://www.sahistory.org.za/sites/default/files/Aspects_of_the_experiences_of_10_women_in_MK.pdf

³ www.addistaxinitiative.net/event/african-parliamentary-network-illicit-financial-flows-and-taxation-apniff-webinar#:~:text=The%20African%20Parliamentary%20Network%20on%20Illicit%20Financial%20Flows,financial%20flows%20and%20tax%20justice%20on%20the%20continent.

During mid-August, the three organizations chose to have a workshop that was supported by some South African Parliamentarians with the hope that South Africa's influential parliament will lead the pack to work towards minimizing if not eliminating the flow of funds out of the continent illicitly; stemming this tide implied that every African nation-state should play a role, and by doing so the funds would be returned to their treasuries and bolster their depleting national economies.

The organizing committee that represented each of the organizations identified three key objectives for this academic exercise; they were:

- To share best practice experiences on the parliamentary-led struggle against illicit financial flows (IFFs) and tax injustice; they looked upon the role of the MPs across 43 African nations that either supported or formed part of APNIFFT.
- To enable representatives of civil society organizations (CSOs) such as TJNA, AIDC, Economic Justice Network (EJN) and African Monitor (AM) to share current ongoing research on the topics and themes in (and perhaps outside) South Africa; these would include four thematic areas: Tax and Extractives, Tax Transparency/Access to Information; Beneficial Ownership, and Tax and Incentives Review; and
- To find practical legislative interventions factoring in the four thematic areas that would be MP-led and driven during the years ahead.

The Presentations and Themes

Day One

On the first day (15 Aug 2023), the first set of presenters engaged with the focus on 'Unpacking and discussing issues related to achieving "*The Africa We Want*" (AU Agenda 2063)' and the presenters did this by debating on the mobilization of domestic resources with the idea of increasing South Africa's public revenue; all of this, it was argued, through (a) Tax Transparency/Access to Information and the reduction of IFF - especially in the current context marked by multiple crises, and (b) Sustainability risks faced by South Africa (including several African countries).

Later that afternoon, the second set of presenters offered an 'Understanding (of the) Tax base erosion in South Africa (and Africa at large) due to tax incentives; issues that were compounded by the lack of transparency and clarity in the (legal) provision. They discoursed about matters related to the administration and governance that were tied to tax incentives; they, for example, tackled (a) 'The granting of tax incentives for investment; an issue that is often done outside of a country's tax laws and administration, and even at times under multiple pieces of legislation. It was stated that the design and administration of tax incentives may be the responsibility of several different

Ministries working in silos; and (b) they noted that the management of incentives increases or decreases the risk of corruption and rent seeking.

Day Two

The following day the participants tuned in to another set of presenters who offered insights into the 'extractive industries' that are and remain engaged in finding, developing, producing, and selling non-renewable natural resources. It was stressed that the tax and broader fiscal system that applies to these industries should ensure that the government obtains an adequate and appropriate share of the benefits from its resources; something that is not taking place and that should be addressed.

By then, the late morning session opened our eyes to trying to comprehend how anonymity in ownership of companies can facilitate corruption across many sectors and this would include the extractive industries. The presenter made it quite clear that, *'Africa is already losing about £88.6-billion in illicit capital flight every year, according to the United Nations.* (And the rhetorical question was raised): *What is the state of South Africa, with its elaborate extractive sector?* The point was underlined that this makes 'ownership transparency,' 'information disclosure' on 'beneficial owners' of companies and their subsidiaries, an urgent legislative pursuit; this is a matter that seems to have been ignored and that should be given the necessary attention.

Towards a Round-Up

The one-and-a-half day gathering concluded with several critical reflections on updates on South Africa and the continent. The discussions that followed were fairly robust and unambiguous; that is for the continent to recoup its losses, the governments need to seriously deal with the IFF and tax evasion that has been and that continues to impact negatively on each and every African nation-state's GDP.

In fact, anyone who has monitored these sectors would agree that the losses are huge and the question is: Who are the losers? The African nations are the losers and they are the ones who need to be taken out of their poverty-stricken environments and stringer legislations have to be promulgated to stop the flows from damaging and harming the continent and its nation-states! Whilst several papers have been written and recorded over the past two decades and more, reference should be made of the attempts that are being made to assist us in remaining informed about negative developments that are taking place under our African noses without a finger being lifted to stop this from inflicting further harm on the African continent's vibrant economies.

Post-Workshop Development

While discussions have been ongoing in different circles, the issue of illegal financial flows continues to be a concern as a result of its deep impact at

different levels on the continent. Interesting to observe that Mr. MG Hendricks, who leads Al Jama-ah Political Party and who is an MP in the South African Parliament, decided to take this up in the South African Parliament. He, for the record, was also at the workshop and gave much support to the project spearheaded by Dr. Khanyisile Litchfield-Tshabalala.

The questions that appear below has been included in the list of questions that members pose in Parliament to each of this Ministers.⁴ Mr. Hendricks' three inter-related questions underscores his concern about IFF and related activities.

Mr M G E Hendricks (Al Jama-Ah)⁵ to ask the Minister of Finance (who is Mr. Enoch Godongwana):⁶

(1) Whether, in light of the statement made by the Commissioner of the SA Revenue Service (SARS) acknowledging that illicit financial flows (IFF) must be addressed, he will revive the department that dealt with cases of IFF, but was closed by his predecessors; if not, why not? if so, what are the relevant details?

(2) whether he intends directing the monies recovered from IFF to ensuring that all South Africans have a right to water and not only access; if not, what is the position in this regard? If so, what are the relevant details?

(3) whether he will (a) give SARS greater capacity to hold persons accountable for IFF? and (b) allow more effective engagement between government institutions like the National Prosecuting Authority, Financial Intelligence Centre, and SARS, with the objective to bring about greater capacities and integration to implement mechanisms for transparency amongst them? If not, why not? If so, what are the relevant details? NW2873E

From the list of questions that Mr. Hendricks posed, one is able to notice the extent of his concerns; and he made reference to one of the major institutions within the South African government systems that plays a pivotal role in collecting taxes and that is SARS.⁷ Over the years, SARS carried and continue to carry out its tasks to ensure that the nation contributes to the South African economy that has been harmed by IFF.

Relevant Publications: An Arbitrary Selection

Since this is indeed an important field of research to assist in improving SARS' ability to collect communal and commercial taxes, the purpose of this concluding section is to generate a bibliography of writings on the subject; this report thus includes a list that someone with an interest in the field may want to compile and evaluate. Many publications have appeared over the past few years

⁴ www.parliament.gov.za/storage/app/media/Docs/quest_inte/ea5809d5-4028-4da3-83cb-f891e88c54c6.pdf

⁵ <https://www.parliament.gov.za/person-details/81> and <https://www.pa.org.za/person/mogamad-ganief-ebrahim-hendricks/>

⁶ <https://www.treasury.gov.za/ministry/minister.aspx>

⁷ <https://www.sars.gov.za/>

;and one can observe from this miniscule catalogue that a sizeable number of publications has been circulating and they illustrate to what extent the issue has been addressed in and outside the African continent.

Relevant Books⁸

African Union Commission. *The Report of the High-Level Panel on Illicit Financial Flows from Africa*. Addis Ababa: African Union Commission, 2014.

Blankenburg, Stephanie, and Mushtaq Khan. *Governance and Illicit Outflows*. In *Draining Development Controlling Flows from Developing Countries*, ed. Peter Reuter. Washington: World Bank, 2012.

Burgis, Tom. *The Looting Machine: Warlords, Oligarchs, Corporations, Smugglers, and the Theft of Africa's Wealth*. New York: Public Affairs, 2015.

Christensen, John and Dan Hind (Eds.) *The Greatest Invention: Tax and the Campaign for a Just Society*. London: Tax Justice Network, 2015.

Goredema, C. *Understanding Money Laundering and Illicit Financial Flows*. Cape Town: Juta, 2020. 2nd Edition.

Kanga, Serges Djouyou (Ed.). *Illicit Financial Flows from South Africa: Decolonial Perspectives on Political Economy and Corruption*. London: Routledge, 2022.

Milanovic, Branko. *Global Inequality: A New Approach for the Age of Globalization*. Cambridge, MA: Harvard University Press, 2016.

Ndikumana, Léonce and James K. Boyce, *Africa's Odious Debts: How Foreign Loans and Capital Flight Bled a Continent*. London: Zed Books, 2011.

OECD. *Illicit Financial Flows: The Economy of Illicit Trade in West Africa*. Paris: OECD Publishing, 2018. <https://doi.org/10.1787/9789264268418-en>.

Solande, Emmanuel O. *Transnational Organised Crime and Illicit Financial Flows: Nigeria, West Africa and the Global North*. Leeds: University of Leeds, 2016.

United Nations Economic Commission for Africa. *The State of Governance in Africa: The Dimensions of Illicit Financial Flows as a Governance Challenge*. Addis Ababa: UNECA, 2013.

Wrong, Michaela. *It's Our Turn to Eat: The Story of a Kenyan Whistleblower*. New York: Harper, 2009.

Online Sites: Randomly Selected Essays⁹

Ngwenya, Lindelwa. *The Spillovers of Illicit Financial Flows, Paper Presented at the High-Level Conference on Illicit Financial Flows: Interagency Cooperation and Good Tax Governance in Africa*. Pretoria: University of Pretoria, 2016. Ch.2 pp. 43-60.

https://www.pulp.up.ac.za/images/pulp/books/legal_compilations/good_tax_governance/Chapter%20%20GOOD%20TAX%20GOVERNANCE.pdf

⁸ <http://www.africafocus.org/iff-books.php> The site refers to ten publications that focus on the theme.

⁹ This list consists of pdf copies that are easily accessible online.

Oloruntoba, Samuel O. Illicit Financial Flows and the African Development Conundrum. In: Oloruntoba, S., Falola, T. (eds) *The Palgrave Handbook of African Politics, Governance and Development*. New York: Palgrave Macmillan, 2018, pp.619-632. https://doi.org/10.1057/978-1-349-95232-8_37

<http://www.africafocus.org/docs22/books2207.php>

<http://www.africafocus.org/docs21/dig2103.php>

<http://www.africafocus.org/docs22/ineq2205.php>

<http://www.africafocus.org/docs21/moz2105b.php>

<https://allafrica.com/download/resource/main/main/idadcs/00020095:24a05e6055090ed87b531edefe0f1cbb.pdf>

<https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=f018c4b8b3ab3d1c7ee572a3c955d84bb0310ea1>

<https://issafrica.s3.amazonaws.com/site/uploads/ocwar-t-paper-4-eng.pdf>

<https://www.brookings.edu/articles/new-trends-in-illicit-financial-flows-from-africa/>

<https://www.brookings.edu/articles/illicit-financial-flows-in-africa-drivers-destinations-and-policy-options/>

<https://dailyinvestor.com/south-africa/27979/edward-kieswettters-r100-billion-illicit-trade-headache/>

<https://gga.org/misinvoicing-the-hidden-hand-of-illicit-financial-flows-in-africa/>

<https://www.theguardian.com/global-development/2015/feb/02/africa-tax-avoidance-money-laundering-illicit-financial-flows>

<https://www.un.org/africarenewal/magazine/december-2013/illicit-financial-flows-africa-track-it-stop-it-get-it>

<https://www.un.org/africarenewal/magazine/november-2020/illicit-financial-flows-its-time-end-plunder-africas-resources>

<https://www.un.org/africarenewal/news/global-dilemma-illicit-financial-flows-time-collective-action>

<https://www.un.org/africarenewal/magazine/february-2021/tackling-illicit-financial-flows-secure-africas-future-curb-conflict>

https://unctad.org/system/files/official-document/aldcafrica2020_en.pdf

https://www.unodc.org/documents/NGO/AU_ECA_Illicit_Financial_Flows_report_EN.pdf.

Research Africa

Copyright © 2023 by Research Africa, (research_africa-editor@duke.edu), all rights reserved. RA allows for copy and redistribution of the material in any medium or format, provided that full and accurate credit is given to the author, the date of publication, and the location of the review on the RA website. You may not distribute the modified material. RA reserves the right to withdraw permission for republication of individual reviews at any time and for any specific case. For any other proposed uses, contact RA's Editor-in-Chief. The opinions represented in the reviews and published on the RA Reviews website are not necessarily those held by RA and its Review editorial team.

ISSN 2575-6990