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ILLICIT FINANCIAL FLOWS AND TAX REFORMS IN EGYPT

Mapping of the Literature and Synthesis of the Evidence

August 2018

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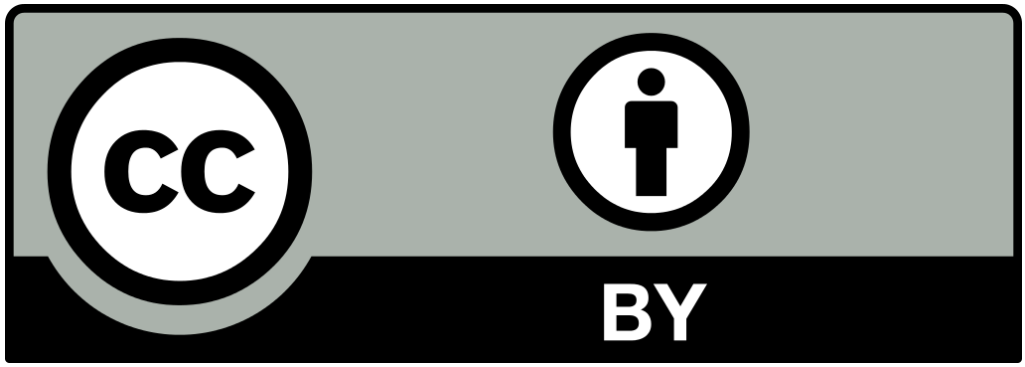

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Acronyms

AFAR	-	Arab Forum on Asset Recovery
AfDB	-	African Development Bank
AML	-	Anti-money Laundering
ATAF	-	African Tax Administration Forum
CFT	-	Counter-terrorist Financing
CSOs	-	Civil Society Organisations
ECESR	-	Egyptian Center for Economic and Social Rights
ETA	-	Egyptian Tax Authorities
G7	-	Group of Seven Countries
G8	-	Group of Eight Countries
G20	-	Group of Twenty Countries
GDP	-	Gross Domestic Product
GFI	-	Global Financial Integrity
GTSP	-	Global Tax Simplification Program
ICAR	-	International Center for Asset Recovery
ICF	-	Investment Climate Facility
IFC	-	International Finance Corporation
IMF	-	International Monetary Fund
IFF	-	Illicit Financial Flow
LMICs	-	Low and middle income countries
ODA	-	Official Development Assistance
OECD	-	Organisation for Economic Co-operation and Development
UNCAC	-	United Nations Conventions against Corruption
UNECA	-	United Nations Economic Commission for Africa
UNODC	-	United Nations Office on Drugs and Crime
VAT	-	Value-added Tax

Executive Summary

Africa and developing countries have incessantly been depicted as dependent on developed countries for aid and assistance. However, illicit financial flows (IFFs) portray a different scenario whereby massive amounts of financial outflows illegally or clandestinely leave African countries to benefit more developed countries.

Africa lost between US$1.2 and US$1.3 trillion to illicit outflows over the 30-year period of 1980-2002, about four times Africa's current external debt and almost equivalent to its current GDP.

A recent assessment of IFFs from Africa found that in real terms, Africa lost between US$1.2 and US$1.3 trillion in illicit outflows over the 30-year period of 1980-2002. This is about four times Africa's current external debt and almost equivalent to its current GDP (AfDB and GFI, 2013). The United Nations Economic Commission for Africa (UNECA) High Level Panel on IFFs estimates that IFFs from Africa can reach US$50 billion annually (as cited in the OECD, 2018).

Among African countries, Egypt stands out in the magnitude of illicit flows. IFFs from Egypt are estimated to have reached US$105.2 billion, constituting 14.7 percent of the total illicit outflows from Africa (UNECA 2014). Egypt ranked third in Africa, after Nigeria and South Africa for the exportation of illicit capital in the period of 1980-2009 (ABD & GFI, 2017). Egypt also dominated the North African illicit outflows ranking followed by Algeria and Libya (ibid. pp.25-27). Together, Egypt and Algeria account for 66 percent of the illicit outflows from North Africa (UNECA 2014). Despite the substantial magnitude of illicit outflows that these figures indicate, any attempts to measure illicit outflows in the Egyptian context remains incapable of capturing the full image. This is due to the difficulty of tracking capital flowing outside Egypt, especially in times of political turmoil and of accounting for 'legalised' corruption where illicit capital was not illegally earned, transferred, or utilised as per the definition of illicit outflows. Following the January 2011 revolution, a Committee for Recovery of Egypt's stolen assets estimated IFFs to be worth three trillion US dollars (Salama, 2011).

Illicit financial flows seem to portray a different scenario, whereby massive amounts of financial outflows are illegally or clandestinely leaving African countries to benefit more developed countries.

The purpose of this study is to synthesise the literature on IFFs and tax reforms in Egypt, map the key stakeholders and derive policy recommendations to improve, facilitate, or maximise the impact of existing initiatives or related key stakeholders. The study relies on a qualitative methodology based on a desk review that involves: a) Mapping and synthesising the available literature (including grey literature) on illicit outflows and tax reform in Egypt; b) Identifying the involved stakeholders/actors and c) Analysing existing policies and proposed initiatives to curb IFFs and enforce tax reform.

Evidence reviewed suggest that illicit outflows continue to undermine economic development and render developmental issues in Egypt, such as poverty alleviation, human rights and economic recovery, ineffective, especially after the events of the 2011 Arab spring. The main source of illicit outflows in Egypt is trade mis-invoicing motivated by a desire to evade or reduce taxes. Trade mis-invoicing alone, contributed to the loss of over US$ 25 billion over the period from 2005 – 2014 with an annual average of US$ 2.5 billion (GFI, 2017).

Another major source of illicit outflows is political mistrust or instability. IFFs reached their peaks in 2008 and 2011; periods both characterised by political instability, protests and mistrust.

Ongoing efforts by the Egyptian government towards asset recovery and curtailing illicit outflows are undermined by:

1. lack of political will, weak good governance structures, inadequate legal frameworks;
2. limited technical capacity to tackle cases of asset recovery and money laundering and
3. non-transparency and inaccessibly of tax information.

Egyptian authorities need to follow the provisions of the United Nations Convention against Corruption as the guiding map for asset recovery. This includes developing a national anti-corruption strategy, and changing the formation of the National Committee for Assets Recovery (or forming a new committee) to involve all relevant stakeholders. The committee would develop and implement a plan to track, freeze, confiscate and recover money smuggled abroad and drafting integrated legislation. Efforts should also utilise the role of non-governmental actors and address asset recovery not only from a legal standpoint but also from a political and diplomatic one that encompasses governmental as well as nongovernmental actors working on formal and informal levels.

Overall, efforts made by the Egyptian governments to curb illicit outflows should focus on:

1. asset recovery;
2. tax reform;
3. tax information exchange;
4. curbing trade mis-invoicing/mispricing;
5. fighting money laundering;
6. improving the business climate as a method to control illicit outflows, and
7. improving governance.

Initiatives and policies needed to curb IFFs and the stakeholders required to execute them vary from one country to another.

However effective measures should involve collaboration between multiple actors, including governments, national civil society, international organisations and donor agencies (as explained in annex 1) to ensure financial transparency, accountability and overall better governance.

Illicit outflows continue to undermine economic development and render central issues in Egypt, such as poverty alleviation, human rights and economic recovery, ineffective

Source:Politico

1.0 Introduction

1.1 Background

Illicit financial outflows (IFFs) refer to money or capital that is illegally earned, transferred, or utilised (UNECA 2013; Global Financial Integrity 2014; World Bank 2017). In one point in time, such capital or financial flows must have violated laws or regulations in their earning, movement, or utilisation. IFFs from developing countries to more developed countries were estimated to have grown from 7.2 percent to 8.1 percent, the equivalent of US$620 billion and US$970 billion respectively in the period 2005 - 2014 (GFI 2017). However, these figures do not capture the full scope or impact of IFFs for three major reasons. First, they do not encapsulate the full amount of money lost in drug trafficking and smuggling. Second, they do not reflect the opportunity cost of illicit outflows and their socio-economic impact on countries' populations. Third, these numbers do not consider the multiplier effect of each dollar channeled through illicit flows if properly invested in needful sectors.

From 2005 to 2014, illicit outflows from developing countries to developed countries grew between 7.2 percent and 8.1 percent, the equivalent of $620 billion and $970 billion

Low and middle income countries (LMICs) in Africa and the rest of the world, have incessantly been depicted as dependent on developed countries for aid and assistance. However, IFFs seem to portray a different scenario, whereby financial outflows are illegally or clandestinely channeled out of Africa in massive amounts and invested in more developed countries. A joint report between the AfDB and the GFI found that in real terms, Africa lost between US$1.2 and US$1.3 trillion to illicit outflows over the 30-year period of 1980-2002. This equates to nearly four times Africa's current external debt and is almost equivalent to its current GDP. (2013, p.51). According to UNECA's High Level Panel on Illicit Financial Flows, the estimated illicit financial flows from Africa can reach US$50 billion annually (as cited in the OECD, 2018, p. 13).

There are three major sources of and proceeds from IFFs namely corruption, crime and commerce (UNECA 2013; OECD 2018). Corruption includes 'the proceeds of theft, bribery, graft and embezzlement of national wealth by government officials and others with access to the available resources'; crime includes 'the proceeds of criminal activities, including drug trafficking, smuggling, counterfeiting, racketeering (also known as criminal protection or extortion) and terrorist financing'; while commerce - which accounts for the majority of outflows - includes 'the proceeds of tax evasion, misrepresentation, misreporting and mis-invoicing related to trade activities, and money laundering through commercial transactions' (OECD, 2018, p. 20).

As of 2014, trade mis-invoicing was considered the dominant channel for illicit outflows from developing countries, accounting for at least 66 percent of illicit outflows (GFI, 2017). In trade mis-invoicing, trading partners manipulate trade documents or customs invoices to portray incorrect prices, quantities, or quality of a good or service. Eventually, this allows tax evaders - who can be criminals, venal businessmen or corrupt government officials - to channel illicit funds across international borders undetected.

Trade mis-invoicing incapacitates African countries from relying on tax revenues as a sufficient source of revenues subsequently diverting resources away from the social, economic and industrial sectors essential for inclusive and sustainable development. Illicit outflows therefore have an adverse impact on domestic resource mobilisation, poverty alleviation, inequality reduction and quality of life. The losses and cost of such tax evasion has been estimated to be 30 percent higher in developing countries than in developed countries (Oxfam, 2016). As a result, the Sustainable Development Goals No. 16 ratified in 2015, emphasised the need for countries to significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organised crime by 2030 (UN, 2017).

A generic set of measures to curb IFFs have been outlined in several international and country reports and policy papers, such as the Stolen Asset Recovery Reports, 'Illicit Financial Flows and the Problem of Net Resource Transfers from Africa: 1980-2009' report, 'The State of Governance in Africa' report, the 'Track it, Stop it, Get it' report, Egypt's 2015 Review of the UNCAC, the 2014, 2015 & 2017 GFI reports on illicit outflows, and the 2014 & 2018 OECD reports on Illicit Financial Flow.

Such measures include establishing public registries that store information of any verified beneficial ownership account in domestic financial institutions; anti-money laundering legislations and actions; regular country reporting from multinational companies disclosing their revenues; tax information exchange; and the enforcement of the 2015 Addis Tax Initiative whereby countries subscribing to the initiative commit to enhancing the mobilisation and effective use of domestic revenues and improving fairness, transparency, efficiency and effectiveness of their tax systems. Specific initiatives and policies needed to curb IFFs and the stakeholders required to execute them vary from one country to another. However any proper planning and implementation of such measures is expected to involve collaboration between multiple actors, including governments, national civil society, international organisations and donor agencies to ensure financial transparency, accountability and overall better governance.

1.2 Study Objectives

The purpose of this study is to synthesise the existing literature on IFFs and tax reforms in Egypt, analyse the impact of existing policies and initiatives, and identify key stakeholders involved in the process. In addition, the study provides policy recommendations to improve, facilitate, or maximise the impact of various initiatives and the on-going efforts by key stakeholders. It relies on a qualitative approach based on a desk review that involves: a) mapping and synthesizing the available literature (including grey literature) on illicit outflows and tax reform in Egypt; b) identifying the involved stakeholders/actors and c) existing or proposed policies.

Source: NPR

2.0 Illicit Financial Flows in Egypt

There is limited literature on IFFs in Egypt and some of this literature, especially ones derived from national and international newspapers are characterised by inaccuracy and inconsistency. Where some data exists, accessibility is a major challenge. Nonetheless, attempts were made to overcome these gaps by approaching the United Nations Office on Drugs and Crime (UNODC), the Customs authority and the Ministry of Foreign Affairs for information on illicit outflows and attaining unpublished reports from civil society organisations.

2.1 The Magnitude and Breadth of IFFs

Existing evidence on IFFs in Egypt can be classified into three categories: literature examining the magnitude and breadth of illicit outflows; literature analysing the impact of illicit outflows; and literature focusing on initiatives tackling IFFs particularly the recovery of such outflows or stolen assets. The majority of the addresses the magnitude and breadth of illicit outflows in Egypt, especially after the stepping down of President Hosni Mubarak in February 2011.

2.1.1 IFFs Estimates and the Challenge of Measurement

IFFs from Egypt are estimated to have reached US$105.2 billion, constituting 14.7 percent of the total illicit outflows from Africa (UNECA 2014). According to the 2013 joint report by the AfDB and the GFI, Egypt ranked third in Africa, after Nigeria and South Africa for the exportation of illicit capital in the period of 1980-2009.

IFFs during this period, which constituted the majority of Mubarak's rule, reached US$130 million. Egypt also dominated the North African illicit outflows ranking followed by Algeria and Libya (ibid. pp.25-27). Together, Egypt and Algeria account for 66 percent of the illicit outflows from North Africa (UNECA 2014).

When IFFs are measured in relation to GDP, Egypt - whose IFFs ratio to GDP is less than 5 percent - does not seem to rank among the first 20 countries with high illicit outflows to GDP ratios because its GDP is larger than the GDP of many African countries. However, as noted by the joint report of the AfDB and the GFI, 'the analysis of illicit flows in terms of GDP may give the misleading impression that illicit flows are not an important issue for large countries with relatively higher GDPs' (AfDB & GFI, 2013, p. 27). Such perspectives are deceiving because these large sums of capital - if retained within their respective countries- could contribute immensely to development and poverty alleviation. When illicit flows are compared to a country's external debt (which is far lower in many African countries) or the official development assistance (ODA), Egypt fairs highly. According to the 2017 GFI Report, the estimated ranges for IFFs in the period from 2005-2014 is about 9-18 percent of the total Egyptian trade - defined as the total exports plus imports for developing countries Most IFFs resulted from trade mis-invoicing (7-16 percent) (p. 33, 37). Table (1) shows the breakdown of the illicit outflows from Egypt in the period from 2004-2013 which has reached cumulatively US$ 39,827 million (GFI, 2015).

Table (1) Illicit Outflows from Egypt from 2004 – 2013 in million USD

Outflows / Year	2004	2005	2006	2007	2008	2010*	2011	2012	2013	Cumulative	Average
Illicit Hot Money Outflows (HMN)	126	2,431	0	0	2,896	2,145	2,857	2,160	1,317	13,931	1,393
Trade Mis-invoicing Outflows (GER)	3,110	2,671	4,541	4,817	3,217	0	2,389	2,848	2,302	25,896	2,590
Total Illicit Outflows (Hmn + Ger)	3,236	5,102	4,541	4,817	6,113	2,145	5,246	5,007	3,619	39,827	3,983

IFFs in 2014 alone ranged between 6-15 percent of the total Egyptian trade (p. 29).

2.1.2 Governance, Elites and IFFs

Illicit flows from Egypt are intrinsically linked to political circumstances and political settlements between ruling elites. As shown in table (1), the periods whereby illicit flows reached their peaks were 2008 (6 billion, USD) and 2011 (5 billion USD); both periods characterised by political apprehension and instability accompanied by demolished state protection. Though these numbers show an increase in IFFs in times of political instability, they do not seem to capture the full image of Egypt's IFFs due to the difficulty of tracking IFFs in times of political turmoil, among many other reasons.

Diab (2013) explains that corruption under Mubarak's rule manifested in the exploitation of political influence which led to dubious legislations to protect political elites. In that sense, elite corruption does not reflect violation of laws and perpetrators are not necessarily associated with attempting to conceal or hide their funds and activities from the state. Technically, there was no motivation for such elites to evade or conceal these funds from authorities in which they are inseparable from. Jadallah (2015) further argues that the neo-liberal reforms imposed on Egypt by international finance institutions, reinforced and solidified the elitist and autocratic dominance of the Egyptian state, society, and market. Therefore the main motive for the exit of these funds is political instability following the aftermath of the 25th of January revolution in 2011 and loss of state protection. As a result, any attempts to measure illicit outflows will never capture the full image given the difficulty of tracking capital flowing outside Egypt, especially in times of political turmoil and of accounting for 'legalised' corruption where illicit capital was not illegally earned, transferred, or utilised as per the definition of illicit outflows. A group of Egyptian lawyers, who voluntarily formed a committee for Recovery of Egypt's stolen assets following the Jan 25 2011 revolution, estimated the stolen money, land and property to be worth three trillion US dollars (Salama, 2011).

Any attempts to measure illicit outflows will never capture the full image given the difficulty of tracking capital flowing outside Egypt, especially in times of political turmoil and of accounting for 'legalized' corruption

2.1.3 Tax Havens, Tax Evasion

The substantial attention given to the magnitude and breadth of the problem in Egypt has not been accompanied by a rigorous and detailed analysis of the sources of such illicit outflows.

Exceptionally, limited literature (mostly grey) attempted to attribute tax avoidance/evasion as a source of illicit outflows and subsequently make the case for tax reform in Egypt. An unpublished report by the IMF obtained by the Egyptian Initiative for Personal Rights explained that the flow of foreign direct investment to Egypt is 'suggestive of aggressive tax planning as multinational corporations indirectly channel their FDI through those jurisdictions to benefit from low taxation'. According to the Tax Justice Network, the annual cost of tax avoidance in Egypt was estimated to be US$10 billion (using the 2012 exchange rate of 6.34 EGY), amounting to one third of total tax revenues for the FY 2011/2012 (Ibid). As shown in Table 1, trade mis-invoicing alone, which is a major method for tax evasion, contributed to the loss of over US$ 25 billion over the period from 2005 – 2014 with an annual average of US$ 2.5 billion (GFI, 2017).

Mekkawy, Diab, and Hussein (2018) emphasised 'the veils of secrecy' surrounding the issue of tax evasion in Egypt. After the 2007–2008 economic crisis and the ensuing austerity programs adopted by national governments, greater attention was paid to tax evasion as an avenue for IFFs. An unpublished report by the IMF on the 'onshore' or 'domestic' tax havens in Egypt stated that '[Free zone] companies operate outside the scope of the Egyptian Tax Authority [ETA] and do not submit income statements. [Free zones] can thus effectively be used as domestic tax havens, enabling tax avoidance and jeopardizing domestic revenue mobilization." The report also mentioned the ETA "has no information about the scope and operations in free zones, making it impossible to assess its revenue costs (likely substantial)." (IMF 2017, as cited in Mekkawy, Diab, and Hussein, 2018). International tax havens are also a major source of illicit outflows. Caiman Islands, the British Virgin Islands, Panama, Luxemburg, and Bahamas have been identified as the top five havens for Egyptian outflows where US$5818, US$2738, US$1358, US$1037 and US$276 million were transferred respectively between 1970 and 2013 (Diab, 2017).

Tax evasion in Egypt is an issue enfolded with 'veils of secrecy'.

The ETA has no information about the scope and operations in free zones, making it impossible to assess its revenue costs

Source: Daily News Egypt

An analysis of the magnitude of tax evasion in Egypt reveals a link between companies supported by the International Finance Corporation (IFC) and tax evasion in Egypt. Despite being a member of the World Bank, the IFC has been investing in clandestine operations affiliated with some of the most secretive offshore jurisdictions in the world, where in¬formation regarding the real owners of these companies is often opaque (Mekkawy, Diab, and Hussein 2018). Of the IFC investee companies, 21.5 percent are registered in free zone, secret jurisdictions. This is normally a result of aggressive tax-planning methods used to evade the law - without necessarily breaching it - to reduce corporate tax bills and protect the identity of company owners (ibid. pp.6). Thus, Mekkawy and colleagues note that:

Many countries, including Egypt, have been trying to close such tax loopholes to minimize the damage of this practice. However, every time a new loophole is closed, another one is opened by methods of 'creative' accounting. When we spoke with a corporate lawyer working on mergers and acquisitions, he explained that the trend now is shifting from 'offshore jurisdictions' to 'treaty jurisdictions,' referring to a move to countries with

favorable double tax treaties to reduce a corporation's tax bill. Terms such as 'treaty shopping' and 'treaty jurisdictions' are becoming the new trend. This makes it a bit more difficult because 'treaty jurisdictions' are not as obvious as traditional 'offshore jurisdictions' and might sound wholly legitimate; the reputational risk of establishing a conduit company in Dubai or the Netherlands (potential treaty jurisdictions) is far less than doing so in the British Virgin Islands or Panama (classic offshore jurisdictions) (p.6).

2.2 The Impact of Illicit Outflows

Unlike the magnitude of illicit capital, which is nearly impossible to measure with precision, there is little contention regarding the negative impact of illicit outflows on economies and citizens around the globe. Overall, IFFs hampers the sociopolitical and economic progress of countries by undermining development aid, draining currency reserves, reducing the tax base, harming competition, and limiting free trade (UN 2003). Much of these effects are felt in LMICs, especially those whose economies are in transition. According to the UN, 'the harm caused to countries is tremendous in both absolute and relative terms' (ibid). Illicit outflows divert resources from their most efficient social uses in developing economies, adversely impact domestic resource mobilisation and hamper sustainable economic growth (El-Sakka, 1994; UNECA, 2014; Abdelkader, 2017; OECD, 2018). With a reduced tax base often as a result of illicit transfers, governments have less money to invest in reducing inequality, eliminating poverty, and, more generally, raising the quality of life for people living in those countries (El-Sakka, 1994).

Illicit outflows divert resources from their most efficient social uses in developing economies, adversely impact domestic resource mobilisation and hamper sustainable economic growth

The impact of IFFs associated with leakages of capital from the balance of payments or trade mis-invoicing on development, is particularly notable. Criminal economies and associated IFFs result in physical harm to individual physical security or to infrastructure or property. In the long run they can also result in societal tensions and conflicts and engender marginalisation or exclusion thus directly harming society (OCED, 2018). Economically, IFFs divert resources away from the legitimate economy and may also result in unsustainable use of environmental resources that harms the environment. In addition, IFFs driven by corruption undermine the rule of law and the quality of governance thus eroding state legitimacy and authority (ibid).

In the period from 1981-2012, about US $132.28 million is estimated to have been smuggled out of Egypt (GFI, 2015). The missing funds, if recovered, would provide Egypt with a much-needed boost for transition and economic recovery (Abdelkader, 2017; OECD, 2018). For instance, for every US$100 million lost through illicit transfers, 4 million children could have been fully vaccinated or 250,000 homes connected to clean water, or 240 kilometers of paved roads completed (Diab, 2013). Some scholars argue that recovered assets would best be invested in the poorest villages of Egypt and/or to support the victims of state repression (Mermesh et al, 2015). The immense developmental capacity of recovered illicit funds makes asset recovery a 'moral and legal imperative' (Ramasastry, 2015, p. 711).

The magnitude of damage increases with the inability to recover or repatriate such capital or financial flows from the country of destination (UNECA, 2014; Abdelkader, 2017; OECD, 2018).

The proceeds of corruption if recovered, reintegrated into the state budget, and invested in accordance with human rights obligations shall positively impact economic, social, and cultural rights. On the other hand, the impunity of corruption and illicit transfers has a damaging impact to the rule of law, democracy and human rights in the country of origin for IFFs by encouraging political elite to be involved in further acts of corruption and illicit capital outflows (UN General Assembly, 2011, p. 8). Eventually, this motivates them to "create or change the rules of the game, in order to ensure that they can continue playing it in a rewarding way" (UN General Assembly, 2011; Abdelkader, 2017).

2.3 Stakeholders Involved in Addressing Illicit Outflows

IFF is a complex challenge that involves many stakeholders. While annex (1) provides an overall view of the role of various stakeholders in the Egyptian case, the following sums up the roles of the main stakeholders, particularly the national and local ones:

2.3.1 International and Regional Stakeholders

The European Union, the African Union (including the African Development Bank African and the Tax Administration Forum), the G8, G20, OECD, Transparency International, GFI, the UN specialized agencies including the UNODC and the World Bank can all provide guidance on implementing effective tax reform, facilitating tax information exchange and drafting effective legislation to counter IFFs.

2.3.2 National and Local Stakeholders

I. Governmental Actors

Ministry of Justice, Ministry of Foreign Affairs, Ministry of Investment and International Cooperation, Ministry of Foreign Trade, Ministry of Trade, the Egyptian Customs Authority and its Integrity and Transparency Department established in 2016, Public prosecution, the Anti-Money Laundering and Terrorist Financing Unit (AMLU), the Anti-Corruption Coordination Committee (ACCC), Administrative Control Authority, Taxation Authority, Central Auditing Organization.

The above agencies all play a direct role in the planning and implementation of initiatives curbing IFFs. However, since the above-mentioned ministries are all part of the executive branch, they have a limited degree of independence, as they operate under the government particular economic, political and social agenda. Diab (2013) explains the negative implication of such impartiality on asset recovery efforts by referring to the Swiss government refusal in December 2012 to disclose the files of Egyptian clients whose assets have been frozen due to suspicion of criminal proceedings. The Swiss government justified their reaction, which differed from their reaction to the Tunisian case, by referring to the institutional instability in Egypt and their uncertainty that information of accused plaintiffs will remain confidential. It is important to ensure the stakeholders' impartiality and independence from the current political agendas and turmoil.

According to Abdelkader (2017), Egyptian legislations did not properly regulate the provisions of international cooperation on criminal matters under an independent law. This threatened further the implementation of regional and international legislative provisions and makes them subject to the will of the judicial or executive authority. Such state of uncertainty jeopardises the integrity and seriousness of the legal framework in Egypt and undermines all effective asset recovery measures (p. 74).

II. Non-Governmental Actors

The role of Civil Society Organisations (CSOs) including media, research centers, academia and NGOs in Asset Recovery has been the core subject of the Special Session III of the Arab Forum on Asset

Recovery. While recognising that asset recovery is primarily the task of governments, the forum emphasised the role civil society can play in areas of awareness raising, the management of public expectations, research, advocacy, case related and legal work, as well as in the management of returned assets. For example, in September 2012, members of civil society organised the screening of a documentary titled "Egypt's Stolen Billions" accusing the British government of refusing to freeze the known assets and companies belonging to Mubarak's family and oligarchy, including the wife of the Minister of Housing under Mubarak who was included in the European Union list of sanctioned individuals. In return, the British Prime Minister and Minister of Foreign Affairs showed more readiness to work the Egyptian government demonstrating the influence civil society can have (Diab, 2013, p.27).

It can be noted also that the Egyptian media in cooperation with the Administrative Control Authority, have carried out a series of awareness campaigns on corruption that were widely broadcasted in different visual and audiovisual channels.

However, the various roles of civil society in curbing IFFs do not seem to be sufficiently exploited in the Egyptian case. There is a need for both the Egyptian government and Egyptian CSOs to work more closely and constructively on issues of stolen asset tracking and recovery. In this regard, the Egyptian CSOs can take advantage of the guide developed by the International Center for Asset Recovery (ICAR) in cooperation with CSOs and government representatives. The guide provides CSOs in the MENA region with an overview on available approaches, tools and resources that will enable them to become more active agents in the asset recovery agenda.

Source: International State Crime Initiative

3.0 Policies and Initiatives Addressing Illicit Outflows in Egypt

Curbing illicit outflows depends on a combination of international and national regulations that address money laundering, tax evasion, bribery and asset recovery.

3.1 Asset Recovery

The Arab Spring and the stepping down of Egypt's former president, Hosni Mubarak, in February 2011 generated increasing attention to the topic of illicit outflows and the recovery of stolen assets in particular. According to the OECD (2014), asset recovery and repatriation demonstrates a powerful deterrent and affirms justice while providing developing countries with additional resources in which they have been deprived.

The Arab Spring and the stepping down of Egypt's former president, Hosni Mubarak, in February 2011 generated increasing attention to illicit outflows and the recovery of stolen assets.

Source: CGTN Africa

However, in practice, asset recovery is a complex process involving a variance of rules and regulations relating to each individual case and an understanding of the historical and political ties between the countries in which funds and assets are found and the fallen regimes.

3.1.1 Local Initiatives Tackling Asset Recovery

Mermesh, Leham and Sawalha (2015) and Abdelkader (2017) summarise both the formal and informal efforts to recover stolen assets after the 25th of January revolution as follows:

i. The first asset recovery committee was a judicial committed formed by the Military Council on April 4, 2011 for the recovery of funds. The committee has established a database for all information and the documents of the accused, but this committee did not result in any concrete progress due to general instability in the country and insufficient political will at the time. The committee formed by the military council was followed by four more committees established by different political leaders at the time: Elganzory in 2012, Morsi in 2012, Mahleb in the same year (August 2012), and Sisi in 2015.

Asset recovery is a complex process involving a variance of rules and regulations relating to each individual case and an understanding of the historical and political ties between the countries in which funds and assets are found and the fallen regimes.

The change among committees and the tendency of each new political leader to establish a new committee while neglecting or dismantling the earlier ones undermined the continuity needed for the success of asset recovery. Mermesh, Leham and Sawalha (2015) underscored three factors that weakened the role of the above-mentioned committees, including political instability and strife, prioritizing other issues (e.g. holding parliamentary elections, consolidating power, or controlling state institutions) and lack of legal experience in asset recovery.

ii. The last committee was formed in 2015 by the presidential decree No. 28 with more a specific, yet comprehensive set of mandates and jurisdictions including to: 1. represent the State before the concerned bodies of States and international organisations in the recovery of assets, funds and assets abroad; 2. develop a national strategy for the recovery of assets and money smuggled abroad; 3. take the necessary legal and administrative measures and to submit applications on behalf of the Egyptian State to the competent foreign, international and regional public and private entities for the purpose of detecting, tracking and freezing the assets; 4. request information and clarifications from all the concerned parties; 5. receive requests for conciliation submitted by the accused on the asset freezing lists abroad or their special agents; 6. receive requests to remove names from the asset freezing lists abroad or end the judicial assistance of the defendants or their special agents on the basis of the acquittal or final decisions in the absence of criminal proceedings, or the termination of the criminal case by conciliation or suspension of the sentence; 7. take any other necessary measures regarding the recovery of funds and assets in the light of the requirements of the laws of those countries and the rules in force in this regard. Despite the vast general duties mandated to the committee, the committee was not granted sufficient powers to carry out these functions, except with regards to stipulating that all parties to the state must assist the Committee in achieving its purposes and to provide information. However, the committee's mandate did not deal with the lack of compliance on behalf of other state institutions or actors in providing the necessary assistance requested to complete its functions (Abdelkader, 2017).

iii. More than one informal committee was also formed, such as the Legal Committee for the Recovery of Funds Abroad, the Initiative Popular for the recovery of funds and the Egyptian group to restore the wealth of Egypt. These informal committees were influenced by the general atmosphere of instability and political strife and lack of unified political will that undermined formal committees. Lack of public awareness, in general, and of participants in the informal committees about the procedures and mechanisms of asset recovery hindered their efforts (Mermesh, Leham and Sawalha, 2015).

3.1.2 Regional and International Initiatives towards Asset Recovery

Several initiatives were adopted by the G8, the EU and other OECD member states such as Switzerland, the United Kingdom and the USA towards the Egyptian asset recovery. These include:

- Hours after Mubarak's stepping down, the Swiss government was the first to request its banks to freeze the assets of Mubarak and his oligarchy. Switzerland has frozen nearly one billion Swiss francs ($1.07 billion) worth of stolen assets suspected to be linked to the leaders of four countries: Egypt, Libya, Syria and Tunisia (Ramasastry, 2015). This was followed by sending judicial experts from Switzerland to

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Egypt (OECD, 2014). In August 2017, the Swiss Ministry of Foreign Affairs issued an official statement announcing the closure of the mutual legal assistance procedures/ channels between the two countries given the court's suspicious vindication of corruption charges of many members of the accused oligarchy and Egypt's failure to submit proper legal requests to the Swiss authorities (Swiss Ministry of Foreign Affairs, 2017).

- In November 2012, the European Union announced that its member countries had amended legislation to facilitate the return of the frozen assets formerly belonging to former presidents Mubarak and Ben Ali and their associates to Egypt and Tunisia respectively. The new legislative framework authorises EU member countries to release the frozen assets on the basis of judicial decisions recognised in EU member countries. It also facilitates the exchange of information between EU Member States and the relevant Egyptian authorities to assist in the recovery of assets to Egypt.
- In 2012 the United Kingdom launched a cross-government task force on asset recovery to Arab Spring countries. This multi- agency task force has visited Cairo to forge links with their counterparts in the Egyptian authorities, and has posted a Crown Prosecution Service prosecutor and a Metropolitan Police Financial Investigator in Egypt.
- US investigators and prosecutors have visited Egypt to work directly with their requesting country officials.
- The Deauville Partnership is an international effort launched by the G8 in May 2011 with Arab Countries in Transition (including Canada, France, Germany, Italy, Japan, Egypt, Jordan, Libya, Kuwait, Morocco, Qatar, Russian Federation, Saudi Arabia, Tunisia, Turkey, the United Arab Emirates, the United Kingdom, the United States and the European Union). The Deauville Partnership had an ambitious agenda and Action Plan to recover the stolen assets. It promoted co-operation and case assistance in asset recovery, especially through technical assistance and capacity building. The partnership had inspired the Arab Forum on Asset Recovery (AFAR) launched in Doha, in September 2012 to speed up efforts to identify and repatriate stolen assets to MENA countries (OECD, 2014).

The AFAR held three meetings so far in which the need for capacity building and technical assistance of legal experts, the involvement of civil society in the process of assert recovery and political will were all reiterated as areas hindering progress in the long and cumbersome process of asset recovery.

- The AFAR works as a platform bringing together the G7, the Deauville Partnership with Arab Countries in Transition, key global and regional financial centers, as well as countries in the Arab World, to foster international cooperation for the return of stolen assets. Since its inception, it has served as a forum for practical action and cooperation between and among policy makers and practitioners, raised national and international awareness of asset recovery measures, boosted coordination and cooperation among national and international actors and provided technical assistance and training to the law enforcement officers. The AFAR held three meetings so far in which the need for capacity building and technical assistance of legal experts, the involvement of civil society in the process of assert recovery and political will were all reiterated as areas hindering progress in the long and cumbersome process of asset recovery.
- The Stolen Asset Recovery Initiative (StAR) is another joint initiative between the World Bank and the United Nations Office on Drugs and Crime (UNODC) which started in 2007 to recover stolen assets (UNODC and the World Bank, 2007). StAR aimed at providing support to the AFAR and directly

assisting the Arab countries in transition in developing strategies, improving interagency coordination, engaging in international cooperation and facilitating efforts to recover stolen assets.

3.1.3: Impact of Asset Recovery Initiatives

The Egyptian experience in asset recovery appears limited in comparison to other regional efforts, hindered mainly by unstable political conditions and lack of political will. A former Minister of State for Legal and Parliamentary Affairs, Mohamed Mahsoub, resigned in 2012, explicitly blaming the lack of political will in addressing illicit outflows and asset recovery as the main reason for his resignation (Diab, 2013). Egyptian authorities have been pre-occupied with other priorities including fighting terrorism, parliamentary elections, control of state institutions, and the need for final and conclusive judicial decisions. Weak legal experience and capacity related to asset recovery has also been a major obstacle (Menshawy, cited in Mermesh, Leham and Sawalha, 2015).

Curbing illicit outflows and recovering the proceeds of corruption is a shared responsibility between the countries of origin and the countries receiving the IFFs. Efforts in Egypt have been tainted by inefficacies on both sides to hold perpetrators accountable. For example, in 2017, after the Swiss Ministry of Foreign Affairs' official statement announcing the closure of the mutual legal assistance procedures/channels between Egypt and Switzerland, the Egyptian Initiative for Personal Rights published a report titled "Failed recovery: How Switzerland released the funds of a famous Egyptian crony" reflecting a high degree of frustration with the long, complex and largely disappointing process of repatriation and recovery of Egyptian stolen assets, especially from Switzerland. The report finds shortcomings in the recovery process due to national inefficiencies as well as international negligence and indifference (EIPR, 2017). The court rulings of innocence for Mubarak and members of his former oligarchy and the highly politicised nature of trials were quoted by Switerzland as reasons for dismissal of asset recovery cases (Diab, 2017). However, the process 'prompted major political debates in the following years about Switzerland's financial politics, its banking secrecy, and money laundering' (Longchamp and Diab, 2017, p.4). The case of Hussein Salem, one of Mubarak's cronies and the major beneficiary of the once frozen assets released in December 2016 is of particular concern. Salem's Swiss companies and financial intermediaries, including banks, were used to launder Egyp¬tian public money with no attempt to sanction or confiscate such money by the government of Switzerland (Ibid, p.5).

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Source: Daily News Egypt

3.2 Anti-Money Laundering Initiatives

Anti-money laundering and counter-terrorism financing (AML/CFT) regimes are effective tools in preventing illicit funds from being held, received, transferred and managed by major banks and financial centers. Proceeds of drug trafficking, corruption, and tax evasion can be "laundered" through the use of complex financial structures involving the creation of shell corporations. During the last decade, many African countries have set-up anti–money laundering programs.

Under these programmes, financial institutions are required to report to suspicious transactions (above a threshold amount specified by regulation) to relevant authorities. Egyptian legislation does not enable the possibility of freezing, seizing and confiscating the proceeds of crime derived from any of the offenses set forth in the UN Convention against Corruption, except for the crime of money laundering. In such cases, the Code of Criminal Procedure granted law enforcing authorities broad powers to investigate alleged crimes. Upon the request of the Public Prosecutor, measures such as the freezing of the defendant's funds can be taken temporarily (Egypt's Review of the UNCAC, 2015).

The Anti-Money Laundering and Terrorist Financing Unit (AMLU), in pursuant to Article (5) of the Law Anti-money-laundering, may request the investigation and examination of any notifications or information received in respect of operations suspected of constituting proceeds of an original crime or involving money-laundering or financing of terrorism. The Egyptian legislation provides also a mechanism for managing the funds held in custody. A unit was also created by the Public Prosecutor in 1999 for the management of confiscated funds under the Ministry of Finance (Egypt's Review of the UNCAC, 2015). However, bank secrecy has never constituted a barrier to criminal investigations since, in accordance with articles 97 And 98 of the Central Bank Act, the Court of Appeal of Cairo may order or obtain access to any data or bank information, at the request of the Public Prosecution, if such disclosure is required in a felony or misdemeanor where serious evidence and investigation have taken place. The Public Prosecutor can authorise public attorneys to directly access data or information and, if necessary, expose the facts in a number of crimes (Egypt's Review of the UNCAC, 2015).

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It was only in the 2015 Law establishing and organising the National Committee for Assets Recovery that the Egyptian legislations started regulating the recovery of assets (Abdelkader, 2017).

Egyptian legislations criminalised the laundering of proceeds of crime under article 2 of the Anti-Money Laundering Act (2002) No. 80 in 2002 and under the latest Decree Law No. 36 of 2014. According to Article 1 (C) of the Anti-Money Laundering Law, any act constituting a felony or misdemeanor under Egyptian law is considered an original crime of money laundering, whether committed inside or outside the country, as long as it was punishable in both countries (Egypt's Review of the UNCAC, 2015). Article 14 of the Anti-Money Laundering Act also criminalised the initiation of money-laundering offense(s). Under articles 40, 41, 43, 44 and 45 of the Penal Code, the government went further to criminalise the acts of participation, cooperation,

Source: Daily News Egypt

conspiracy, the provision of advice, assistance and facilitation of money laundering or those who 'help them in any other way' as per article 40 of the Penal Code. In article 44 bis (The second or the repeated article in the Egyptian Law is usually referred to as 'bis' meaning repeated), the Penal Code criminalised the concealment of stolen or obtained property from a felony or misdemeanor as an independent crime (Ibid).

3.3 Tax Reforms

3.3.1 Tax Reform Initiatives

Tax evasion has thrived in Egypt for several years largely due to mistrust between taxpayers and tax-authorities. Weaknesses in the tax system has encouraged tax evasion thus depriving the country of much needed revenues. The Egyptian government has embarked on a series of tax reforms over the years driven by two main motives. The first is the aspiration to increase state revenues and hence contribute towards reducing the budget deficit (ECESR, 2013, p.2; Joint Submission for the Committee for Economic, Social and Cultural Rights, 2013, p. 12). The second is to initiate neo-liberal economic reforms, usually stipulated or encouraged by the WB and IMF (Ibid). Ultimately, the government hopes to build a stable investment climate characterized by predictable exchange rates, interest rates, returns on investment and tax rates to enhance tax compliance and to decrease avenues and incentives for IFFS (Reuter, 2017).

A notable tax reform initiative occurred in July 2004, when the new Egyptian cabinet amended the tax law under the directions of the new minister of finance. This was followed by administrative reform to regulate tax authority, customs law, customs tariffs, competition and antitrust laws. In June 2005, the income tax law - for personal and corporate income tax - was passed in the Egyptian parliament after six months of review and discussions involving key stakeholders (Ramalho, 2007). The amended tax law widened the tax base by over 0.8 million taxpayers with a 50 percent increase in the number of tax payers who submitted their tax returns (1.7 million people). In addition, corporate tax revenues doubled from LE 22 billion in fiscal year 2004 to LE 39 billion in fiscal year 2005, despite the fall in corporate tax rates (from 32–40 percent to 20 percent). The oil sector, which experienced a boom in prices accounted for much of the increase in corporate income tax revenue (Ramalho, 2007). Maintaining corporate tax revenues despite the reduction in tax rates led to an expansion in the tax base for MNCs and other private sector entities. Overall, the income tax revenue increased from 7 percent of GDP to 9 percent (Ibid).

The amended tax law widened the tax base by over 0.8 million taxpayers with a 50 percent increase in the number of tax payers who submitted their tax returns (1.7 million people).

After the 25th of January revolution, further tax reform initiatives were adopted in the face of widening budget deficit and the need to demonstrate government's commitment to economic reforms. In December 2012, tax reforms were passed by a presidential decree issued by former President Mohamed Morsy in the absence of a parliament. The reforms, which many speculated were dictated by the IMF, led to Egypt's shift to a uniform Value-added Tax (VAT), a form of indirect taxation (ECESR, 2013, p.5). Implementation of additional new taxes was postponed following protests against what many perceived as the government renegading on its promises not to tax essential goods (ECESR, 2013, p.2).

More recent tax reforms were implemented during the era of president Sisi (2014-present), allegedly associated with the $12 billion three-year IMF programme signed

in November 2016. In 2016, the implemented tax reforms introduced a new VAT, whose rate was set at 13 percent compared to the old sales tax rate of 10 percent. The Tax Authority also introduced a new tax settlement law that focuses on incentivizing payment of late taxes rather than penalizing tax evaders. As a result, according to the vice minister of finance, Amr El-Monayer, tax revenue collected between July 2016 and February 2017 increased in comparison to the previous year (Ameican Chamber of Commerce in Egypt, 2017). Tax revenues from sovereign bodies increased by 25 percent, corporate-tax collections increased by 27 percent and salary tax revenue increased by 16 percent, while the new partially implemented real estate tax generated an additional LE 1.3 billion, reflecting an increase of 132 percent. In addition, the VAT revenues increased by 31 percent compared to the old sales tax (Ibid). In January 2018, the Finance Minister, Amr el-Garhy, reported that the tax revenues for 2017/2018 have grown by 61 percent, compared with 12 percent in the previous year (Egypt Today, 2018).

3.3.2 Shortcomings of Tax Reform Initiatives

In a report submitted to the United Nations Special Rapporteur on Extreme Poverty and Human Rights, the Egyptian Center for Economic and Social Rights (ECESR) noted that the tax reforms suggested by the November 2012 Economic Reform Program, the Economic Reform Initiative of February 2013 and the amendments to the tax legislation, failed to widen the base of tax payers and to exempt the poor and lower-income citizens from bearing the greater burden of these tax reforms. According to the ECESR, while the tax reforms claim to be progressive, "they fail to translate this rhetoric into reality. Not only do the lower-income individuals bear the greater burden of the tax reforms, but the tax amendments fail to increase the tax burden levied on high incomes and luxurious consumption in a way that would minimize the burden on lower incomes and necessity goods" (ECESR, 2013, p.2). Furthermore, they fail to properly address the informal sector or make tax capital gains. As a result, they burdened the existing tax payers with additional taxes, while continuing to ignore many tax evaders (Ibid).

The reforms have been particularly burdensome for small-scale business who constitute nearly half of all enterprises operating in the country. The positive effects of tax reforms were disproportionately more pronounced by large enterprises who were granted generous tax incentives and concessions. However, they generated many obstacles for smaller enterprises, non-exporters and domestic enterprises especially those operating in Upper Egypt where poverty rates are highest (Abdel-Mowla, 2012). Fulfilling the requirements of the both the new corporate tax system and sales tax system as well as coping with tax administrators has proven difficult for small enterprises who lack the financial and human resources need to comply with such requirements.

Not only do the lower-income individuals bear the greater burden of the tax reforms, but the tax amendments fail to increase the tax burden levied on high incomes and luxurious consumption in a way that would minimize the burden on lower incomes and necessity goods.

Source: Rediff.com

There is also unwarranted discrimination in providing SMEs with tax incentives and other means of support (ibid).

Another shortcoming of the new tax reform is that the tax exemptions provided for certain entities and corporates contradicts the rationale of expanding the base of tax payers and ensuring equity. Law no. 186 of 1986 regulates the special exemption of taxation (import tariffs) to foreign investors and to certain sectors (Joint Submission for the Committee for Economic, Social and Cultural Rights, 2013). These sectors include activities of the Ministry of Defense pertaining to military production for arming purposes and 'national security' related activities. Not only do military companies receive an exemption from income taxes under the 2005 law, but they are also granted an exemption from the new VAT under the 2016 law (Reuters, 2018). Additionally, a decree was ratified in 2015 exempting nearly 600 hotels, resorts and other properties owned by the military from real estate taxes (Ibid). At the same time, estimates of the military economy range from 5 to 40 percent of GDP, with no accurate figures available, suggesting considerable amounts of money waived or deducted from state revenues due to tax exemptions (Joint Submission for the Committee for Economic, Social and Cultural Rights, 2013, p. 12). Military businesses continue to exploit their tax privileges by venturing into fields such as sewage, irrigation, construction, education and youth, which are exempted from import tariffs, income tax, and VAT on goods, equipment, machinery, services and raw materials (Reuters, 2018).

There remains a need to regulate tax exemptions while ensuring more transparency, fairness and inclusion in the process. As noted in the joint submission by the Committee for Economic, Social and Cultural Rights, the ECESR, Nazra, New Woman Foundation and other Egyptian NGOs "to be legitimate and sustainable, the process to arrive at these essential economic reforms should be complemented by civil society participation and institutional modes of monitoring and evaluating the impact of fiscal policy on development and human rights outcomes" (Joint Submission for the Committee for Economic, Social and Cultural Rights, Periodic Review of Egypt, 2013, p. 14).

3.4 Reducing Bribery

According to the OECD (2014), combatting bribery reduces the opportunities for illicit gains, and hence illicit financial flows. The 1997 OECD Anti-Bribery Convention addresses both the supply and demand sides of bribe exchanges. The criminalisation of bribe payers and effective prosecution is essential in reducing illicit outflows. Policy measures needed to address bribes and kickbacks in government contracts include the creation of a national authority for the regulation and

Source: Military Wiki - Fandom

management of public procurement to ensure greater transparency and accountability in the contracting process.

The procedures and rules for bidding on government contracts should be transparent, as should be information regarding the contracts awarded. African countries can

borrow from international best practices in the area of government contracting so as to maximise public benefit. It is worth mentioning that many African countries (Benin, Cameroon, Niger, Senegal, etc.) have already set-up national entities in charge of the regulation and management of public procurement (OECD, 2014). However, most of them fail to achieve their goals due to lack of independence and weak enforcement.

Egypt, on the other hand, has a wide array of anti-corruption legislations regulating and guiding the fight against corruption. At the local/national level, Egyptian legislations criminalised bribery of public officials under articles 107 bis, 103 and 105 and the bribery of private officials under article 106 and 106 bis of the Penal Code. Bribery is criminalised even if the offer presented to the official was unapproved, as per article 109 bis. Articles 105-110 of the Penal Code criminalised every act by a public official requesting, accepting or taking for himself or for another person a gift or promise to perform an act as per their job duties. Under article 106 bis and 107 bis of the Penal Code, the Egyptian legislations criminalised every act by the offender that includes a promise or a gift to a public official or any other person for payment that leads to misusing his authority. While the bribe and the mediator shall be punished by a prescribed penalty, article 107 bis states that the briber or mediator shall be exempted from punishment if the authorities are informed of or recognised by the offense (Egypt's Review of the UNCAC, 2015). In that sense, the Egyptian law encourages whistle blowers to report incidents of corruption by protecting them from any consequences. It should be noted, however, that the Egyptian law does not criminalise bribery of foreign public officials and employees of international institutions, which remains a weakness in efforts towards fighting corruption or complying with the UN Conventions against Corruption (UNCAC).

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There is a wide array of anti-corruption legislation regulating and guiding the fight against corruption in Egypt. The international conventions of which Egypt is a signatory include:

1. The three United Nations drug control conventions: the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, the United Nations Convention against Illicit Traffic in Psychotropic Substances and the 1971 United Nations Convention against Drug Abuse of.1961;
2. the United Nations Convention against Transnational Organized Crime signed on December 2000; and
3. the United Nations Convention against Corruption signed on 9 December 2003 and enacted in domestic law in December 2005.

Other crucial legislations include the Arab anti-corruption regional conventions, which governs members of the League of Arab States. Such conventions include:

- Arab Convention against Corruption;
- Arab Convention against Transnational Organized Crime;
- Arab Convention on Combating Money Laundering and Terrorist Financing; and
- Riyadh Arab Agreement for Judicial Cooperation; which have all been signed by Egypt in 2014.

In addition to the abovementioned conventions, Egypt has to comply with the Arab Anti-Corruption Law and the Arab Guiding Law on International Judicial Cooperation in matters of Criminal proceedings. The seven conventions aim to combat corruption and money laundering and facilitate international cooperation and exchange of information to assist in asset recovery.

Yet, according to Abdelkader, (2017), the conventions' enforcement witnessed very limited success, especially in regional cooperation towards asset recovery (Abdelkader, 2017, p42).

Source: Egypt Independent

4.0 Conclusion and Recommendations

Illicit outflows continue to undermine economic development and render central issues in Egypt, such as poverty alleviation, human rights and economic recovery, ineffective. Despite the ongoing efforts by the Egyptian government towards asset recovery and curtailing illicit outflows, significant funds continue to be illegally earned, transferred, or utilised. Further steps remains to be taken towards asset recovery and curtailing illicit outflows, including tax information exchange, curbing trade mis-invoicing or mispricing, fighting money laundering, improving the business climate and improving overall governance. However, prior to introducing the suggested recommendations, it is necessary to acknowledge the lack of sufficient scientific research and literature on: a) IFFs in Egypt, in general, and on tax evasion in Egypt and its correlation to IFFs, in particular; b) the difficulty of their measurement and c) the subsequent difficulty of providing comprehensive yet concise relevant policy recommendations. Hence, these remain very pertinent and vacant issues for future research and inquiry.

Inspired by the 2013 joint report between the African Development Bank and the Global Financial the Integrity, the 2014 OECD report and the 2017 Global Financial Integrity Report, the following are some suggested policy recommendations and steps which the Egyptian government can adopt in order to curb illicit outflows further:

Asset Recovery

Recovering and returning stolen assets has proved to be a long, complex and burdensome process, requiring the availability of solid proof that the assets were gained through corruption. Having a clear asset recovery policy and strategy in place is a good way to signal political commitment. Institutions often align their efforts according to such political priorities. A policy has the potential to empower authorities to take rapid action on this very complex agenda According to the (OECD, 2014). As such, policies serve as platforms for further legislative and institutional developments. In addition to G8 countries adopting the Action Plan on Asset Recovery, several OECD member countries have comprehensive policies on asset recovery. Designating Special Points of Contact and sending magistrates to help draft mutual legal assistance requests for these countries, similar to what Switzerland's policy on asset recovery for Egypt post the Arab Spring, is a viable policy for asset recovery. The experience of returning assets in the context of the Arab Spring has highlighted the need for effective legal frameworks as well as international co-operation and support.

Similar to Tunisia, the Egyptian authorities needs to follow the United Nations Convention against Corruption as the guiding map for asset recovery, applying its provisions, developing a national anti-corruption strategy, changing the formation of the national committee (or forming a new committee) to involve all relevant stakeholders with an aim of developing and implementing a plan to track, freeze, confiscate and recover money smuggled abroad, drafting integrated legislation, activating the role of non-governmental actors while addressing asset recovery not only from a legal standpoint but also from a political and diplomatic one that can and should involve governmental as well as nongovernmental actors working on formal and informal levels.

In this regard, Egypt could learn from the Tunisian experience and its relative success in asset recovery driven by political will and reflected in the concrete and persistence steps taken by the Tunisian Asset Recovery Committee in tracking and recovering assets. The adoption of the United Nations Convention against Corruption as a working map for asset recovery as well as the involvement of non-governmental actors (e.g. the Tunisian Association for Financial Transparency) appear to have contributed to the noted success. Additionally, Tunisian authorities relied on diplomatic efforts and strong bilateral relations for asset recovery (Menshawy as cited in Mermesh, Leham and Sawalha, 2015), aspects which Egypt can apply to enhance her efforts

Research and initiatives tackling IFFs should also pay closer attention to assets channeled to Gulf States. The Gulf States are another major destinations for illicit transfers, but are not given as much prominence as the UK and Switzerland which are the top two destinations. In this regard, Egypt should lobby for the enforcement of the League of Arab States' Council of Arab Ministers of Justice resolution no. 1065-D issued during its 31st session (on November 11, 2015) on the recovery of stolen assets (Abdelkader 2017).

Tax Reform

Tax reform is crucial in the battle against illicit outflows. This involves reconsidering exemptions from taxation, ensuring more participation and transparency in planning, implementing and the management of taxation, digitalising of the taxation system while ensuring simplification of rules and procedures and more efficiency.

High tax burdens can lead to tax evasion and corruption, especially in situations of poor public service delivery. Further tax reform in Egypt is required while ensuring more broadening of the tax base, particularly the direct tax base. Tax reforms that seeks to widen the tax base is not only fair but also ensures greater tax efficiency and compliance than the existing indirect taxes that are heavy to manage, costly to administer, and have large built-in incentives for evasion. According to the AfDP and GFI (2013), "this will help to reduce the size of the underground economy, curtail illicit capital outflows, and improve overall governance" (African Development Bank and the GFI, 2013, p.47). In doing that, Egypt can request the assistance of the African Tax Administration Forum (ATAF), which is supported by the African Development Bank, in raising the technical capacity of the Egyptian tax authorities. Member countries in ATAF are increasingly made aware of tax evasion issues and are educated on best practices for tackling them in addition to being provided with technical assistance through the Global Tax Simplification Program (GTSP) of the World Bank and IFC (Ibid).

Tax Information Exchange

To combat tax crimes, effective exchange of information among countries is essential. Egypt should attempt to expand its network in the free exchange of tax information and related agreements. Egypt should actively participate in the worldwide movement towards the automatic exchange of tax information as endorsed by the OECD and the G20 and comply with the Addis Tax Initiative whereby countries subscribing to the initiative are committed to enhance the mobilisation and effective use of domestic revenues and to improve the fairness, transparency, efficiency and effectiveness of their tax systems. All these initiatives support the efforts to curb financial flows as a key component of the development agenda.

Curbing Trade Mis-invoicing/ Mispricing

Overall, Egypt needs to strengthen the legal and regulatory institutions and anti-corruption laws in order to ensure proper implementation and oversight of the financial systems, imports and exports which shall eventually feed into better taxes collection.

Customs service reform is also crucial in this battle against illicit outflows. This involves the removal of ad-hoc exemptions from customs duties, streamlining clearance and document control procedures, and digitalisation of payment to make procedures less cumbersome and more efficient. Additionally, capacity-building and training is essential in detecting and investigating possible under- and over-invoicing of goods entering and leaving the country. In addition, Egypt should ensure the accessibility of custom officer to detailed real market price information to better detect intentional mis-invoicing/mispricing of trade transactions, especially transactions involving a tax haven. GFI has developed a product to assist governments in the detection of potential mis-invoicing in real time: GFTrade™ is a proprietary risk assessment application developed to enable customs officials to determine if goods are priced outside typical ranges for comparable products.

Fighting Money Laundering

The Egyptian authorities should adopt and fully implement all of the Financial Action Task Force's (FATF) anti-money laundering recommendations which attempt to curb counter-terrorist financing efforts and money laundering.

Improving the Business Climate as a Method to Control Illicit Outflows

Conducive business environments not only encourage firms to invest productively, but also tend to curb illicit outflows. Such an environment might include political and economic stability, easy administrative procedures, favorable corporate taxation policies and infrastructure development. In that regard, the Investment Climate Facility (ICF), an initiative supported by the African Development Bank to reduce the cost of doing business in Africa, is currently supporting several projects on investment climate reforms and engaging in consultations with African governments and private sectors on areas such as property rights and contracts, business registration and licensing, competition, the labor market, etc.

Improving Overall Governance

Adopting preventive measures in Egypt aimed at building transparent and accountable systems of governance is crucial to circumvent corruption and mismanagement of public recourses. Generally speaking, most of the previous issues relate one way or another to the governance of financial flows. However, particular attention needs to be given to the core themes of good governance: participation, accountability combating corruption and transparency. Transparency, in particular, is considered the core requirement for active participation, proper accountability and informed fight against corruption.

Good governance ensures citizens and clients' ability to monitor the use of government and even corporate revenues. In assessing the levels of fiscal transparency and access to budget information in 27 countries in 2012, the Open Budget Initiative under the leadership of the African Development Bank placed Egypt at the bottom of the scale reflecting very low levels of budget transparency and citizens' accessibility to budget information.

Joint Initiatives and Country-by-Country Reporting

Egypt needs to: 1) better comply with the Open Budget initiative; 2) join the African Development Bank Collaborative Africa Budget Reform Initiative, which provides a platform for African policymakers to exchange views and experiences on the best budgeting practices and procedures, and 3) comply with the Extractive Industries Transparency international Initiative which ensures better

governance in resource-rich countries through verification and full publication of payments made by companies and revenues received by governments from oil, gas, and minerals. Policymakers in Egypt and elsewhere should require multinational companies to publicly disclose their revenues, profits, losses, sales, taxes paid, subsidiaries, and staff levels on a country-by-country basis.

Beneficial Ownership

Egypt should establish public registries of verified beneficial ownership information on all legal entities, and all banks should know the true beneficial owners of any account or client relationship they open in their financial institution. The most recent summit of the G8, in Lough Erne, stressed the need to improve the exchange of tax information and increase the availability of beneficial ownership information.

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Annex 1: Tax Reforms and Illicit Transfers Key Stakeholders in Egypt

Stakeholders	Roles
International and Regional stakeholders e.g. the European Union, the African Union, the G8, G20, OECD, Transparency International, GFI, the UN specialized agencies including the UNODC and the World Bank	**1. International and regional stakeholders can play a major role towards the Egyptian asset recovery. For example:** ● The Swiss government was the first to request its banks to freeze the assets of Mubarak and his oligarchy. Switzerland has frozen nearly one billion Swiss francs ($1.07 billion) worth of stolen assets suspected to be linked to the leaders of four countries: Egypt, Libya, Syria and Tunisia. This was followed by sending judicial experts from Switzerland to Egypt (OECD, 2014). ● In November 2012, the European Union announced that its member countries had amended legislation to facilitate the return of the frozen assets formerly belonging to former president Mubarak. The new legislation authorises EU member countries to release the frozen assets and facilitates the exchange of information between EU Member States and the relevant Egyptian authorities to assist in the recovery of assets to Egypt. ● In 2012 the United Kingdom launched a cross-government task force on asset recovery to Arab Spring countries. This multi- agency task force has visited Cairo to forge links with their counterparts in the Egyptian authorities, and has posted a Crown Prosecution Service prosecutor and a Metropolitan Police Financial Investigator in Egypt. ● US investigators and prosecutors have visited Egypt to work directly with their requesting country officials. ● The Deauville Partnership launched by the G8 in May 2011 with Arab Countries in Transition promotes co-operation and case assistance in asset recovery, especially through technical assistance and capacity building. ● The Stolen Asset Recovery Initiative (StAR) is another joint initiative between the World Bank and the United Nations Office on Drugs and Crime (UNODC) which started in 2007 to recover stolen. It aimed at providing support to the AFAR and directly assisting the Arab countries in transition in developing strategies, improving interagency coordination, engaging in international cooperation and facilitating efforts to recover stolen assets. ● The Arab Forum on Asset Recovery (AFAR) works as a platform bringing together the G7, the Deauville Partnership with Arab Countries in Transition, key global and regional financial centers, as well as countries in the Arab World,

Stakeholders	Roles
	to foster international cooperation for the return of stolen assets. It served as a forum for practical action and cooperation between and among policy makers and practitioners, raised national and international awareness of asset recovery measures, boosted coordination and cooperation among national and international actors and provided technical assistance and training to the law enforcement officers. The first meeting of the Arab Forum (AFAR I) was held in November 2012 in Doha, Qatar, where the Egyptian Minister of Legal and Parliamentary Affairs, Dr. Mohamed Mahsoub, stressed – similar to the director of the IMF in Egypt- that the recovery and return of stolen assets is not only a legal issue, but a moral and political imperative. He emphasized that no country should use technical and legal pretexts to delay or refuse the return of stolen assets. He emphasized that the basis for requesting and providing mutual legal assistance is UNCAC which requires countries to establish or adjust their procedures, laws and institutional frameworks. He expressed his reservations as to the level of compliance with the provisions of UNCAC by countries presently cooperating with Egypt in the tracking, seizure, confiscation and recovery of assets. While acknowledging the complexity of asset recovery, he underscored his dissatisfaction with the progress made thus far, and expressed his expectation that the Forum would help to identify shortcomings and determine practical solutions to persisting problems in information exchange, rapid freezing of assets, evidentiary requirements and mutual legal assistance for the purpose of confiscation and return of assets. (Arab Forum on Asset Recovery, November 2012). The presentation made by Adel Fahmey, Deputy Minister of Justice of Egypt, on the other hand highlighted that large sums of stolen monies had been hidden in unidentified countries around the world and that Egypt needed legal and technical assistance in tracking and recovering these assets. The Egyptian Prosecutor General's Office was committed to ensuring fair trials for members of the former regime. They had received extensive support from the StAR initiative and had requested mutual legal assistance from many countries, based on UNCAC, to tracke, freeze and recover stolen assets. However, the response from some countries to those requests had been poor. He reiterated the need for stronger political support by all countries involved. Some of the obstacles put up by the requested countries to Egypt's MLA requests for asset recovery included unreasonably insisting on formal processes contrary to UNCAC, demanding evidence that Egypt was unable to provide, refusing to disclose relevant information, delays in responding to MLA requests and failing to recognize UNCAC as a sufficient basis for such requests. He concluded by acknowledging the difficulties faced by requested countries but emphasized that asset recovery required political will and expediency. Egypt outlined both its short term long term technical assistance needs. With regard to the former, Egypt requires help in consolidating technical assistance already provided by 26 developing through additional training a cadre of local experts on asset recovery and international cooperation in criminal matters. Furthermore, Egypt requested assistance in drafting appropriate legislation and developing legal mechanisms to better facilitate the recovery of assets. The long term TA needs involve capacity building for both the technical and judicial staff involved in asset

Stakeholders	Roles
	recovery. In addition, the Egyptian FIU requires software for data collection, management and analysis (Arab Forum on Asset Recovery, November 2012). The second Arab Forum (AFAR II) was held in October 2013 in Marrakesh, Morocco to track the progress that had been made in asset recovery by Arab countries in Transition. Unlike the first meeting, this one showed the Arab countries' frustration as a result of realizing the degree asset recovery process is complex, time consuming, slow and technically too burdensome for the transition countries. Both transition countries and financial centers suggested particular actions for effective domestic asset recovery, including a dedicated financial investigation capacity, a legal framework allowing for criminal, or non-conviction based approaches to seizure and confiscation of the proceeds of crime, as well as specialized database and data-mining tools to support asset tracking and financial investigations. The Arab countries discussed the need to publish asset seizures and confiscations statistics regularly and encourage more active participation by civil society organizations in asset recovery through the proper legal frameworks allowing for their involvement in the management of recovered assets. (Arab Forum on Asset Recovery, October 2013). The Third Arab Forum (AFAR III) held in November 2014 was co-chaired by Egypt and Tunisia to further assess the progress made by the countries in asset recovery and suggest any legal or technical assistance required to speed up or improve the process. Egypt continued to stress on the need for training on running investigations, assets' tracking, financial accounts' analysis, asset confiscation, international cooperation mechanisms especially legal ones and requests making and anti-corruption and asset recovery legislations (Arab Forum on Asset Recovery, November 2014). **2. International and regional stakeholders can play a major role towards tax reform and exchange of tax information. For example:** ● The African Tax Administration Forum (ATAF) supported by the African Development Bank intends to overcome the lack of technical capacity of African tax administrations. Moreover, through this initiative member countries are increasingly made aware of tax evasion issues and are educated on best practices for tackling them. In the same spirit, a technical assistance program is offered through the Global Tax Simplification Program (GTSP) of the World Bank and IFC on transfer pricing to equip African tax administrations with tools to better understand and tackle the issue (African Development Bank and the GFI, 2013). ● There is a worldwide movement towards the automatic exchange of tax information as endorsed by the OECD and the G20 in addition to Addis Tax Initiative whereby countries subscribing to the initiative are committed to enhance the mobilisation and effective use of domestic revenues and to improve the fairness, transparency, efficiency and effectiveness of their tax systems. All these initiatives support the efforts to curb financial flows as a key component of the development agenda. To combat tax crimes, Egypt should attempt to expand its network of free exchange of tax information through participating in the worldwide movement

Stakeholders	Roles
	• GFI has developed a product to assist governments in the detection of potential mis-invoicing in real time: GFTrade™ is a proprietary risk assessment application developed to enable customs officials to determine if goods are priced outside typical ranges for comparable products.
Governmental stakeholders	Governmental stakeholders include the Ministry of Justice, Ministry of Foreign Affairs, Ministry of Investment and International Cooperation, Ministry of Foreign Trade, Ministry of Trade, the Egyptian Customs Authority, Public prosecution, the Anti-Money Laundering and Terrorist Financing Unit (AMLU), the Anti-Corruption Coordination Committee (ACCC), Administrative Control Authority, Taxation Authority and Central Auditing Organization. It is necessary to ensure the stakeholders' impartiality and independence from the current political agendas. Overall, compared to non-governmental actors, governmental actors have a limited degree of independence because they operate under the government particular economic, political and social agenda. For example, in December 2012, the Swiss government refused to disclose the files of Egyptian clients whose assets have been frozen due to suspicion of criminal proceedings because of institutional instability in Egypt and their uncertainty that information of accused plaintiffs will remain confidential. Furthermore, the Egyptian legal framework do not properly regulate the provisions of international cooperation on criminal matters under an independent law. This threatened further the implementation of regional and international legislative provisions and makes them subject to the will of the judicial or executive authority.
Non-Governmental stakeholders/ Civil Society e.g. media, research centers, academia and NGOs	The role of Civil Society in asset recovery is an essential and complementary role to the government, whereby civil society can assist in: i. Awareness raising and management of public expectations; ii. Research, advocacy; iii. Case related and legal work; iv. Management of returned assets. For example, in 2012, the Egyptian civil society organised the screening of a documentary titled "Egypt's Stolen Billions" accusing the British government of refusing to freeze the known assets and companies belonging to Mubarak's family and oligarchy, including the wife of the Minister of Housing under Mubarak who was included in the European Union list of sanctioned individuals. In addition, in cooperation with the Administrative Control Authority, the Egyptian media have carried out a series of awareness campaigns on corruption and the Egyptian state is in the process of establishing an anti-corruption academy. There is still a need for both the Egyptian government Egyptian civil society to work more closely and constructively together on issues of stolen asset tracking and recovery. In this regard, the Egyptian CSOs can take advantage of the guide developed by the International Center for Asset Recovery (ICAR) in cooperation with CSOs and government representatives. The guide provides CSOs in the MENA region with an overview on available approaches, tools and resources that will enable them to become more active agents in the asset recovery agenda.

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